

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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REQUEST FOR COMMENTS

Proposed utilize unused CHIP funds within the 10 percent federal administrative expenditures cap, to allow payments to the Oregon Poison Center (OPC) through an Inter-governmental Transfer (IGT) between OHSU and Oregon Health Authority

COMMENTS DUE: May 30, 2012

BACKGROUND: During the 2005 Legislative session a bill was passed that provided OHSU with \$1.35M in state funds to operate the OPC. This budget covers staff salaries and facility/operating costs needed to operate the center. In 2006 OPC was \$183K short of meeting their salary expenses which are primarily consist of doctors and nurses. In subsequent years the funds have not increased except for small inflation increases of 3%. For the 2009–2011 biennia the funds were reduced to \$2.4M, this did not cover the OPC budget expenses of \$1.9M for FY 2010. OHSU hospital has filled the financial gap for previous years, but after June 30, 2012 OHSU will no longer be able to provide financial assistance. As a direct result of the budget cuts OPC has reduced their staff by 2.35 FTE to a current staffing level of 9.6 FTE for the 2011/2013 biennium.

The OPC managed 23,980 Oregon children under the age of 19 for 2010. These nearly 24,000 children represented 64% of their total case load. Of those children's cases, ninety-two percent of the children were able to remain at home without requiring additional treatment in a healthcare facility (ED or hospitalization).

OHA is proposing to utilize unused CHIP funds within the 10 percent federal administrative expenditures cap, to allow payments to the Oregon Poison Center through an Inter-governmental Transfer (IGT) between OHSU and Oregon Health Authority, with OHSU providing the state matching funds needed to leverage additional federal dollars to support the center.

HOW TO COMMENT: Send written comments 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 SETTLEMENT REGARDING FORMER CIRCLE 9 DRYCLEANER AND LAWNDALE AREAWIDE GROUNDWATER CONTAMINATION CORVALLIS, OREGON

COMMENTS DUE: May 31, 2012

PROJECT LOCATION: The former Circle 9 Drycleaners is located in the Circle 9 Plaza at 960 NW Circle Boulevard in Corvallis Oregon (the "Property"). The Lawndale Area of groundwater contamination is generally located east of the Property.

PROPOSAL: DEQ is proposing to enter a settlement with potentially liable parties, ROBERT C. WILSON TRUST AND RCW PROPERTIES, LLC (the "Wilsons") for reimbursement of investigation, wellhead treatment, and oversight costs associated with the Lawndale Areawide groundwater contamination. The settlement would be in the form of a consent judgment pursuant to ORS 465.325. The settlement would require the Wilsons to pay DEQ \$220,000 to reimburse DEQ for the cost of investigating the release and installing treatment systems on individual wells in the Lawndale neighborhood, and a portion of the future operation costs for these systems. In return, the Wilsons would receive releases from liability to the State and contribution protection as to third parties regarding the matters addressed by the settlement. On May 1, running through May 30, 2012, DEQ will provide public notice and opportunity to comment on proposed settlement.

HIGHLIGHTS: A drycleaner operated on the Property from around 1978 to around 1990. During dry cleaner operations at the Property,

hazardous substances were released at and from the Property. Between 2002 and 2007, the Wilsons conducted multiple rounds of soil and groundwater investigation under DEQ supervision. During the investigation, soil and groundwater contamination was found on the site. A soil cleanup occurred in 2008, followed by mitigation measures to prevent chlorinated solvent vapors (from dry-cleaning chemicals) from entering the buildings on site. In 2009, DEQ discovered multiple nearby wells were contaminated with chlorinated solvents at levels that are not safe to drink. DEQ believes these chemicals originated at the former Circle 9 Drycleaners. DEQ provided bottled water to affected residents and then hooked up residents to carbon filtration units to ensure safe household water supplies. DEQ will need to maintain these treatment systems for the foreseeable future.

HOW TO COMMENT: The proposed settlement is available at DEQ's Western Region Office, at 165 E 7th, Suite 100, Eugene, Oregon 97401, or electronically by request to brown.geoff@deq.state.or.us. To review files at DEQ's office, please contact DEQ's file review coordinator at (541) 686-7819 to make an appointment. Comments must be submitted by May 31, 2012 and may be submitted to Geoff Brown, DEQ Cleanup Project Manager, by email at brown.geoff@deq.state.or.us; by mail at DEQ, 167 E 7th, Suite 100, Eugene, Oregon 97401; or by fax at 541-686-7551.

THE NEXT STEP: DEQ will review and consider all comments received during the comment period. If DEQ then determines to enter the consent judgment, the consent judgment will be executed by the parties and filed with the Benton County Circuit Court. The court must approve the consent judgment for it to take effect.

PUBLIC NOTICE AND REQUEST FOR COMMENTS PROPOSED PROSPECTIVE PURCHASER AGREEMENT WITH TOKOLA PROPERTIES FOR 4TH MAIN PROJECT IN HILLSBORO

COMMENTS DUE: Thursday, May 31, 2012

PROJECT LOCATION: 350 E Main Street, Hillsboro, Oregon.

PROPOSAL: The Department of Environmental Quality proposes to enter into a prospective purchaser agreement (PPA) with Tokola Properties, Inc. and its affiliate 4th Main LLC. Tokola is buying the property from the City of Hillsboro and Metro (joint owners) for transit-oriented, mixed-use redevelopment. Hillsboro and Metro will undertake cleanup of contaminated soil at the property. The redevelopment would include a proposed below-ground parking structure requiring removal of soil to depths of up to 16 feet. This soil removal would accomplish site cleanup.

HIGHLIGHTS: From the late 1880s through the late 1950s, the property was used for mixed residential and commercial purposes. By 1936, a U.S. Post Office had been constructed and by 1940 an automotive fuel station was present. The fuel station remained on-site through at least 1951. These buildings were removed in the early 1950s, and in 1954 a branch bank building was constructed, which was vacated in approximately 1998.

The 4th Main project calls for 71 apartment units with ground floor retail, and includes reuse of the existing bank building for retail purposes. Sub-grade resident parking will be complemented with surface level parking to serve retail tenants.

Tokola's proposed redevelopment will provide both environmental and economic benefits. Extensive environmental investigation has already been performed, and the project will result in cleanup of site contamination. In addition, the long underused property and existing building will be returned to productive use and increase local employment.

The proposed PPA will release Tokola and 4th Main from state and third-party liability for historical releases of hazardous substances and oil at the property.

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

OTHER NOTICES

many prospective purchaser agreements throughout the state since the program began.

HOW TO COMMENT: Send comments by 5 p.m., May 31, 2012, to DEQ Project Manager Robert Williams at 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201-4987, williams.robert.k@deq.state.or.us, or (503) 229-6802. To review the project file, call Dawn Weinberger at (503) 229-6729 for a file review appointment. To access the proposed PPA along with site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCController.aspx?SourceId=5694&SourceIdType=11>. Upon written request by 10 or more persons or by a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

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

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

People with hearing impairments may call 711.

REQUEST FOR COMMENTS PROPOSED REMEDY MEASURES FOR FORMER SHADYBROOK LANDFILL

COMMENTS DUE: 5 p.m., Thursday May 31, 2012

PROJECT LOCATION: End of NW Truitt Road, Washington County, Oregon

PROPOSAL: Washington County has proposed the following removal action measures:

- Place a clean soil cap of approximately three feet depth over the old landfill surface;
 - Properly grade the soil to control stormwater, promote runoff and inhibit infiltration; and
 - Re-vegetate the soil cap with forest and other native plants.
- The objectives of the actions are to:
- Supplement the existing landfill cover in areas where inadequate by adding soil to a total depth of approximately three feet to prevent leachate generation and direct contact exposure by wildlife and recreational users according to current landfill cover requirements specified under Oregon Administrative Rules for landfills - OAR 340-094-0120(2)(a);
 - Improve surface soil grading to enhance surface water drainage, reduce infiltration, mitigate ponding, eliminate depressions and steep slopes in accordance with OAR 340-94-0040 (4)(a) and (b); and
 - Provide sufficient soil cap thickness to support reforestation, control invasive species, and improve aesthetics.

The removal actions will support future land use as rural forest.

HIGHLIGHTS: Starting in 1955, the former Shadybrook Landfill was operated as a municipal solid waste landfill. Waste was burned and buried until 1962. In 1965, leachate was found leading to Jesus Creek from the landfill. As a result, Washington County initiated the construction of swales and retention ponds to control leachate. Rodenticide was applied during the winter of 1962 to address a rat problem. Waste disposal ended in 1971. The western side of the former landfill was used as a gun range from 1971 until sometime in 1988. The site was referred to the DEQ Cleanup Program to address potential impacts to groundwater and surface water quality caused by an inadequate landfill cover and associated leachate releases to Jesus Creek, which is a source of drinking water for local residents.

HOW TO COMMENT: Send comments by 5 p.m. May 31, 2012 to DEQ Project Manager Anna Coates at 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201-4987, coates.anna@deq.state.or.us, or (503) 229-5213. To review the project file, call Dawn Weinberger at (503) 229-6729 for a file review appointment. To access site summary information and other documents in DEQ's Environmental

Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, then enter 795 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 795 in the Site ID/Info column.

THE NEXT STEP: DEQ will review all comments pertaining to the proposed removal measures that are received by the close of the comment period.

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

REQUEST FOR COMMENTS PROPOSED REMEDY FOR THE UNION PACIFIC RAIL ROAD-ALBINA YARD

COMMENTS DUE: May 31, 2012 5:00 PM

PROJECT LOCATION: 1135 N Knott St., Portland, OR

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

HIGHLIGHTS: The Union Pacific Rail Road (UPRR)-Albina Yard property has been an active rail yard since the late 1800s. Historic and current operations at the yard include freight loading and transfer and fueling operations. Environmental investigations identified an area of petroleum impacted soil and groundwater in the southern portion of the rail yard. The investigations determined that the petroleum contamination is limited and not migrating to the nearby Willamette River. Low-level metal and polycyclic aromatic hydrocarbon (PAHs) impacts were also identified in shallow soil throughout the site, with higher levels of PAHs present in a portion of the northern portion of the site.

In 2011, DEQ and UPRR completed a Remedial Investigation and Feasibility Study for the site. Human health and ecological risk assessments concluded that three areas of shallow soil in the north yard exceeded risk based concentrations (RBCs) for human exposure. The petroleum impacted area in the southern yard also exceeded applicable RBCs for human health, but there is no current complete exposure pathway.

The Feasibility Study proposed different alternatives to address risks. DEQ reviewed the options and is proposing a cleanup action that involves excavation of shallow soil in the north yard and ongoing controls that will limit future access to the subsurface petroleum contamination in the south yard. Excavation would involve soil removal in three areas and replacement with certified clean fill. Excavated soils would be contained and measures taken to avoid dust and erosion during the excavation. Soils would be properly disposed of in a landfill approved to accept these materials. Engineering controls would be implemented for the petroleum contaminated area of the south yard to prohibit ground water use and minimize potential future exposure if excavation work occurs in this area. These controls would be memorialized in a deed restriction recorded with property deed in the Multnomah County recorder's office.

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

HOW TO COMMENT: To review project records, contact Dawn Weinberger at (503) 229-5425 and ask for records for Environmental Cleanup Site Information (ECSI) site #178. The DEQ Project Manager is Michael Romero (503-229-5563). Written comments should be sent to Michael Romero at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 and must be received no later than 5 pm on May 30, 2012. A public meeting will be held to receive verbal comments if requested by 10 or more people, or by a group with a membership of 10 or more. Site information can also be found in DEQ's on-line ECSI database at: <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, by searching on Site ID #178.

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

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

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

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR BLACK DISTRIBUTING HEATING OIL IN IRRIGATION WELL SITE

COMMENTS DUE: 5 p.m., May 31, 2012

PROJECT LOCATION: 3080 N Second St., Baker City

PROPOSAL: The Oregon Department of Environmental Quality's Voluntary Cleanup Program proposes to issue a no further action determination for the Black Distributing Heating Oil in Irrigation Well site located at 3080 N Second St., Baker City. The heating oil contamination at the site has decreased significantly since the spill in Jan. 2011. DEQ issues a no further action determination when a cleanup has met regulatory standards.

HIGHLIGHTS: On Jan. 27, 2011, Black Distributing mistakenly pumped approximately 80 gallons of heating oil (diesel fuel) into a shallow irrigation well instead of the home's underground heating oil tank. The heating oil flowed out of the well casing and into the subsurface soil and groundwater. Concentrations of diesel in groundwater have dropped significantly in the area around the irrigation well since the release occurred. This is likely because the diesel fuel has been diluted by groundwater and broken down by microbes in the soil. The diesel fuel levels are expected to continue to decrease, continuing to reduce the risk posed by the diesel fuel.

The Voluntary Cleanup Program has reviewed site assessment activities performed at the site since the release and has determined no further action related to the heating oil release is required.

HOW TO COMMENT: Send comments by 5 p.m., May 31, 2012, to DEQ Project Manager Katie Robertson by phone at 541-278-4620, by mail at 700 SE Emigrant, Suite 330, Pendleton, OR 97801, by e-mail at robertson.katie@deq.state.or.us or by fax at 541-278-0168.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database" link, enter 5489 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5489 in the Site ID/Info column. To review the project file, contact the project manager above for a file review appointment.

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

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

PUBLIC HEARING AND REQUEST FOR COMMENTS PROPOSED PROSPECTIVE PURCHASER AGREEMENT WITH CLACKAMAS COUNTY SERVICE DISTRICT #1 AND TRI-CITY SERVICE DISTRICT FOR THE FORMER BLUE HERON LAGOON PROPERTY IN WEST LINN

PUBLIC MEETING: 6:30 p.m. to 8:30 p.m., Tuesday, May 22, 2012, at Clackamas County Community College, Gregory Forum

room A. At this meeting DEQ will present information about this proposal and record public comments.

COMMENTS DUE: Thursday, May 31, 2012

PROJECT LOCATION: The former Blue Heron Paper Company's Lagoon property is located at 1317 Willamette Falls Drive, West Linn, Oregon. This project does not involve the former Blue Heron Paper Company's mill property, located at 419 Main Street, Oregon City.

PROPOSAL: The Department of Environmental Quality proposes to enter into a consent order for a prospective purchaser agreement with Clackamas County Service District No. 1 and Tri-City Service District. The districts are buying the property from the Blue Heron Paper Company's bankruptcy trustee. The districts' plan to redevelop the site as a wastewater discharge facility and open space.

HIGHLIGHTS: The districts' proposed redevelopment plans related to the proposed Prospective Purchaser Agreement will have two main environmental benefits. The districts will investigate and cleanup contamination in the approximately 16-acre lagoon, formerly used by Blue Heron as a settling pond for the treated wastewater from the paper mill. The remaining 22 acres of underused property near the Willamette River may be developed into park green space, trails, wetland mitigation projects or other beneficial uses as established in a public process led by the City of West Linn.

The Blue Heron Paper Mill piped its wastewater approximately three miles up and then across the bottom of the Willamette River to the lagoon. After settling in the lagoon, the treated effluent was discharged to the Willamette River in accordance with a wastewater permit administered by DEQ. The lagoon also currently accepts stormwater from the Blue Heron mill for treatment. These uses have resulted in sludge accumulation within the lagoon. Initial sampling of the sludge and groundwater beneath the site shows that the sludge contains some contaminants, including PCBs and dioxins/furans, and groundwater contains elevated concentrations of some metals including arsenic and manganese.

The districts' proposed redevelopment of the property will include construction of facilities that will discharge treated municipal wastewater to the Willamette River. The proposed development will require new pipelines, pump houses, control houses and maintenance facilities.

The proposed Prospective Purchaser Agreement/consent order will provide the districts with a release from liability for claims by the State of Oregon relating to historical releases of hazardous substances at or from the lagoons.

The districts will be responsible for cleaning up contaminants on the lagoon property that they are buying.

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

ADDITIONAL INFORMATION: Copies of the proposed consent order/prospective purchaser agreement and other information regarding the site can be found through the link for the Blue Heron Lagoon Site at <http://www.deq.state.or.us/lq/cu/cusites.htm>.

These documents include drawings that show the location of the property.

HOW TO COMMENT: Send written comments to the DEQ Project Manager Shawn Rapp at DEQ Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201, or rapp.shawn@deq.state.or.us by Thursday, May 31, 2012. The proposed consent order and prospective purchaser agreement and the Blue Heron Lagoon property file are available for public review at DEQ. For a review appointment, call 503-229-6729.

Direct questions to Shawn Rapp at the above address or 503-229-5614.

THE NEXT STEP: DEQ will review and consider all comments received during the comment period.

OTHER NOTICES

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.

DEQ REQUESTING PUBLIC COMMENT FOR NO FURTHER ACTION DETERMINATION FORMER CONSOLIDATED FREIGHTWAYS MEDFORD, OREGON

COMMENT PERIOD: May 1 to May 31, 2012

PROJECT LOCATION: 703 North Central Ave, Medford
Tax Lot 4401, Map 372W24DD

HIGHLIGHTS: The Oregon Department of Environmental Quality (DEQ) has approved the assessment and cleanup conducted at the former Consolidated Freightways site at 703 North Central Ave in Medford, Oregon. As a result of this approval, DEQ is proposing a No Further Action (NFA) determination for investigation and cleanup of the site. DEQ is requesting comments on the proposed NFA determination.

The property was formerly used as a freight storage and distribution facility that held three underground tanks to store petroleum products. A petroleum release from the underground tank system was reported in 1993 during decommissioning activities. Contaminated soil and groundwater were removed from the tank excavation. Residual petroleum contamination remains at low levels within the right-of-way under Central Ave/Highway 99. Soil and groundwater was tested in 2008 and showed petroleum present but at concentrations below risk levels. In addition to the tank system, chlorinated solvents were found in groundwater. Assessment work in 2011 showed that the chlorinated solvents are from an upgradient source and not associated with historical operations at the site. Solvent contaminant levels in groundwater beneath and down gradient of the site, are below risk levels also.

Based on available data, the site is considered safe for commercial or industrial uses and the Central Ave/Highway 99 right of way is safe for construction and excavation work. DEQ has concluded that there is no threat to human health and the environment under current site conditions. DEQ is planning to conduct additional assessment in the area for the solvent source.

HOW TO COMMENT: A report summarizing the project and DEQ's recommendation, is available on line at <http://www.deq.state.or.us/lq/cu/index.htm> by entering the Site ID number 1514 in the Environmental Cleanup Site Inventory (ECSI) database. A file containing detailed information for the site is available for review in DEQ's office located in Suite 100 at 165 East 7th Avenue in Eugene. Questions concerning this site should be directed to Bryn Thoms at

DEQ's Eugene office at 541-687-7424 or toll-free in Oregon at 1-800-844-8467, extension 7424.

Comments on the recommendation need to be received in the Eugene Office, Attn: Bryn Thoms, by 5 pm on May 31, 2012. Fax or email comments are acceptable. All comments will be considered before final approval of the NFA.

DEQ DETERMINES NO FURTHER ACTION REQUIRED FORMER COOLING WATER PONDS AND STORMWATER PONDS, OAKRIDGE INDUSTRIAL PARK OAKRIDGE, OREGON

PROJECT LOCATION: 48513 Highway 58, Oakridge, Lane County, Oregon

HIGHLIGHTS: The Oregon Department of Environmental Quality has approved the assessment and cleanup conducted at the former cooling water and stormwater ponds at the Oakridge Industrial Park in Oakridge, Lane County. As a result of this approval, DEQ has issued a determination that no further action is required for investigation or cleanup of the site.

The City of Oakridge conducted cleanup of the two former pond areas in 2010 and 2011. The former cooling water pond sediments and the former storm water detention pond sediments were contaminated from historical releases of Polychlorinated Biphenyls (PCBs), dioxins, and metals from the former mill that occupied the site.

Sediments in the cooling water ponds were capped with clean fill and sediments in the stormwater pond were removed and disposed off site at an approved landfill. Current site conditions for the former cooling water ponds area is approved for industrial use. Current site conditions for the former stormwater ponds area is approved for residential use. Future use of the cooling water ponds area will require a deed restriction to maintain the cap on the contaminated material. Residual contamination in these areas is also below ecological screening levels. DEQ has concluded that there is no threat to human health and the environment under current site conditions for these two areas.

The City of Oakridge has conducted investigation and cleanup of these contaminants, as well as other contaminants at the mill site since the City took ownership of in 1995. Most of the rest of the industrial park has been cleaned up and has been approved for industrial use.

A report summarizing the project and DEQ's determination, is available on line at <http://www.deq.state.or.us/lq/cu/index.htm> by entering the Site ID number 234 in the Environmental Cleanup Site Inventory (ECSI) database. A file containing detailed information for the site is available for review in DEQ's office located in Suite 100 at 165 East 7th Avenue in Eugene. Questions concerning this site should be directed to Bryn Thoms at DEQ's Eugene office at 541-687-7424 or toll-free in Oregon at 1-800-844-8467, extension 7424.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

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**Board of Massage Therapists
Chapter 334**

Rule Caption: Adopting two new rules and amending four rules.

Date:	Time:	Location:
6-11-12	9 a.m.	748 Hawthorne Ave. NE Salem, OR 97301

Hearing Officer: David Fredrickson

Stat. Auth.: ORS 183, 182.456-182.472, 687.051 & 687.121

Stats. Implemented: ORS 182.456-182.472, 687.051, 687.061, 687.081, 687.086 & 687.121

Proposed Adoptions: 334-010-0028, 334-010-0029

Proposed Amendments: 334-010-0009, 334-010-0015, 334-010-0018, 334-010-0033

Last Date for Comment: 6-11-12, 9 a.m.

Summary: The OBMT is adopting two new rules; Breast & Internal Cavity Massage; for public protection with regards to these specific modalities.

The OBMT has amended language for clarification purposes.

The OBMT is amending the fee rule to include a prorated amount for initial renewals under 12 months.

Rules Coordinator: Christine West

Address: Board of Massage Therapists, 748 Hawthorne Ave. NE, Salem, OR 97301

Telephone: (503) 365-8657, ext. 302

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**Board of Pharmacy
Chapter 855**

Rule Caption: Amend or adopt new Definitions, Practitioner Dispensing Outlet, Controlled Substance, Outlet Conduct and Fee rules.

Date:	Time:	Location:
5-24-12	9 a.m.	800 NE Oregon St., Conf. Rm. 1A Portland, OR 97232

Hearing Officer: Courtney Wilson

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

Other Auth.: 2012 SB 1565

Stats. Implemented: ORS 689.151, 689.155, 689.205, 689.225

Proposed Adoptions: 855-041-0016, 855-043-0405, 855-043-0410, 855-043-0415, 855-043-0420, 855-043-0425, 855-043-0430, 855-043-0435, 855-043-0440, 855-043-0445, 855-043-0450, 855-043-0455, 855-080-0094

Proposed Amendments: 855-006-0005, 855-043-0002, 855-080-0100, 855-110-0007

Last Date for Comment: 5-21-12, 4:30 p.m.

Summary: Division 006 rules are needed to amend rules to define "Board" and add "dispense" to existing definitions. The Division 041 Drug Outlet conduct rules are being reconsidered and define the Grounds for Discipline for outlets that fail to provide a working environment that protects the health, safety and welfare of patients. Division 043 Practitioner Dispensing Outlet rules are needed to implement 2012 SB 1565. These rules define "Supervising Physician Dispensing Outlet" and identify which entities must register as well as their requirements. Division 080 Controlled Substance Identification rules establish requirements for the dispensing of a controlled substance directly to a patient or patient's representative. Division 080 Animal Euthanasia rules correct an outdated fee reference. Division 110 Fee rules are needed to establish a fee for Supervising Physician Dispensing Outlets.

A complete copy of these proposed rules may be found on the Board's web site at, www.pharmacy.state.or.us

The Agency requests public comment by 5/21/2012 at 4:30 on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Rules Coordinator: Karen MacLean

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

Telephone: (971) 673-0001

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**Board of Psychologist Examiners
Chapter 858**

Rule Caption: Modifies educational requirements for licensure and application procedures; adds licensure by endorsement; modifies investigation procedures.

Stat. Auth.: ORS 675.010-675.150

Stats. Implemented: ORS 675.030, 675.065 & 675.110

Proposed Amendments: 858-010-0001, 858-010-0010, 858-010-0011, 858-010-0012, 858-010-0013, 858-010-0015, 858-010-0016, 858-010-0017, 858-010-0020, 858-010-0025, 858-010-0030, 858-010-0036, 858-010-0037, 858-010-0038, 858-010-0039, 858-030-0005

Proposed Repeals: 858-020-0065, 858-020-0095

Last Date for Comment: 5-22-12, Close of Business

Summary: Defines "practicum" and clarifies practicum experience requirement. Modifies the educational requirements for licensure for applicants who possess a doctoral degree from a program accredited by the American Psychological Association or the Canadian Psychological Association. Removes requirement that doctoral degree program must have authorization to operate in Oregon by the Office of Degree Authorization. Modifies and makes corrections to the standard application procedure. Removes the "non-standard" application procedure and replaces it with "Licensure by Endorsement." Creates new application procedures for applicants licensed as a psychologist in another jurisdiction. Removes incorrect references to "clinical" titles. Establishes that complete applications will be archived two years after approval. Establishes that a third failed Examination for Professional Practice (EPPP) in Psychology will result in application denial. Adds provision for refund of the jurisprudence exam fee in extraordinary circumstances. Repeals the complaint disposition procedures of 858-020-0065 and 858-020-0095. Also includes various minor housekeeping items.

Rules Coordinator: Debra Orman McHugh

NOTICES OF PROPOSED RULEMAKING

Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE, Suite 130, Salem, OR 97302
Telephone: (503) 373-1155

Department of Agriculture Chapter 603

Rule Caption: Streamline/update language, add authority to strengthen enforcement action for pesticide drift onto schools.

Date:	Time:	Location:
5-22-12	9 a.m.	OR Dept. of Agriculture Hearings Rm. 635 Capitol St. NE Salem, OR

Hearing Officer: Stephanie Page

Stat. Auth.: ORS 634

Stats. Implemented: ORS 634

Proposed Amendments: 603-057-0006, 603-057-0120, 603-057-0135, 603-057-0150, 603-057-0500, 603-057-0525

Last Date for Comment: 6-1-12, 5 p.m.

Summary: The proposed amendments to the OAR 603-057 listed above are primarily to remove and amend outdated administrative rule language, update and streamline processes and procedures regarding implementation of pesticide licensing, certification, recertification and enforcement as authorized by ORS 634. The deletions and changes do not effectively change the manner in which pesticide applicators, pesticide consultants or private applicators are licensed, accomplish recertification, or other aspects of licensing. The General Standards of Pesticide Applicator Competence, the Private Applicator Standards of Competence will now clearly include pesticide drift related mitigation measures. The educational sessions identified as CORE, will now clearly include the topics of pesticide drift related mitigation measures and pest resistance prevention. The inclusion of drift mitigation measures in the standard of competence for Pesticide Applicators will also apply to Pesticide Consultants by reference.

The proposed amendments to OAR 603-057-0500 and OAR 603-0525 add a definition of a school and clearly allow the Department the flexibility to take enforcement action appropriate for the exposure scenario presented when a pesticide is applied in a manner that results in pesticide residues confirmed by the Department to be on school property.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Deleting multiple sections of OAR for programs that are outdated or defunded.

Date:	Time:	Location:
5-22-12	9 a.m.	OR Dept. of Agriculture Conference Rm. D (Basement) 635 Capitol St. NE Salem, OR

Hearing Officer: Brent Searle

Stat. Auth.: ORS 561, 634, 632, 561.190, 603, 596.020, 596.392, 596.388, 596.030, 561, 583, 471.810, 586

Stats. Implemented: ORS 634.306, 634.410, 634.415, 634.420, 634.425, 634.322, 596.020, 596.030, 583, 473.047, 586.570–586.680, 632.460, 632.905, 622.180, 568.192

Proposed Repeals: Rules in 603-016, 603-031, 603-050-0100, 603-057-0300, Rules in 603-061, 603-062, 603-063, 603-064, 603-065, 603-066, 603-067, 603-068, 603-069, 603-070-0025, 603-085-0000 – 603-085-0080, 603-105-0010

Last Date for Comment: 6-8-12, 5 p.m.

Summary: Oregon Department of Agriculture proposes to repeal a series of Administrative Rules. These rules relate to programs that are no longer functioning, have been defunded, or the need for the rule no longer exists.

REPEAL: The Oregon Department of Agriculture proposes to repeal the following Administrative Rules:

Pesticides Division: 603-057-0300 Specifications for Use of Pesticides Containing Thiram as Animal Repellents – EPA cancelled use of product.

Animal Health/ID: 603-016 Eradication and Control of Turkey Diseases, and the Inspection and Grading of Turkeys – ODA no longer does this.

Dairy: 603-061 through 603-069 – Milk Stabilization Program – ODA no longer conducts this program.

Wine Advisory Board: 603-105-0010 – Wine Advisory Board – No longer in ODA.

Commodity Inspection Programs: 603-031 – Grain Inspection – ODA no longer performs this function.

603-050-0100 – Transportation Permits for Potatoes – no longer in use.

Research: 603-085-0000 through 603-085-0080 – Center for Applied Agricultural Research – No longer funded or functioning.

Conservation: 603-070-0025 Conservation Planning and Implementation Grants Program – No longer funded or functioning.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Renames Directly Supervised Trainee license and allows for multiple year renewal with educational component.

Stat. Auth.: ORS 635

Stats. Implemented: ORS 634

Proposed Amendments: 603-057-0001, 603-057-0100, 603-057-0127

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

Summary: This rule is a refile of a previously adopted filing due to a missed deadline.

The rules rename the Directly Supervised Trainee License to avoid confusion with the Immediately Supervised Trainee License. The Directly Supervised Trainee License is renamed the Pesticide Apprentice License. In addition, the rules expand the ability to renew the Pesticide Apprentice License. Existing administrative rules limit directly supervised trainees to one lifetime annual renewal. A pesticide apprentice may maintain a pesticide trainee license indefinitely by attending educational programs and demonstrating attempts to attain pesticide applicator certification. The rules restrict pesticide apprentices and immediately supervised trainees from applying pesticides by helicopter or fixed wing aircraft. Finally, the supervisor of an immediately supervised trainee or apprentice must be named in each pesticide application record.

The changes are intended to allow flexibility for employers to hire, train and supervise trainees. Persons who qualify for the Pesticide Apprentice License will be able to enter the industry at a more gradual pace and will be introduced to concepts presented in continuing education programs. Persons with limited written English language skills or test-taking abilities will be allowed to continue employment under the supervision of a fully licensed applicator. The rules will clarify several trainee-related topics, ensure documentation of the supervisor-trainee relationship and reduce confusion over what level of supervision is required for each type of trainee license.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Inland Rogue Agricultural Water Quality Management Area Rules.

Stat. Auth.: ORS 561.190–561.191 & 568.912

Stats. Implemented: ORS 568.900–568.933

Proposed Adoptions: 603-095-1460

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 603-095-1400, 603-095-1420, 603-095-1440

Proposed Repeals: 603-095-0200, 603-095-0220, 603-095-0240, 603-095-0260, 603-095-0280

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

Summary: This rule is a refile of a previously adopted filing due to a missed deadline.

The rules effectuate the implementation of the Inland Rogue Agricultural Water Quality Management Area Plan developed under ORS 568.900 through 568.933 and OAR Chapter 603 Division 90.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Renames Directly Supervised Trainee license and allows for multiple year renewal with educational component.

Stat. Auth.: ORS 634

Stats. Implemented: ORS 634

Proposed Amendments: 603-057-0001, 603-057-0100, 603-057-0127

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

Summary: This rule is a refile of a previously adopted filing due to a missed deadline.

The rules rename the directly Supervised Trainee License to avoid confusion with the Immediately Supervised Trainee License. The Directly Supervised Trainee License is renamed the Pesticide Apprentice License. In addition, the rules expand the ability to renew the Pesticide Apprentice License. Existing administrative rules limit directly supervised trainees to one life time annual renewal. A pesticide apprentice may maintain a pesticide trainee license indefinitely by attending educational programs and demonstrating attempts to attain pesticide applicator certification. The rules restrict pesticide apprentices and immediately supervised trainees from applying pesticides by helicopter or fixed wing aircraft. Finally, the supervisor of an immediately supervised trainee or apprentice must be named in each pesticide application record.

These changes are intended to allow flexibility for employers to hire, train and supervise trainees. Persons who qualify for the Pesticide Apprentice License will be able to enter the industry at a more gradual pace and will be introduced to concepts presented in continuing education programs. Persons with limited written English language skills or test-taking abilities will be allowed to continue employment under the supervision of a fully licensed applicator. The rules will clarify several trainee-related topics, ensure documentation of the supervisor-trainee relationship and reduce confusion over what level of supervision is required for each type of trainee license.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Clarifies the description of the area under quarantine.

Stat. Auth.: ORS 561 & 570.305

Stats. Implemented: ORS 561.190, 561.510-561.600 & 570.305

Proposed Amendments: 603-052-1020

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

Summary: The proposed amendment would clarify the description of the area under quarantine. Currently, the entire states of Washington and Idaho are exempt from the quarantine. Washington currently has a comparable statewide quarantine for hop powdery mildew. However, in Idaho, only the northern counties are covered by a comparable quarantine, creating a situation where potentially infected hop plants could be shipped into Oregon from southern Idaho counties. This proposed amendment would clarify that only hop plants from counties in Washington and Idaho covered by a com-

parable quarantine for hop powdery mildew are eligible for shipment into Oregon. This is a housekeeping change to this rule.

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: Mid-cycle code amendment for recreational vehicle construction.

Date:	Time:	Location:
5-15-12	9:30 a.m.	1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Richard J. Baumann

Stat. Auth.: ORS 183.335, 455.030, 455.110 & 446.185

Stats. Implemented: ORS 446.185

Proposed Amendments: 918-525-0042

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

Summary: This proposed rule amends one of the standards for the construction, conversion, alteration, and repair of recreational vehicles in Oregon. This rule amends the 2011 NFPA 70, National Electrical Code (NEC), Article 551-42 (C) to allow a sixth circuit in a 30 ampere power supply assembly.

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: Biennial Adjustment to Securities Fees; Corrections to Regulatory References.

Date:	Time:	Location:
6-1-12	9 a.m.	350 Winter St. NE, Conference Rm. B Salem, OR

Hearing Officer: Richard Blackwell

Stat. Auth.: ORS 59.049, 59.065, 59.175 & 59.285

Stats. Implemented: ORS 59.049, 59.065, 59.175 & 59.285

Proposed Amendments: 441-175-0002, 441-175-0010, 441-175-0060, 441-175-0070, 441-175-0080, 441-175-0100, 441-175-0105, 441-175-0120, 441-175-0130, 441-175-0150, 441-175-0160, 441-175-0165; 441-195-0020, 441-025-0050

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

Summary: The amendment to OAR 441-175-0002 impacts the filing fees required for broker-dealer salespersons. The initial license fee increases from \$55 to \$60, and the renewal license fee increases from \$50 to \$55 based on the statutory requirement to set fees in an amount that is equal as nearly as possible to the national midpoint for similar fees charged by all other United States state securities regulatory agencies. Several of the administrative rules for securities refer to an organization's former name (National Association of Securities Dealers, Inc.) rather than its current name (Financial Industry Regulatory Authority). OAR 441-175-0100(3) and 441-176-0165(6)(a) and (b) incorrectly reference the definition of "independent accountant" as OAR 441-175-0010(6); the correct reference should be OAR 441-175-0010(7). OAR 441-195-0020(1)(I)(G) refers to an exchange that no longer exists. OAR 441-025-0050 incorrectly refers to the wrong subsection implementing the rule.

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

NOTICES OF PROPOSED RULEMAKING

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Amends current rule allowing title insurers to provide certain real property information to intermediaries.

Date:	Time:	Location:
5-23-12	1:30 p.m.	Labor & Industries Building CR-F, 350 Winter St. NE Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.045, 746.055, 746.160 & 746.240

Proposed Amendments: 836-080-0337

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

Summary: The current rule allows certain information to be provided on real property located in Multnomah, Clackamas or Washington counties, or any county in which real property data bases providing such information are available on a commercially available software program. The ability of the title insurer to provide the information is subject to a \$10 limit, including but not limited to labor and materials.

The proposed changes to the rule allow a title insurer to provide demographic information for property located anywhere in Oregon. The rule also changes the limitation on cost to \$15 per request, including but not limited to labor and materials, and prohibits a title insurer from providing to intermediaries any other thing of value in connection with the property information, including but not limited to packaging.

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

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

Rule Caption: Proposed changes in Division 4, Agriculture – subdivisions A, B, I, and Z.

Date:	Time:	Location:
6-11-12	10 a.m.	Woodburn Grange 908 N Settlemier Ave. Woodburn, OR 97071-3163
6-19-12	11 a.m.	Cherry Park Grange 1002 Lambert Rd. The Dalles, OR 97058
6-22-12	10 a.m.	Central Point Grange 436 E Pine St. Central Point, OR 97502-1937

Hearing Officer: Sue Joye

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

Stats. Implemented: OAR 654.001-654.295

Proposed Adoptions: 437-004-9626

Proposed Amendments: 437-004-0001, 437-004-0002, 437-004-0003, 437-004-0005, 437-004-0100, 437-004-1005, 437-004-1020, 437-004-1030, 437-004-1035, 437-004-1041, 437-004-1050, 437-004-1060, 437-004-1070, 437-004-1075, 437-004-9000, 437-004-9050, 437-004-9090, 437-004-9600, 437-004-9620, 437-004-9640, 437-004-9650, 437-004-9710, 437-004-9740, 437-004-9760, 437-004-9780, 437-004-9830, 437-004-9850, 437-004-9860

Last Date for Comment: 6-29-12, Close of Business

Summary: Oregon OSHA proposes to add one new rule, two new Appendices, and to modify the language in twenty-eight existing rules in four Subdivisions of Division 4/ Agriculture.

In Subdivision A, the scope of the Division 4 rules is redefined, based on activities rather than the current references to the North American Industrial Classification System (NAICS) and Standard Industrial system (SIC) codes. A revision limits the “exclusive coverage” for agricultural employers by the Division 4 rules to employers engaged in agricultural operations. Agricultural employers who

also engage in activities that are outside the scope of agricultural operations are subject to applicable rules in Division 2, General Industry; Division 3, Construction; or Division 7, Forest Activities. A new non-mandatory appendix to Subdivision A cross-references activities that are typically covered by the Division 4 rules – and those that typically fall outside of Division 4 – with the SIC and NAICS codes descriptions of industries.

Subdivision B defines the key terms used in determining the scope of the rules such as agricultural establishments, and agricultural operations.

Subdivision I modifies the requirements for employers providing Personal Protective Equipment to include an evaluation of the hazards. A new non-mandatory appendix to Subdivision I provides a template for employers to use in this evaluation. Also, training requirements are specified for employees using general PPE. The format of the rules for PPE for parts of the body (head, eyes and face, hands and feet) is simplified. These requirements are aligned with the requirements in the Division 2 rules. Employers must also provide eye protection for exposure to laser hazards and high visibility garments for exposures to traffic hazard caused by on-highway type moving vehicles in work zones and street or highway traffic.

The format is standardized in the rules for Subdivision Z (Chemicals and Toxins.) The Division 4 Air Contaminant rules have been updated and coincide with Air Contaminant rules found in Division 2 and Division 3. The substance-specific rules make clear that either the Division 2 or Division 3 rules could apply, depending on the type of activity, if there is an exposure to these toxins.

Rules Coordinator: Sue C. Joye

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

Telephone: (503) 947-7449

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Department of Energy Chapter 330

Rule Caption: Permanent rules to administer the energy conservation tax credit within the Energy Incentives Program.

Date:	Time:	Location:
5-24-12	11 a.m.	OR Dept. of Energy 625 Marion St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 469.040 & 469B.306

Stats. Implemented: ORS 469B.270-469B.306, 315.331, 2012 OL Ch. 45, Sec. 20-23 (HB 4079)

Proposed Adoptions: 330-210-0000, 330-210-0010, 330-210-0020, 330-210-0030, 330-210-0040, 330-210-0045, 330-210-0046, 330-210-0050, 330-210-0060, 330-210-0070, 330-210-0080, 330-210-0090, 330-210-0100, 330-210-0150

Proposed Repeals: 330-210-0000(T), 330-210-0010(T), 330-210-0020(T), 330-210-0030(T), 330-210-0040(T), 330-210-0045(T), 330-210-0050(T), 330-210-0060(T), 330-210-0070(T), 330-210-0080(T), 330-210-0090(T), 330-210-0100(T), 330-210-0150(T)

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

Summary: These rules provide the operating framework for the energy conservation tax credit within the Energy Incentives Program. The rules include the application process, prioritization of applications within funding limits and issuance of tax credits. In December 2011, the Department of Energy adopted temporary rules for the energy conservation tax credit 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 one funding opportunity announcement for small premium project proposals 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 for the pass-through and compliance activities of the Energy Incentives Program.

Date:	Time:	Location:
5-24-12	9 a.m.	OR Dept. of Energy 625 Marion St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 469.040, 469B.265, 469B.306 & 469B.347

Stats. Implemented: ORS 469B.265, 469B.276, 496B.291(3)(h), 496B.297, 496B.306, 469B.323, 469B.332(3)(g), 496B.338, 496B.347 & 2012 OL Ch. 45, Sec. 20 (HB 4079)

Proposed Adoptions: 330-230-0000, 330-230-0010, 330-230-0020, 330-230-0030, 330-230-0040, 330-230-0050, 330-230-0060, 330-230-0110, 330-230-0120, 330-230-0130, 330-230-0140, 330-230-0150

Proposed Repeals: 330-230-0000(T), 330-230-0010(T), 330-230-0020(T), 330-230-0030(T), 330-230-0040(T), 330-230-0050(T), 330-230-0060(T), 330-230-0110(T), 330-230-0120(T), 330-230-0130(T), 330-230-0140(T)

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

Summary: These rules provide the operating framework for the transfer of tax credits through the pass-through process and the department's compliance activities to inspect and verify projects and systems. In December 2011, the Department of Energy adopted temporary rules for the pass-through and compliance activities of the Energy Incentives Program created by HB 3672 (2011) and amended by HB 4079 (2012). This rulemaking repeals the temporary rules and implements permanent rules. The compliance rules apply to the conservation, alternative fuel vehicle infrastructure and transit services tax credit programs, and the renewable energy grant program. The pass-through rules are only for the tax credit programs. Since the filing of temporary rules, the department has engaged stakeholders in two meetings to collect comments and feedback on the rules

Rules Coordinator: Kathy Stuttaford

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

Telephone: (503) 373-2127

Rule Caption: Permanent rules to administer the transit services tax credit within the Energy Incentives Program.

Date:	Time:	Location:
5-23-12	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: 330-225-0000, 330-225-0010, 330-225-0020, 330-225-0030, 330-225-0040, 330-225-0050, 330-225-0070, 330-225-0080, 330-225-0090, 330-225-0100, 330-225-0150

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

Summary: These rules provide the operating framework for the transit services tax credit within the Energy Incentives Program created by HB 3672 (2011) and amended by HB 4079 (2012). The rules include the application process, allocation of tax credits within funding limits and issuance of tax credits. The department 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 Fish and Wildlife Chapter 635

Rule Caption: Amend rules relating to the Habitat Conservation Stamp.

Date:	Time:	Location:
6-7-12	8 a.m.	3406 Cherry Ave NE, Salem, OR 97303

Hearing Officer: Oregon Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 497.071 & HB 2127 (2011) (2011 OL Ch. 50)

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 497.071 & HB 2127 (2011) (2011 OL Ch. 50)

Proposed Amendments: 635-008-0151, 635-010-0170, Rules in 635-095

Last Date for Comment: 6-7-12, Close of Hearing

Summary: Adopted by the 2011 Oregon State Legislature (HB 2127), the Habitat Conservation Stamp allows Oregonians to purchase an annual stamp to benefit conservation of Oregon's native species and habitats. Stamps sell for \$40 a year and include a free ODFW Wildlife Area Parking Pass (a \$22 value). This will amend Division 008-0151 to add the Habitat Conservation Stamp to the list of documents that include a free annual parking permit.

Amendment of division 010-0170 allows Oregonians to purchase an annual stamp via mail order, fax or internet and will add the Habitat Conservation Stamp as a postal delivery document. These amendments will also allow daily and annual ODFW Wildlife Area Parking Permits to be purchased via mail order, fax or internet.

Amendments to division 95 governing the Habitat Conservation Stamp procedures.

NOTE: Commission/Hearing dates for June are June 7 and 8, 2012 beginning at 8:00 a.m. Exhibits for the Wildlife Division are expected to complete on June 7, 2012. However, should additional time be needed, Wildlife Division exhibits may continue on June 8, 2012.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

Rule Caption: Amend rules regarding furbearer harvest, seasons, bag limits and furbearer trapping and hunting regulations.

Date:	Time:	Location:
6-7-12	8 a.m.	3406 Cherry Ave. NE Salem, OR 97303

Hearing Officer: Oregon Fish & Wildlife Commission

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

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Proposed Amendments: 635-043, 635-045, 635-048, 635-050, 635-200

Last Date for Comment: 6-7-12, Close of Hearing

Summary: Amendments include changes to seasons and bag limits for the 2012-2013 and 2013-2014 furbearer harvest and pursuit seasons and general furbearer trapping and hunting regulations.

NOTE: Commission/Hearing dates for June are June 7 and 8, 2012 beginning at 8:00 a.m. Exhibits for the Wildlife Division are expected to complete on June 7, 2012. However, should additional time be needed, Wildlife Division exhibits may continue on June 8, 2012.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

Rule Caption: Amend rules relating to the revised Oregon Black Bear Management Plan.

Date:	Time:	Location:
6-7-12	8 a.m.	3406 Cherry Ave. NE Salem OR 97303

Hearing Officer: Oregon Fish & Wildlife Commission

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

NOTICES OF PROPOSED RULEMAKING

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Proposed Amendments: Rules in 635-060, 635-065, 635-066, 635-170

Last Date for Comment: 6-7-12, Close of Hearing

Summary: The Commission will be asked to amend rules relating to the revised Oregon Black Bear Management Plan.

NOTE: Commission/Hearing dates for June are June 7 and 8, 2012 beginning at 8:00 a.m. Exhibits for the Wildlife Division are expected to complete on June 7, 2012. However, should additional time be needed, Wildlife Division exhibits may continue on June 8, 2012.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

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Rule Caption: 2012 controlled hunt tag numbers, plus 2013 annual changes to game mammal hunting regulations.

Date:	Time:	Location:
6-7-12	8 a.m.	3406 Cherry Ave. NE Salem, OR 97303

Hearing Officer: Oregon Fish & Wildlife Commission

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

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Proposed Amendments: Rules in 635-002, 635-045, 635-049, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-078, 635-080

Last Date for Comment: 6-7-12, Close of Hearing

Summary: Establish 2012 controlled hunt tag numbers and /or season regulations for the hunting of pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk.

Propose 2013 hunting regulations for game mammals, including season dates, bag limits, open areas, location of cooperative travel management areas, and controlled hunting regulations. Propose quotas for 2013 cougar seasons and spring bear limits, first-come first-serve and controlled hunt tag numbers for 2013. These proposals will be presented in principle to the Oregon Fish and Wildlife Commission in June 2012 and again for adoption in October 2012.

NOTE: Commission/Hearing dates for June are June 7 and 8, 2012 beginning at 8:00 a.m. Exhibits for the Wildlife Division are expected to complete on June 7, 2012. However, should additional time be needed, Wildlife Division exhibits may continue on June 8, 2012.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

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

Date:	Time:	Location:
6-7-12	8 a.m.	ODFW 3406 Cherry Ave. NE Salem, OR 97303

Hearing Officer: Oregon Fish & Wildlife Commission

Stat. Auth.: ORS 506.119, 508.530 & 509.031

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

Proposed Adoptions: Rules in 635-041

Proposed Amendments: Rules in 635-041

Proposed Repeals: Rules in 635-041

Last Date for Comment: 6-8-12, 8 a.m.

Summary: Rule modifications allow licensed wholesale fish dealers, cannery or buyers to purchase steelhead trout and walleye from Columbia River Treaty Tribal fishers and then sell or distribute the steelhead trout and walleye, assuming the fish were lawfully taken during open commercial fishing seasons. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

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Rule Caption: Oregon Ocean Commercial, Terminal Area, and Coastal Zone Sport Salmon Fisheries.

Date:	Time:	Location:
6-7-12	8 a.m.	ODFW 3406 Cherry Ave. NE Salem, OR

Hearing Officer: Oregon Fish & Wildlife Commission

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

Other Auth.: Magnusson-Stevens Sustainable Fisheries Act.

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

Proposed Adoptions: Rules in 635-003, 635-013, 635-014, 635-016
Proposed Amendments: Rules in 635-003, 635-013, 635-014, 635-016

Proposed Repeals: Rules in 635-003, 635-013, 635-014, 635-016

Last Date for Comment: 6-8-12, 8 a.m.

Summary: Amend rules relating to commercial and sport salmon fishing in the Oregon ocean terminal areas; and in the Marine, Northwest and Southwest zones consistent with guidelines established by the Oregon Fish and Wildlife Commission and Pacific Fishery Management Council; and enacted Federal Regulations. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

NOTE: Commission/Hearing dates are June 7 and 8, beginning at 8:00 a.m. If the schedule allows, Fish Division's exhibits may start on June 7 and continue on Friday, June 8, 2012.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

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Rule Caption: Adopt Rule to Establish and Authorize Coquille Tribe Clam Harvest Permits.

Date:	Time:	Location:
6-7-12	8 a.m.	3406 Cherry Ave. NE Salem, OR

Hearing Officer: Oregon Fish & Wildlife Commission

Stat. Auth.: ORS 496.138

Stats. Implemented: ORS 506.129 & 507.030

Proposed Adoptions: Rules in 635-041

Proposed Amendments: Rules in 635-041

Proposed Repeals: Rules in 635-041

Last Date for Comment: 6-8-12, 8 a.m.

Summary: Adopted rule authorizes the Department to issue, upon annual request from the Coquille Indian Tribe of Oregon (Coquille Tribe), a Coquille Tribal Clam Harvest Permit for exclusive use by the Coquille Tribal members. The methods of take, special area regulations, seasons, and any other restrictions remain identical to those pertaining to sport harvest of clams. The individual Coquille Clam Harvest Permit is valid only within the Coos Bay Estuary, and does not authorize trespass upon private lands or entry or use on private or public lands where landowner permission has not been obtained, or where gathering of clams is precluded by any other statute or rule. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

NOTE: Commission/Hearing dates are June 7 and 8, beginning at 8:00 a.m. If the schedule allows, Fish Division's exhibits may start on June 7 and continue on Friday, June 8, 2012.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Adopt Rule to Establish and Authorize Siletz Tribe Clam Harvest Permits.

Date: 6-7-12
Time: 8 a.m.
Location: 3406 Cherry Ave. NE
Salem, OR

Hearing Officer: Oregon Fish & Wildlife Commission

Stat. Auth.: ORS 496.138.

Stats. Implemented: ORS 506.129 & 507.030.

Proposed Adoptions: Rules in 635-041

Proposed Amendments: Rules in 635-041

Proposed Repeals: Rules in 635-041

Last Date for Comment: 6-8-12, 8 a.m.

Summary: Adopted rule authorizes the Department to issue, upon annual request from the Confederated Tribes of the Siletz Indians of Oregon (Siletz Tribe), a Siletz Tribal Clam Harvest Permit for exclusive use by the Siletz Tribal members. The methods of take, special area regulations, seasons, and any other restrictions remain identical to those pertaining to sport harvest of clams. The individual Siletz Clam Harvest Permit is valid only within Lincoln County, and does not authorize trespass upon private lands or entry or use on private or public lands where landowner permission has not been obtained, or where gathering of clams is precluded by any other statute or rule. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

NOTE: Commission/Hearing dates are June 7 and 8, beginning at 8:00 a.m. If the schedule allows, Fish Division's exhibits may start on June 7 and continue on Friday, June 8, 2012.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

Rule Caption: Commercial Fisheries Regulations Restructure and Reorganization.

Date: 6-7-12
Time: 8 a.m.
Location: 3406 Cherry Ave. NE
Salem, OR

Hearing Officer: Oregon Fish & Wildlife Commission

Stat. Auth.: ORS 183.450, 496.116, 496.118, 496.138, 496.146, 496.162, 506.109, 506.119, 506.129, 506.450, 506.455, 506.460, 506.462, 506.465, 508.240, 508.406, 508.485, 508.490, 508.530, 508.535, 508.760, 509.031, 513.020, 622 & 802

Stats. Implemented: ORS 183.450, 496.138, 496.162, 498.022, 506.109, 506.119, 506.129, 506.450, 506.455, 506.460, 506.462, 506.465, 506.720, 508.025, 508.035, 508.040, 508.235, 508.240, 508.260, 508.406, 508.485, 508.490, 508.530, 508.535, 508.550, 508.921 thru 508.841, 508.920, 508.760, 508.762, 509.031, 596.129, 622 & 802

Proposed Adoptions: Rules in 635-004, 635-005, 635-006

Proposed Amendments: Rules in 635-004, 635-005, 635-006

Proposed Repeals: Rules in 635-004, 635-005, 635-006

Proposed Renumberings: Rules in 635-004, 635-005, 635-006

Proposed Ren. & Amends: Rules in 635-004, 635-005, 635-006

Last Date for Comment: 6-8-12, 8 a.m.

Summary: Amendments and renumbering of the rules will restructure and reorganize Oregon's regulations governing commercial fisheries. Modifications will increase clarity, consistency, and ease of use without changing the intent or practical effect of these regulations. Housekeeping and technical corrections to the regulations will occur to ensure consistency.

NOTE: Commission/Hearing dates are June 7 and 8, beginning at 8:00 a.m. If the schedule allows, Fish Division's exhibits may start on June 7 and continue on Friday, June 8, 2012.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

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

Rule Caption: Changing OARs affecting Child Welfare programs.

Date: 5-22-12
Time: 8:30 a.m.
Location: 500 Summer St. NE, Rm. 254
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.050, 418.005 & 418.016

Other Auth.: 42 USC § 671

Stats. Implemented: ORS 181.537, 181.010-181.560, 409.010, 418.005 & 418.016

Proposed Adoptions: 413-120-0457, 413-120-0475

Proposed Amendments: 413-120-0400, 413-120-0420, 413-120-0440, 413-120-0450, 413-120-0455, 413-120-0460

Proposed Repeals: 413-120-0470

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

Summary: OAR 413-120-0400, 413-120-0420, 413-120-0440, 413-120-0450, 413-120-0455, and 413-120-0460 are being amended; OAR 413-120-0457 and 413-120-0475 are being adopted; and OAR 413-120-0470 is being repealed to update and clarify the criminal records check requirements for relative caregivers, foster parents, adoptive parents, and other persons in the household along with the processes that relate to these requirements. These rules are also being changed to more closely align the policies, requirements, and terminology in these rules with the criminal records policies, requirements, and terminology applied in other Department programs. These amendments also make permanent and further revise changes made by temporary rule effective December 28, 2011.

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

Written comments may be submitted until May 24, 2012 at 5:00 p.m. Written comments may be submitted via e-mail to Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Children, Adults, and Families Division, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

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

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

Date: 5-22-12
Time: 10 a.m.
Location: 500 Summer St. NE, Rm 254
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 181.537, 409.050, 409.610, 411.060, 411.070, 411.095, 411.122, 411.404, 411.408, 411.610, 411.704, 411.706, 411.816, 411.892, 412.009, 412.014, 412.049, 414.231, 657A.340 & 657A.450

Other Auth.: 42 USC 602(a), 7 CFR 273.2, 7 CFR 273.6, 7 CFR 273.12(a)(5), 45 CFR 98.11, Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111 3), FNS Waiver 2030043

Stats. Implemented: ORS 183.415, 183.417, 181.537, 409.010, 409.050, 409.610, 411.060, 411.070, 411.095, 411.099, 411.103, 411.117, 411.122, 411.404, 411.408, 411.610, 411.704, 411.706,

NOTICES OF PROPOSED RULEMAKING

411.816, 411.892, 412.009, 412.014, 412.049, 412.069, 414.025, 414.231, 414.826, 414.831, 414.839, 657A.340 & 657A.450

Proposed Amendments: 461-025-0300, 461-025-0310, 461-025-0315, 461-115-0090, 461-115-0140, 461-115-0230, 461-120-0210, 461-130-0330, 461-135-0010, 461-140-0120, 461-150-0080, 461-155-0250, 461-165-0035, 461-165-0180, 461-175-0200, 461-175-0210

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

Summary: OAR 461-025-0300 about contested case hearings is being amended to continue certain current contested case procedures by opting out as permitted from new statewide rules on the topics of requests for admission, interrogatories, and disclosure of witness addresses and telephone numbers. Under this amendment, witness addresses and phone numbers will not be disclosed to clients not represented by an attorney. Witness addresses and phone numbers will also not be disclosed to clients represented by an attorney if the Department has concerns that the release of the information may affect the safety of the witness. This rule is also being amended to state that requests for admission and interrogatories would only be permitted when the Department of Justice is representing the Department of Human Services.

OAR 461-025-0310 about hearing requests is being amended to indicate that a client has a right to a hearing when there is a decision notice or contested case notice from the Department that denies in part a claim that the Department previously underissued public assistance or SNAP program benefits as well as when the Department modifies a grant of aid or public assistance. This rule is also being amended to continue current contested case procedures under which the timeliness of a hearing request is based on the date the Department receives it, not the date of the postmark. This rule is also being amended to implement ORS 411.103 by setting out the Department's policy when a hearing request is late because a notice was not received and there was no actual knowledge of it. This rule is also being amended to change the policy for allowing late hearing requests. Under this change, a much wider array of reasons for being late would be allowed but the rule would set a firm deadline for late hearing requests, after which no late hearing requests would be allowed other than those for liable adults who were not sent an overpayment notice.

OAR 461-025-0315 about expedited hearings is being amended to update the rule by revising the methods by which clients are notified of hearings and by changing its description of what triggers a face-to-face hearing.

OAR 461-115-0090 about authorized representatives is being amended to allow the Department in all programs except SNAP to deny the client's selection of an authorized representative if the authorized representative has a conflict of interest. This rule is also being amended to clarify its requirements for the SNAP program by expressly stating requirements in federal regulations instead of cross-referencing the regulation and by stating when other rules and other sections of this rule apply.

OAR 461-115-0140 about authorized representatives in the SNAP program is amended to revise the policy about when an individual serving an Intentional Program Violation may serve as an authorized representative. This rule is also being amended to state when and how employees of the Department or contractor involved in the certification and issuance processes for SNAP benefits may serve as authorized representatives.

OAR 461-115-0230 about interviews in the application process is being amended to state that the ERDC program requires an interview to process an initial application and a renewal of benefits. This is a federal requirement for the ERDC program, but the requirement had only been stated in the Family Services Manual. This rule amendment also makes permanent a temporary rule change adopted on February 29, 2012.

OAR 461-120-0210 about requirements to provide social security numbers is being amended to fit current practice and indicate that

the exception which allows benefits for a newborn in the SNAP program includes new benefit groups, not just existing ones.

OAR 461-130-0330 about disqualifications in the SNAP, REF and TANF programs is being amended to clarify the first level of disqualification in the REF and TANF programs. The current rule states the penalty for the first level of disqualification is for three months. Because the disqualification could be removed at any point during the three months if the client completed the cooperation requirement, or REF or TANF closes, the amendment will provide that the penalty at the first level is for up to three months or until the client has completed the two consecutive week cooperation period.

OAR 461-135-0010 about assumed eligibility for medical programs is being amended to indicate that children who are born to a mother eligible for and receiving OHP-CHP benefits (OHP coverage for persons under 19 years of age who qualify under the 201 percent income standard) are assumed eligible to receive medical benefits until the end of the month the child turns one year of age. This amendment makes permanent the temporary rule change adopted on January 13, 2012.

OAR 461-140-0120 about the availability and treatment of lump-sum income is being amended to clarify one situation in which lump-sum income is not counted in the EA (currently closed), MAA, MAF, REF, REFM, SAC, and TANF programs. The current rule states that lump-sum income is unavailable if a financial group "...spends the lump-sum income on an emergency, such as a natural disaster or the serious injury or death of a household member." The amendment broadens the exemption to cover spending on an immediate basic need and removes the specific emergency examples.

OAR 461-150-0080 about prospective budgeting of variable income in the context of determining if clients meet income eligibility requirements is being amended to make the rule consistent with current prospective budgeting practices in the SNAP program by removing the statement that a financial group with variable income in the SNAP program may choose to have its benefit level changed from month to month.

OAR 461-155-0250 about income and payment standards in the Oregon Supplemental Income Program Medical (OSIPM) is being amended to clarify current policy regarding income standards for certain clients in nonstandard living arrangements (NSLA). This amendment clarifies that the 300 percent of the full SSI standard only applies to clients in an NSLA who also meet the requirements of OAR 461-135-0750 for certain individuals in long-term care or waived services. This amendment also clarifies that a qualifying trust exemption applies to that standard. This amendment makes permanent temporary changes that became effective February 1, 2012.

OAR 461-165-0035 about alternate payees in the context of electronic benefit transfers is being amended to state who may not be an alternate payee. This amendment prohibits Department-approved child care providers from being assigned as an alternate payee for child care benefits in the ERDC, JOBS, JOBS Plus, and TANF programs. This rule is also being amended to make permanent temporary rule changes adopted on February 27, 2012.

OAR 461-165-0180 about eligibility of child care providers is being amended to update policies as part of the implementation of the new Child Care Billing and Attendance Tracking (CCBAT) system. This amendment indicates which written attendance records providers will be required to keep and the deadline for providers to complete registration for the CCBAT system. Registration is a requirement, and once the CCBAT system is implemented, providers must use the CCBAT system to receive child care subsidy payments.

OAR 461-175-0200 about the types of notices of rights to a hearing is being amended to indicate that the Department will send a decision notice when the Department adjusts previously underissued public assistance or SNAP benefits.

OAR 461-175-0210 about how the Department treats notice situations when clients move and whereabouts are unknown is being amended to follow SNAP reporting requirements. This rule currently

NOTICES OF PROPOSED RULEMAKING

allows the closure of cases without a notice for all SNAP reporting systems, when clients move and their whereabouts are unknown. Under the amended rule, only SNAP cases in CRS (Change Reporting System) can be closed for returned mail with no forwarding address or whereabouts unknown. This rule is also being amended to make permanent the temporary rule changes that were effective January 1, 2012.

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

Written comments may be submitted until May 24, 2012 at 5:00 p.m. Written comments may be e-mailed to Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Children, Adults, and Families Division, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

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

Rule Caption: Adult Foster Homes for Individuals with Developmental Disabilities.

Date:	Time:	Location:
5-16-12	3 p.m.	500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 443.705–443.825

Proposed Amendments: 411-360-0130, 411-360-0170, 411-360-0180, 411-360-0190, 411-360-0260

Proposed Repeals: 411-360-0130(T), 411-360-0170(T), 411-360-0190(T)

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

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

- Remove the requirement that providers of adult foster homes for individuals with developmental disabilities (AFH-DD) submit a one page Emergency Plan Summary to the Department annually each January 15th.
- Clarify the smoking regulations for AFH-DD homes with one or more employees to comply with the Oregon Indoor Air Act, ORS 443.835 to 433.875;
- Remove tobacco as an example of items that may be purchased with Personal Incidental Funds;
- Permanently reinstate the standards for AFH-DD transfers and exits; and
- Specify that caregivers that must be on duty must be qualified.

Rules Coordinator: Christina Hartman

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

Telephone: (503) 945-6398

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Rule Caption: In-Home Services, Instrumental Activities of Daily Living (IADL).

Date:	Time:	Location:
5-16-12	3:30 p.m.	500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Other Auth.: ORS 291.261 & 2009 OL Ch.901

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Proposed Amendments: 411-030-0070

Proposed Repeals: 411-030-0070(T)

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

Summary: In response to a budgetary shortfall, the Department of Human Services (Department) temporarily amended OAR 411-030-0070 to reduce the in-home services maximum monthly hours for instrumental activities of daily living (IADL) by 10 percent. The reduction became effective January 1, 2012. The Department is now proposing to make the temporary amendments permanent.

Meal preparation and housekeeping are the only IADL service hours reduced since the highest allotment of hours are in these two areas. This reduction minimizes the loss of IADL hours in areas only allowed a small allotment of hours (medication and oxygen management, transportation or escort assistance, and shopping). Reducing meal preparation and housekeeping hours accomplishes a total 10 percent reduction of the IADLs.

Rules Coordinator: Christina Hartman

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

Telephone: (503) 945-6398

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**Department of Justice
Chapter 137**

Rule Caption: Child support guidelines self-support reserve amount.

Stat. Auth.: ORS 25.275, 25.280 & 180.345

Stats. Implemented: ORS 25.275 & 25.280

Proposed Amendments: 137-050-0745

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

Summary: OAR 137-050-0745 is being amended to update the self-support reserve amount.

Please submit written comments by 5:00 p.m. Friday, May 25, 2012, to Lori Woltring, Policy Analyst, Division of Child Support, 1162 Court St. NE, Salem OR 97301

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: Fees for Public Records.

Stat. Auth.: ORS 192.430(2) & 192.440(4)

Stats. Implemented: ORS 192.440(4)

Proposed Amendments: 137-008-0010

Last Date for Comment: 5-31-12, 10 a.m.

Summary: Amends fees chargeable by the Department of Justice for fulfilling public records requests to reflect the current billing rates underlying the department's budget. Those rates are described in LFO Analysis of 2011–13 Legislatively Adopted Budget, available at http://www.leg.state.or.us/comm/lfo/2011-13/2011-13_lab_publicsafety.pdf or from the Legislative Fiscal Office.

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 State Lands
Chapter 141**

Rule Caption: Amend Rules Authorizing Uses of State-Owned Submerged Land.

Date:	Time:	Location:
5-17-12	4 p.m.	North Bend Library 1800 Sherman Ave. North Bend, OR
5-22-12	12 p.m.	Lane County Public Works Goodson Rm. 3040 N Delta Hwy. Eugene, OR
6-5-12	4 p.m.	Judge Guy Boyington Bldg. 857 Commercial St. Astoria, OR

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Christopher Castelli

Stat. Auth.: ORS 183 – regarding administrative procedures & rules of state agencies; ORS 273 – regarding the creation & general powers of the Land Board; ORS 274 – regarding submerged & submersible land

Other Auth.: Oregon Constitution, Article VIII, Section 5

Stats. Implemented: ORS 274

Proposed Adoptions: 141-082-0250, 141-082-0255, 141-082-0260, 141-082-0265, 141-082-0270, 141-082-0275, 141-082-0280, 141-082-0285, 141-082-0290, 141-082-0295, 141-082-0300, 141-082-0305, 141-082-0310, 141-082-0315, 141-082-0320, 141-082-0325, 141-082-0330, 141-082-0335, 141-082-0340

Proposed Repeals: 141-082-0000, 141-082-0010, 141-082-0020, 141-082-0030, 141-082-0040, 141-082-0046, 141-082-0049, 141-082-0060, 141-082-0070, 141-082-0080, 141-082-0090, 141-082-0100, 141-082-0101, 141-082-0105, 141-082-0110, 141-082-0120, 141-082-0130, 141-082-0140, 141-082-0150, 141-082-0160, 141-082-0170, 141-082-0190, 141-082-0200, 141-082-0210

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

Summary: These rules govern the granting of leases, public facility licenses and registrations for a wide variety of commercial and non-commercial and public uses in, on, under and over state-owned submerged and submersible land. These rules were last amended in 2002, and a number of changes need to be made to these rules to meet statutory changes; clarify various provisions; streamline some of the processes used; ensure that the definitions of terms used in the rules are the same as those recently used in other rules and statutes; and have the same format now used when creating new or amending existing rules. These rules provide for increases in the application fee for a public facility license and the fees for the registration of structures on state-owned submerged and submersible land.

Rules Coordinator: Elizabeth Bolden

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

Telephone: (503) 986-5239

Rule Caption: Removal-Fill Authorizations within Oregon Waters, General Authorizations and General Permits.

Date:	Time:	Location:
5-17-12	4 p.m.	North Bend Library 1500 Sherman Ave. North Bend, OR
5-22-12	12 p.m.	Lane County Public Works Goodson Rm. 3040 N Delta Hwy. Eugene, OR
6-5-12	4 p.m.	Judge Guy Boyington Bldg. 857 Commercial St. Astoria, OR

Hearing Officer: Eric Metz & Bill Ryan

Stat. Auth.: ORS 196.600–196.692 & 196.800–196.990

Stats. Implemented: ORS 196.600–196.692 & 196.800–196.990

Proposed Amendments: 141-085-0500 – 141-085-0785, 141-089-0620 – 141-089-0835, 141-093-0100 – 141-093-0215

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

Summary: The division 85 and division 93 rules required revisions to be consistent with 2011 legislation. Other changes were required in division 85 to add definitions and improve clarity for program requirements. Division 89 was revised to add additional activities to allow for program streamlining and be consistent with statute (ORS 196.850). Division 93 was revised to address 2011 legislation for GPs issued by order and the program administration of this section. Division 93 was also amended for the fee schedule to address the waiver of fees for GPs issued for the protection of agricultural drainage. Rule language was also developed in response to the legislation to allow for a GP for the protection of agricultural drainage.

Rules Coordinator: Elizabeth Bolden

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

Telephone: (503) 986-5239

Department of Transportation Chapter 731

Rule Caption: Oregon Transportation Infrastructure Fund loans or assistance.

Stat. Auth.: ORS 184.616, 184.619, 367.015(5) & 367.020(1)

Stats. Implemented: ORS 367.010

Proposed Adoptions: 731-030-0170

Proposed Amendments: 731-030-0010, 731-030-0030, 731-030-0040, 731-030-0050, 731-030-0090, 731-030-0100, 731-030-0110, 731-030-0120, 731-030-0130, 731-030-0150, 731-030-0160

Proposed Repeals: 731-030-0080

Last Date for Comment: 5-21-12, Close of Business

Summary: The Oregon Transportation Infrastructure Fund has been operating for over 15 years, and its administrative rules are in need of updating. There is also a need to state under what terms the Oregon Transportation Infrastructure Fund will lend or give assistance to other state agencies and to divisions or other organizational units within the Department of Transportation.

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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

Rule Caption: DMV Records – Available Records, Fees, Processes for Ordering.

Date:	Time:	Location:
5-15-12	1:30 p.m.	DMV Head Qtrs., Rm. 122 1905 Lana Ave. NE Salem, OR

Hearing Officer: Liz Woods

Stat. Auth.: ORS 184.616, 184.619, 192.440, 283.110, 802.010, 802.179, 802.183, 802.220, 802.230, 802.530, 803.370, 807.050 & 814.619

Stats. Implemented: ORS 192.440, 283.110, 746.265, 802.010, 802.175 – 802.270, 803.220, 803.370, 807.050, 807.420, 807.420, 807.560, 821.080 & 825.412

Proposed Amendments: 735-010-0000, 735-010-0008, 735-010-0010, 735-010-0030, 735-010-0040

Last Date for Comment: 5-21-12, Close of Business

Summary: Due to changing technology, these rules contain outdated references to systems that are no longer used. Specifically the changes are as follows:

- ODOT/DMV and the Department of Administrative Services (DAS) have entered into an interagency agreement granting DAS a limited, exclusive license to provide electronic access to certain DMV driving records through the State's Electronic Government web portal (E-Gov portal) authorized under ORS 182.132. DMV currently provides such electronic access through a service known as RADR (Real Time Access to Driving Records). Electronic access to DMV records will be provided through the Driving Record Web Service, a part of the E-Gov portal and no longer provided through RADR. References in OAR 735-010-0030 to "RADR" need to be removed and replaced with the "Driving Record Web Service."

- DMV is updating the name of the system for those who order records through an automated phone system to better reflect how it works. References in OAR 735-010-0040 must be updated from "DMV's Automated Voice Exchange (D.A.V.E.)" to the "Interactive Voice Response System (IVR)."

- DMV is no longer providing records on magnetic tapes and any such references in these rules are removed. OAR 735-010-0040 is

NOTICES OF PROPOSED RULEMAKING

amended to show that the vehicle record lists and automated meter skips are provided via File Transfer Protocol Secure (FTPS).

These rules are also amended to specify what confidential information is and when confidential or personal information is excluded from a public record.

DMV proposes to replace the phrase "terminated by court notice" in OAR 735-010-0030 as ORS 809.220 was amended by Chapter 355, Oregon Laws 2011 (HB 2137) phrasing it as "notice to reinstate driving privileges."

Other changes are made for clarity. Documents Relied Upon, and where they are available: Enrolled HB 2137 which can be found at: <http://www.leg.state.or.us/11reg/measpdf/hb2100.dir/hb2137.en.pdf>

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

Department of Transportation, Highway Division Chapter 734

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

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

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: 5-21-12, Close of Business

Summary: 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

Landscape Contractors Board Chapter 808

Rule Caption: Extends deadline from 30 days to 180 days for post approval of CEH courses.

Date:	Time:	Location:
5-22-12	9 a.m.	2111 Front St. NE, Suite 2-101 Salem, OR 97301

Hearing Officer: Shelley Sneed

Stat. Auth.: ORS 670.310 & 671.760

Stats. Implemented: ORS 671.676

Proposed Amendments: 808-040-0050

Proposed Repeals: 808-040-0050(T)

Last Date for Comment: 5-22-12, Close of Hearing

Summary: Extends deadline from 30 days to 180 days for post approval of CEH courses. This filing will replace a temporary rule that is already in place.

Rules Coordinator: Kim Gladwill-Rowley

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

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

Rule Caption: Clarifies some materials used for the installation of landscaping work.

Date:	Time:	Location:
5-22-12	9 a.m.	2111 Front St. NE, Suite 2-101 Salem, OR 97301

Hearing Officer: Shelley Sneed

Stat. Auth.: ORS 670.301 & 671.760

Stats. Implemented: ORS 671.520, 671.530, 671.540 & 671.660

Proposed Amendments: 808-002-0500

Last Date for Comment: 5-22-12, Close of Hearing

Summary: Clarifies some materials used for the installation of landscaping work. The listing of examples is not limiting, but includes synthetic turf.

Rules Coordinator: Kim Gladwill-Rowley

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

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

Rule Caption: Adds penalty amount and suspension for making misleading statements when advertising services or materials.

Date:	Time:	Location:
5-22-12	9 a.m.	2111 Front St. NE, Suite 2-101 Salem, OR 97301

Hearing Officer: Shelley Sneed

Stat. Auth.: ORS 670.310 & 671.760

Stats. Implemented: ORS 671.997

Proposed Amendments: 808-005-0020

Last Date for Comment: 5-22-12, Close of Hearing

Summary: Adds penalty amount and suspension for making misleading statements when advertising services or materials.

Rules Coordinator: Kim Gladwill-Rowley

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

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

Oregon Board of Dentistry Chapter 818

Rule Caption: Adopts, amends Agency Rules regarding Practice, Renewal, Anesthesia, Prohibited Acts, Orthodontic Assistants, Expanded Practice Permits.

Date:	Time:	Location:
5-31-12	7 p.m.	OHSU Center for Health & Healing 3303 SW Bond Ave., Conf. Rm. 4 - 3rd Floor, Paul Kirk Conf. Center Portland, OR 97239

Hearing Officer: Board President

Stat. Auth.: ORS 181, 183, 679 & 680

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

Stats. Implemented: ORS 670.280, 679.020, 679.025, 679.060, 679.090, 679.115, 679.120, 679.140, 679.160, 679.250, 679.010, 679.170, 680.050, 680.072, 680.075, 680.082, 680.100, 680.200 & 680.205

Proposed Adoptions: 818-035-0066

Proposed Amendments: 818-012-0005, 818-021-0085, 818-026-0030, 818-026-0055, 818-035-0065, 818-042-0020, 818-042-0040, 818-042-0100

Last Date for Comment: 5-31-12, 4 p.m.

Summary: The Board is adopting 818-035-0066 Additional Populations for Expanded Practice Dental Hygiene Permit Holders.

The Board is amending 818-012-0005 Scope of Practice to clarify the practice of dentistry.

The Board is amending 818-021-0085 Reinstatement of Expired License to clarify reinstatement and renewal of licenses.

The Board is amending 818-026-0030 Requirement for Anesthesia Permit, Standards and Qualifications of an Anesthesia Monitor to further clarify the requirements for permits.

NOTICES OF PROPOSED RULEMAKING

The Board is amending 818-026-0055 Dental Hygiene and Dental Assistant Procedures Performed under Minimal Sedation to clarify the requirements for Nitrous Oxide.

The Board is amending 818-035-0065 Expanded Practice Dental Hygiene Permit to remove a phrase that was added in error.

The Board is amending 818-042-0020 Dentist and Dental Hygienist Responsibility to update the name of a permit due to recent legislative changes.

The Board is amending 818-042-0040 Prohibited Acts to remove a phrase that will help to clarify the standard of care in the community.

The Board is amending 818-042-0100 Expanded Function Orthodontic Assistant (EFODA) to clarify the standard of care for Orthodontic Assistants.

Rules Coordinator: Patrick D. Braatz

Address: Oregon Board of Dentistry, 1600 SW 4th Ave., Suite 770, Portland, OR 97201

Telephone: (971) 673-3200

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Oregon Board of Naturopathic Medicine Chapter 850

Rule Caption: Amendments that clarify existing licensing requirements and making examination and license application requirements separate rules.

Stat. Auth.: ORS 685.080 & 685.125

Stats. Implemented: ORS 685.070, 685.080 & 685.085

Proposed Adoptions: 850-030-0031

Proposed Amendments: 850-030-0010, 850-030-0030, 850-030-0070

Last Date for Comment: 6-1-12, 3 p.m.

Summary: 850-030-0010, 850-030-0030, and 850-030-0070 are being amended to clarify existing licensing requirements by application and examination.

850-030-0031 is new rule to split the existing examination and license application requirements into two separate clarifying rules. Requirements are currently found in one rule – 850-030-0030.

Rules Coordinator: Anne Walsh

Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0193

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Rule Caption: Amend Formulary compendium to include substance and amend 850-050-0120 to make compliant with reporting statute.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.145, 685.220, 685.110 & 676.150

Proposed Amendments: 850-050-0120, 850-060-0226

Last Date for Comment: 6-1-12, 3 p.m.

Summary: 850-060-0226 will correct a numbering error and add nitrous oxide; and

850-050-0120 will amend language to be consistent with 676.150.

Draft language can be found at oregon.gov/obnm

Rules Coordinator: Anne Walsh

Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0193

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Oregon Business Development Department Chapter 123

Rule Caption: These rules have been amended due to the passage of SB 57 in the 2011 Legislative Session and new requirements from the Security and Exchange Commission.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.050–285B.098

Proposed Amendments: 123-011-0035, 123-011-0045

Proposed Repeals: 123-011-0035(T), 123-011-0045(T)

Last Date for Comment: 5-22-12

Summary: In the 2011 Legislative Session, the passage of Oregon SB 57 eliminated the prohibition of facilities designed primarily for the generation, transmission, sale, or distribution of electrical energy as an eligible activity.

Also in 2011, the U.S. Securities and Exchange Commission modified the continuing disclosure requirements. Due to the recent changes (and future possible changes) to reporting requirements, removal of the fee ceiling will ensure that the costs of reporting are offset.

Rules Coordinator: Mindee Sublette

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

Telephone: (503) 986-0036

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Rule Caption: These Capital Access Program rules are amending definitions, reporting and loan eligibility requirements.

Stat. Auth.: ORS 285A.075, 285B.115(3) & 285B.117(4)

Stats. Implemented: ORS 285B.109–285B.119

Proposed Amendments: 123-018-0010, 123-018-0065, 123-018-0140

Proposed Repeals: 123-018-0010(T), 123-018-0065(T), 123-018-0140(T)

Last Date for Comment: 5-22-12

Summary: On September 27, 2010 The Small Business Jobs Act (Congressional HB 5297) was signed into law. One component of the Small Business Jobs Act was the creation of the State Small Business Credit Initiative (SSBCI). SSBCI will support at least \$15 billion in small business lending by strengthening state small business programs that leverage private-sector lenders to extend additional credit. \$1.5 billion has been allocated to provide capitalization for existing state loan and loan guarantee programs. As a result of the bill, Oregon has been allocated more than \$16.5 million for the purpose of providing capitalization to state managed business finance programs (revolving loan programs, forgivable loan programs, loan guarantee programs, capital access programs and venture capital programs).

The primary deliverable associated with the SSBCI program will be to demonstrate a 10:1 public/private leverage ratio. As a result, by December 31, 2016, to comply with the terms and intent of the program will need to demonstrate that over \$165 million in private financing (debt and equity) result from the \$16.5 million investment in the Business Finance programs outlined in the application. As a result, the Capital Access Program was identified as a fund to receive capitalization.

In order to begin enrolling new loans using the SSBCI funds which will help Oregon begin to meet the \$165 million private leverage requirement associated with the SSBCI funds, these rules have been amended to reflect the program changes and restrictions associated with the federal funding.

Rules Coordinator: Mindee Sublette

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

Telephone: (503) 986-0036

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Rule Caption: This filing amends the language for eligibility requirements, loan insurance programs and insurance premiums relating to the Credit Enhancement Fund.

Stat. Auth.: ORS 285A.075 & 285B.200–285B.218

Stats. Implemented: ORS 285B.200–285B.218

Proposed Amendments: 123-021-0000, 123-021-0010, 123-021-0015, 123-021-0020, 123-021-0040, 123-021-0080, 123-021-0090, 123-021-0110, 123-021-0130

Proposed Repeals: 123-021-0000(T), 123-021-0010(T), 123-021-0015(T), 123-021-0020(T), 123-021-0040(T), 123-021-0080(T), 123-021-0090(T), 123-021-0110(T), 123-021-0130(T)

Last Date for Comment: 5-22-12

NOTICES OF PROPOSED RULEMAKING

Summary: On September 27, 2010 The Small Business Jobs Act (Congressional HB 5297) was signed into law. One component of the Small Business Jobs Act was the creation of the State Small Business Credit Initiative (SSBCI). SSBCI will support at least \$15 billion in small business lending by strengthening state small business programs that leverage private-sector lenders to extend additional credit. \$1.5 billion has been allocated to provide capitalization for existing state loan and loan guarantee programs. As a result of the bill, Oregon has been allocated more than \$16.5 million for the purpose of providing capitalization to state managed business finance programs (revolving loan programs, forgivable loan programs, loan guarantee programs, capital access programs and venture capital programs).

The primary deliverable associated with the SSBCI program will be to demonstrate a 10:1 public/private leverage ratio. As a result, by December 31, 2016, to comply with the terms and intent of the program will need to demonstrate that over \$165 million in private financing (debt and equity) result from the \$16.5 million investment in the Business Finance programs outlined in the application. As a result, the Credit Enhancement Fund was identified as a program to receive capitalization.

In order to begin enrolling new loans using the SSBCI funds which will help Oregon begin to meet the \$165 million private leverage requirement associated with the SSBCI funds, these rules have been amended to reflect the program changes and restrictions associated with the federal funding.

These rules were filed as temporary rules on December 8, 2011. The department is now making them permanent.

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

Rule Caption: These new rules are being adopted to implement the Manufacturing Business Energy Tax Credit Program.

Stat. Auth.: ORS 285C.540–285C.559 & 315.341
Other Auth.: 2011 OL Ch. 474
Stats. Implemented: ORS 285C.540–285C.559 & 315.341
Proposed Adoptions: 123-600-0100, 123-600-0105, 123-600-0110, 123-600-0120, 123-600-0130, 123-600-0135, 123-600-0140, 123-600-0150, 123-600-0160
Last Date for Comment: 5-22-12

Summary: In the 2011 Special Legislative Session, the passage of Oregon HB 2523 transferred the duties of the Business Energy Tax Credit for renewable energy resource equipment manufacturing program (Manufacturing BETC) from the Oregon Department of Energy to the Oregon Business Development Department (Business Oregon). In the 2012 Regular Legislative Session, the passage of Oregon HB 4079 made changes relating to the Manufacturing BETC and other energy incentives programs. This serves as a re-notice and these rules implement the Manufacturing BETC program and replace the ones previous posted on the agency's website in February 2012.

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

Rule Caption: This new rules division implements the Oregon Low Income Community Jobs Initiative.

Stat. Auth.: ORS 285C.650 & 315.526–315.536
Stats. Implemented: ORS 285C.650 & 315.526–315.536
Proposed Adoptions: 123-630-0000, 123-630-0010, 123-630-0020, 123-630-0030, 123-630-0040, 123-630-0050, 123-630-0060, 123-630-0070, 123-630-0080, 123-630-0090, 123-630-0100
Last Date for Comment: 5-22-12

Summary: The Oregon Low Income Community Jobs Initiative was brought forth in the 2011 Legislative Session through SB 817. These

rules implement the program which includes criteria for eligibility, as well as fees associated with the program.

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

Oregon Commission on Children and Families Chapter 423

Rule Caption: State Commission identified requirements of the Local Commissions codified in OAR that need to be waived due to reduced state and local resources and staff capacity.

Stat. Auth.: ORS 417.705–417.797 & 419A.170
Stats. Implemented: ORS 417.705–417.797 & 419A.170
Proposed Amendments: 423-010-0023, 423-010-0026
Last Date for Comment: 5-21-12

Summary: HB 4165, enacted during the 2012 Legislative Session, sunsets the Oregon Commission on Children and Families on June 30, 2012 and transitions all of its functions to other entities. Funding for Local Commission administration was reduced in the 2011–2013 budget. Therefore, the State Commission is amending the state administrative rules in order to maximize limited resources and focus staff work toward meeting statutory obligations and transition process.

Rules Coordinator: Sandra Flickinger
Address: Oregon Commission on Children and Families, 530 Center St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 378-5125

Oregon Department of Education Chapter 581

Rule Caption: Modifies State Board of Education charter school applicant appeal process.

Stat. Auth.: ORS 326.051 & 338.025
Stats. Implemented: ORS 338.075
Proposed Amendments: 581-020-0331
Last Date for Comment: 5-24-12, 5 p.m.

Summary: Oregon law requires an applicant for a charter school to first submit the application to a school district. If the school districts does not accept an application, the applicant may request sponsorship from the State Board of Education. Prior to changes by 2012 legislature, the State Board was required to mediate between the district and applicant. HB 4014 (2012) eliminated this mediation requirement. The rule amendment conforms the rule to the changes in HB 4014.

Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

Rule Caption: Modifies definitions that apply to private career schools.

Stat. Auth.: ORS 345.020
Stats. Implemented: ORS 345.010–345.450
Proposed Amendments: 581-045-0001
Last Date for Comment: 5-31-12, 5 p.m.

Summary: In response to changes at the federal level in the administration of federal student aid, and because of issues that have surfaced through student complaints received by this agency, these amendments update definitions applied to administrative rules that govern private career schools, and add new definitions to accommodate policies that address emergent issues in regulation of career school operations.

Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: Forensic Mental Health Evaluators and Evaluations.
Date: 5-21-12 **Time:** 10 a.m. **Location:** 500 Summer St. NE
Rm. 137 A & B
Salem, OR

Hearing Officer: Nola Russell

Stat. Auth.: ORS 413.042

Other Auth.: HB 3100, 2011 Oregon Laws

Stats. Implemented: ORS 161.290–161.370 & 419C.524

Proposed Adoptions: 309-090-0000, 309-090-0005, 309-090-0010, 309-090-0015, 309-090-0020, 309-090-0025, 309-090-0030, 309-090-0035, 309-090-0040

Proposed Repeals: 309-090-0000(T), 309-090-0005(T), 309-090-0010(T), 309-090-0015(T), 309-090-0020(T), 309-090-0025(T), 309-090-0030(T), 309-090-0035(T), 309-090-0040(T)

Last Date for Comment: 5-24-12, Close of Business

Summary: These rules prescribe standards for the certification of forensic evaluators; provides for admission to the state hospital for persons unfit to proceed only when there is a dangerousness or a lack of community resources; removes misdemeanants from Psychiatric Security Review Board (PSRB) jurisdiction while continuing to permit state hospital admission when warranted; and requires and evaluation from potential court-conditional release for low level offenders under the jurisdiction of the PSRB.

Rules Coordinator: Nola Russell

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

Telephone: (503) 945-7652

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Rule Caption: Oregon State Hospital Review Panel.

Date: 6-4-12 **Time:** 1 p.m. **Location:** 500 Summer St. NE, Rm. 137 A
Salem, OR 97301

Hearing Officer: Nola Russell

Stat. Auth.: ORS 179.360 & 413.042; SB 420

Stats. Implemented: ORS 161.295–161.400; SB 420

Proposed Adoptions: 309-092-0000, 309-092-0005, 309-092-0010, 309-092-0015, 309-092-0020, 309-092-0025, 309-092-0030, 309-092-0035, 309-092-0040, 309-092-0045, 309-092-0050, 309-092-0055, 309-092-0060, 309-092-0065, 309-092-0070, 309-092-0075, 309-092-0080, 309-092-0085, 309-092-0090, 309-092-0095, 309-092-0100, 309-092-0105, 309-092-0110, 309-092-0115, 309-092-0120, 309-092-0125, 309-092-0130, 309-092-0135, 309-092-0140, 309-092-0145, 309-092-0150, 309-092-0155, 309-092-0160, 309-092-0165, 309-092-0170, 309-092-0175, 309-092-0180, 309-092-0185, 309-092-0190, 309-092-0195, 309-092-0200, 309-092-0205, 309-092-0210, 309-092-0215, 309-092-0220, 309-092-0225, 309-092-0230, 309-092-0235, and 309-092-0240.

Proposed Repeals: 309-092-0000(T), 309-092-0005(T), 309-092-0010(T), 309-092-0015(T), 309-092-0020(T), 309-092-0025(T), 309-092-0030(T), 309-092-0035(T), 309-092-0040(T), 309-092-0045(T), 309-092-0050(T), 309-092-0055(T), 309-092-0060(T), 309-092-0065(T), 309-092-0070(T), 309-092-0075(T), 309-092-0080(T), 309-092-0085(T), 309-092-0090(T), 309-092-0095(T), 309-092-0100(T), 309-092-0105(T), 309-092-0110(T), 309-092-0115(T), 309-092-0120(T), 309-092-0125(T), 309-092-0130(T), 309-092-0135(T), 309-092-0140(T), 309-092-0145(T), 309-092-0150(T), 309-092-0155(T), 309-092-0160(T), 309-092-0165(T), 309-092-0170(T), 309-092-0175(T), 309-092-0180(T), 309-092-0185(T), 309-092-0190(T), 309-092-0195(T), 309-092-0200(T), 309-092-0205(T), 309-092-0210(T), 309-092-0215(T), 309-092-0220(T), 309-092-0225(T), 309-092-0230(T), 309-092-0235(T), 309-092-0240(T)

Last Date for Comment: 6-7-12, Close of Business

Summary: These rules implement Oregon Laws 2011, chapter 708, Senate Bill 420 (SB 420). The rules create two tiers of offenders who are found guilty except for insanity. Under SB 420, tier one offenders (i.e., Measure 11 offenders) remain exclusively under the jurisdiction of the Psychiatric Security Review Board (PSRB), but the Oregon Health Authority (OHA) acquires jurisdiction over tier two offenders (i.e., non-Measure 11 offenders). Via these rules OHA establishes the Oregon Health Authority Review Panel and the processes applicable to the Review Panel.

Rules Coordinator: Nola Russell

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

Telephone: (503) 945-7652

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Rule Caption: Integrated Services and Supports.

Date: 5-24-12 **Time:** 1 p.m. **Location:** 500 Summer St. NE E-86
Rm. 166
Salem, OR 97301

Hearing Officer: Nola Russell

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490–426.500, 428.205–428.270, 430.640 & 443.450

Other Auth.: Oregon Laws 2011, Senate Bill (SB) 238

Stats. Implemented: ORS 109.675, 161.390–161.400, 179.505, 409.010, 409.430–409.435, 426.380–426.395, 426.490–426.500, 430.010, 430.205–430.210, 430.240–430.640, 430.850–430.955, 443.400–443.460, 443.991, 461.549, 743A.168, 813.010–813.052 & 813.200–813.270

Proposed Amendments: 309-032-1500, 309-032-1505, 309-032-1510, 309-032-1515, 309-032-1520, 309-032-1525, 309-032-1530, 309-032-1535, 309-032-1540, 309-032-1545, 309-032-1550, 309-032-1555, 309-032-1560, 309-032-1565

Proposed Repeals: 309-032-1500(T), 309-032-1505(T), 309-032-1510(T), 309-032-1515(T), 309-032-1520(T), 309-032-1525(T), 309-032-1530(T), 309-032-1535(T), 309-032-1540(T), 309-032-1545(T), 309-032-1550(T), 309-032-1555(T), 309-032-1560(T), 309-032-1565(T)

Last Date for Comment: 5-29-12, Close of Business

Summary: These rules prescribe minimum standards for the services and supports provided by addiction and mental health providers approved by the Addictions and Mental Health Division. These amendments implement SB 238 as it relates integrated services and supports.

Rules Coordinator: Nola Russell

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

Telephone: (503) 945-7652

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Rule Caption: Medicaid Payment for Rehabilitative Mental Health Services.

Date: 5-24-12 **Time:** 1 p.m. **Location:** 500 Summer St. NE, R-86
Rm. 166
Salem, OR 97301

Hearing Officer: Nola Russell

Stat. Auth.: ORS 413.042

Other Auth.: Oregon Laws 2011, Senate Bill (SB) 238

Stats. Implemented: Oregon Laws 2011, Senate Bill (SB) 238

Proposed Amendments: 309-016-0600, 309-016-0605, 309-016-0610, 309-016-0630, 309-016-0675, 309-016-0685, 309-016-0745, 309-016-0750

Proposed Repeals: 309-016-0600(T), 309-016-0605(T), 309-016-0610(T), 309-016-0630(T), 309-016-0675(T), 309-016-0685(T), 309-016-0745(T), 309-016-0750(T)

Last Date for Comment: 5-29-12, Close of Business

NOTICES OF PROPOSED RULEMAKING

Summary: These rules specify standards for authorized appropriate reimbursement of Medicaid or State Children's Health Plan funded addictions and mental health services and supports. These amendments implement Oregon Laws 2011, Senate Bill 238.

Rules Coordinator: Nola Russell

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

Telephone: (503) 945-7652

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

Rule Caption: Revisions to definitions, Program Integrity, Provider enrollment and technical corrections.

Stat. Auth.: ORS 413.042 & 183.341

Stats. Implemented: ORS 414.025, 414.033, 414.065, 414.095, 414.651, 414.705, 414.727, 414.728, 414.737, 414.742 & 414.743

Proposed Amendments: 410-120-0000, 410-120-0025, 410-120-0250, 410-120-1260, 410-120-1340, 410-120-1395

Proposed Repeals: 410-120-0027

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

Summary: The General Rules program administrative rules govern Division payments for services to clients. The Division will amend as follows: OAR 410-120-0000, Add a definition for "indigent" and having temporarily amended 410-120-0000 effective March 16, 2012, the Division will permanently amend this rule to reflect definitions added or moved from other program rules. OAR 410-120-1260, Federal law requires State Medicaid agencies to perform specific provider screening, enrollment and reenrollment processes. The rule will be revised to reflect compliance with Section 6401 of the Affordable Care Act. Revisions will also be made to OAR 410-120-1340 due to the changes made to OAR 410-120-1260 as noted above. Some other minor "readability" revisions are also made. OAR 410-120-1395, revisions include notifications to providers who are excluded from Medicaid and notifications to the Office of Inspector General regarding provider disclosures. Technical corrections to statute numbers will be made to OAR 410-120-0025 and 410-120-0250. Having temporarily amended 410-120-1860 effective February 1, 2012, the Division will permanently amend this rule to reflect that contested case procedures timelines of a hearing request is based on the date the Authority receives it, not the date of the postmark. The Division will also repeal OAR 410-120-0027, this rule was a temporary measure and is no longer needed.

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 release rules for all payer healthcare claims data reporting program.

Date:	Time:	Location:
5-16-12	10 a.m.	1225 Ferry St. SE 1st Floor, Mt. Neahkanie Rm. Salem, OR

Hearing Officer: Zarie Haverkate

Stat. Auth.: ORS 442.464, 442.466 & 442.993

Stats. Implemented: ORS 442.464, 442.466 & 442.993

Proposed Amendments: 409-025-0100, 409-025-0110, 409-025-0120, 409-025-0130, 409-025-0160

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

Summary: The Office for Oregon Health Policy and Research (OHPR) needs to amend these rules in order to correct administrative inefficiencies in general reporting requirements and filing date

requirements, make minor updates to submission requirements, and implement release of data mandates in ORS 442.466.

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: Revised definitions used for comparability as well as other clarifying language.

Date:	Time:	Location:
5-23-12	10 a.m.	1225 Ferry St. SE OEBB Boardroom Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860-243.886

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

Proposed Amendments: 111-010-0015

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

Summary: Revisions to 111-010-0015 include changes to definitions which are used for comparability and other housekeeping changes that clarify the rule language.

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: Revisions to the Plan Design Development and Selection rule due to changes in comparability.

Date:	Time:	Location:
5-23-12	10 a.m.	1225 Ferry St. SE OEBB Boardroom Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860-243.886

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

Proposed Adoptions: 111-030-0055

Proposed Repeals: 111-030-0001

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

Summary: The proposed changes to Division 30, the Plan Design Development and Selection rule, are to remove section 111-030-0001 as the language will no longer apply due to the change in OEBB's comparability methodology. The other proposed change is to adopt section 111-030-0055, which outlines the comparability assessment process.

Rules Coordinator: April Kelly

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

Telephone: (503) 378-6588

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**Oregon Health Authority,
Public Health Division
Chapter 333**

Rule Caption: Adopts the 2009 Food and Drug Administration Food Code by reference with additions and amendments.

Date:	Time:	Location:
5-18-12	1 p.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 1B Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 446.425, 448.100, 624.041, 624.060, 624.071, 624.073, 624.100, 624.355, 624.390, 624.510, 624.530, 624.570 & 624.992

Other Auth.: Food Code, 2009 Recommendations of the US Public Health Service, Food & Drug Administration

NOTICES OF PROPOSED RULEMAKING

Stats. Implemented: ORS 446.425, 448.100, 624.041, 624.060, 624.073, 624.100, 624.344, 624.390, 624.510, 624.530, 624.570, 624.992 & 2011 OL Ch. 664

Proposed Amendments: 333-012-0050, 333-012-0053, 333-012-0055, 333-012-0057, 333-012-0060, 333-012-0061, 333-012-0063, 333-012-0065, 333-012-0067, 333-012-0070, 333-150-0000, 333-157-0000, 333-157-0010, 333-157-0020, 333-157-0030, 333-157-0040, 333-157-0045, 333-157-0070, 333-157-0077, 333-157-0080, 333-158-0000, 333-162-0020, 333-162-0880, 333-162-0890, 333-162-0910, 333-162-0920, 333-162-0950, 333-162-1005, 333-170-0010, 333-170-0110, 333-170-0130, 333-175-0051, 333-175-0091

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

Summary: The Oregon Health Authority, Public Health Division is proposing to adopt the 2009 US Public Health Service FDA Food Code by reference with additions and amendments. The Food Sanitation Rules are currently based upon the 1999 FDA Food Code and the food safety standards are being updated to the most current version. The 2009 FDA Food Code is the most current, science-based national standards for food safety. These proposed rules also amend the restaurant scoring system. Scores will be based on violations that have a direct connection to foodborne illness rather than all violations, such as those that relate to general facility cleanliness and sanitation.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Clean-up of outdated rules that are no longer needed by the Public Health Division.

Stat. Auth.: ORS 183, 222, 277, 431, 431.834, 433, 435, 448, 690 & 813.160

Stats. Implemented: ORS 431.831 – 431.836, 813.010 & 813.160

Proposed Amendments: 333-013-0004

Proposed Repeals: 333-010-0340, 333-012-0002, 333-012-0003, 333-012-0004, 333-012-0010, 333-012-0035, 333-012-0040, 333-012-0041, 333-012-0043, 333-012-0045, 333-013-0001, 333-013-0100, 333-021-0150, 333-021-0500, 333-021-0600

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

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently repeal Oregon Administrative Rules in chapter 333, divisions 10, 12, 13, and 21. Various rules in these divisions are outdated and/or pertain to programs that the Public Health Division no longer administers. In addition to the proposed repeals, OAR 333-013-0004 is being permanently amended to remove outdated language referencing OARs that have been repealed previously. This rulemaking is being proposed to clean-up chapter 333 rules and remove outdated language that is no longer needed.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Oregon Health Licensing Agency Chapter 331

Rule Caption: Amend practice standards for body art professions and facilities. Create specialty genital/cheek piercing certification.

Date:	Time:	Location:
5-29-12	9 a.m.	Veterans Affairs Auditorium 700 Summer St. NE Salem, OR 97301

Hearing Officer: Randy Harnisch

Stat. Auth.: ORS 676.607 & 676.615

Stats. Implemented: ORS 676.606, 676.607, 676.615, 676.618, 690.350, 690.360, 690.365, 690.385, 690.390, 690.405 & 690.410

Proposed Adoptions: 331-900-0115, 331-900-0120, 331-900-0125, 331-900-0130, 331-905-0000, 331-905-0003, 331-905-0005, 331-905-0010, 331-905-0012, 331-905-0014, 331-905-0015, 331-

905-0020, 331-905-331-905-0025, 331-905-0030, 331-905-0032, 331-905-0034, 331-905-0040, 331-905-0045, 331-905-0050, 331-905-0053, 331-905-0055, 331-905-0060, 331-905-0070, 331-905-0075, 331-905-0080, 331-905-0085, 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-0110, 331-910-0070, 331-910-0075, 331-910-0080, 331-910-0085, 331-915-0070, 331-915-0075, 331-915-0080, 331-915-0085, 331-925-0050, 331-925-0055

Proposed Amendments: 331-900-0000, 331-900-0005, 331-900-0010, 331-900-0015, 331-900-0020, 331-900-0025, 331-900-0030, 331-900-0035, 331-900-0040, 331-900-0045, 331-900-0070, 331-900-0085, 331-900-0090, 331-900-0095, 331-900-0100, 331-910-0000, 331-910-0010, 331-910-0015, 331-910-0020, 331-910-0025, 331-910-0040, 331-910-0055, 331-910-0065, 331-915-0000, 331-915-0010, 331-915-0015, 331-915-0020, 331-915-0025, 331-915-0040, 331-915-0045, 331-915-0065, 331-925-0000, 331-925-0005, 331-925-0010, 331-925-0015, 331-925-0020, 331-925-0025, 331-925-0030, 331-925-0035, 331-925-0040, 331-925-0045, 331-950-0040

Proposed Repeals: 331-930-0000, 331-930-0005, 331-930-0010, 331-930-0015, 331-930-0020, 331-930-0025, 331-930-0030

Proposed Ren. & Amends: 331-905-0065 to 331-905-0115

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

Summary: Amend body piercing, earlobe piercing electrology and tattoo licensing requirements including delineating which standards must be adhered to for each license type. Repeal requirement that an earlobe piercing licensee must provide proof of current cardiopulmonary resuscitation training. Add specific hand washing and protective gloves requirements for earlobe piercing and electrology licensees which align with the current practice. Allow an earlobe piercing licensee to use hand sanitizer instead of soap and water to accommodate facilities located in settings where hand washing stations are not readily available. Allow hot and cold running water to be located within restrooms to accommodate facilities with earlobe piercing or electrology only due to hot and cold running water not being immediately accessible within the facility premises.

Require all body piercing supervisors obtain five hours of continuing education every two years related to teaching methods and instruction.

Allow a body piercer, tattoo artist or electrologist licensed in another state were the licensing requirements are not substantially equivalent to Oregon's licensing requirements to prove to the satisfaction of the agency two years of full time work or employment in the last three years.

Require electrologists who wish to perform electrology on clients with a pacemaker obtain written authorization from physician and the manufacturer of the pacemaker which states electrology services are permitted.

During the 2011 Legislative Session, HB 2013 was enacted which requires the Oregon Health Licensing Agency (Agency) consult with the Oregon Medical Board (OMB) regarding certain body art practices. Following a presentation to the Oregon Medical Board in October 2011 the Agency received written response from the OMB stating that all the procedures listed in specialty level one and two body piercing services may be considered surgical procedures but with proper training/education and informed consent from clients body piercers may be able to perform certain specialty body piercing procedures.

On January 1, 2012 the Agency adopted temporary administrative rules for specialty level one and two body piercing, but after further review determined that certain amendments needed to be made in order to make the requirements attainable for individuals seeking licensure in specialty body services. Amend specialty body piercing to specify requirements for specialty cheek piercing, specialty level one genital piercing and specialty level two genital piercing.

Adopt specialty cheek piercing education and training which consists of 14.5 hours of theory and practical training including 10 practical operations. This will allow an individual to be licensed to per-

NOTICES OF PROPOSED RULEMAKING

form standard body piercing and specialty cheek piercings without having to be trained on how to pierce genitals.

Adopt specialty level one body piercing education and training which consists of 80 hours of theory and practical training including 40 practical operations. Require a total number of genital piercing procedures within at least three different genital piercing categories.

Adopt specialty level two body piercing education and training which consists of 60 hours of theory and practical training including 40 practical operations. Require a total number of genital piercing procedures within at least three different genital piercing categories.

Body piercing licensees who obtained their license prior to January 1, 2012, and want to perform specialty cheek, specialty level one genital or specialty level two genital piercings must qualify for licensure. Qualifications include licensure as a standard body piercer, years of experience, client records, which would ask for a total number of genital piercings within at least three categories and references.

Individuals seeking licensure after January 1, 2012, as a specialty cheek, specialty level one genital or specialty level two genital piercer must qualify for licensure through the following pathways: graduate from an Oregon licensed career school or qualification through a specialty cheek, specialty level one genital or specialty level two genital piercer trainee licenses. Trainees must be under direct supervision. Requirements for education and training begin January 1, 2013, for specialty cheek piercing, specialty level one genital piercing and specialty level two genital piercing.

Prohibit piercing of cheeks on persons under the age of 18.

Supervisors must qualify to train specialty cheek, specialty level one genital or specialty level two genital piercing trainees qualifications include years of experience, written and practical examination professional references.

Require that each licensee provide a uniform document which provides procedures, risks and alternatives related to specialty cheek, specialty level one genital or specialty level two genital piercings. The informed consent document would also include disclosure of the number of specific piercings being performed on the client. The client is required to sign that they have been informed and agree to the procedure.

Amend facility application requirements to reflect the holder of a facility being a natural person, rather than a corporation and align appropriate fees. Adopt standards that must be followed by the owner of a facility and standards for operating a facility within a residence.

Repeal division 30 regarding standards of practice and place under respective fields of practice. Amendments to standards include disposal of sharp instruments and prohibitions for body piercing and tattoo.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

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Rule Caption: Fee waivers to reduce the Board of Body Art Practitioners ending balance by June 30, 2013.

Stat. Auth.: ORS 690.415

Stats. Implemented: ORS 690.415

Proposed Amendments: 331-940-0000

Last Date for Comment: 5-28-12, 4:30 p.m.

Summary: The Board of Body Art Practitioner's ending cash balance as of the closing month of January 2012 was \$570,040. The agency is reducing the Board's ending balance as discussed with board stakeholders, the Department of Administrative Services, and the Legislative Fiscal Office. The agency and board of Body Art Practitioner's agreed to begin waving facility application and licensing fees and practitioner renewal fees for licenses issued prior to January 1, 2012. In addition, the proposed rule waives examination fees for individuals taking the body piercing written and practical exams through the end of the biennium. The agency expects the total net

effect of waiving fees will reduce the board's ending balance by an expected \$127,375 by the end of the 2011-2013 biennium.

Amend 331-940-0000 Fees: Waives certain fees to reduce the Board of Body Art Practitioners ending balance.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

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Rule Caption: Standardize Board of Athletic Trainer rules with other OHLA regulated professions.

Stat. Auth.: ORS 688.709, 688.715 7 676.615

Stats. Implemented: ORS 688.715, 688.718, 688.720 688.724, 688.728 & 688.730

Proposed Adoptions: 331-120-0001, 331-130-0001, 331-130-0005, 331-130-0011, 331-130-0015, 331-140-0000, 331-150-0000, 331-150-0005, 331-150-0010, 331-160-0000, 331-160-0005, 331-160-0010, 331-160-0015

Proposed Repeals: 331-105-0020, 331-105-0030, 331-110-0005, 331-110-0010, 331-110-0055, 331-115-0000, 331-115-0010, 331-115-0020, 331-115-0030, 331-115-0060, 331-120-0000, 331-120-0010, 331-120-0020, 331-120-0030, 331-125-0000, 331-125-0010, 331-125-0020, 331-135-0000

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

Summary: The Oregon Health Licensing Agency (OHLA) and the Board of Athletic Trainers (AT) are proposing to adopt the Athletic Trainers administrative rules Chapter 331 Divisions 120 through 160. New rules are required to standardize and streamline requirements and procedures to be consistent with other professions that are regulated by OHLA. In addition new rules will align with current industry, agency and statewide rulemaking standards and principles.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

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

Rule Caption: Lower license fees to \$1,200. Provide a \$1,200 discount for first time qualified Midwifery applicants.

Stat. Auth.: ORS 676.607, 676.615 & 687.435

Stats. Implemented: ORS 676.607 & 687.435

Proposed Amendments: 332-040-0000

Last Date for Comment: 5-28-12, 4:30 p.m.

Summary: Direction from the Legislature and ratified through Senate Bill 1579 lowered the Direct Entry Midwifery original license and renewal fees from \$1,800 per year to \$1,200 per year. The rule also reduces the barrier of the \$1,200 original license fee for first time fully qualified Direct Entry Midwifery applicants who reside in Oregon by waiving the fee.

Amend 332-040-0000, Fees: Reduces Midwifery fees in Oregon.

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

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Oregon Health Licensing Agency, Board of Licensed Dietitians Chapter 834

Rule Caption: Standardize Board of Licensed Dietitians rules with other OHLA regulated professions.

Stat. Auth.: ORS 691.475 691.485

Stats. Implemented: ORS 691.435, 691.445, 691.465, 691.475, 691.477, 691.479

Proposed Adoptions: 834-020-0000, 834-030-0000, 834-030-0010, 834-050-0000, 834-050-0010, 834-060-0000, 834-060-0010

NOTICES OF PROPOSED RULEMAKING

Proposed Repeals: 834-001-0000, 834-001-0005, 834-010-0005, 834-010-0010, 834-010-0015, 834-010-0019, 834-010-0025, 834-010-0030, 834-010-0035, 834-010-0040, 834-010-0045, 834-010-0050, 834-010-0055, 834-010-0065

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

Summary: Senate Bill 939, which passed during the 2011 Legislative Session brought the Board of Licensed Dietitians under the administration of the Oregon Health Licensing Agency (Agency).

The rules were rewritten and placed into new divisions to specifically address definitions, application requirements, license issuance and renewal, standards of practice and professional conduct, continuing education requirements, and fees.

Proposed changes are required to standardize and streamline rules for consistency with other professions regulated by OHLA and to align with current industry, agency and statewide rulemaking standards and principles.

Rules Coordinator: Samantha Patnode

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

Telephone: (503) 373-1917

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Oregon Liquor Control Commission Chapter 845

Rule Caption: Amend contested case rules to comply with Attorney General's amended Office of Administrative Hearings rules.

Stat. Auth.: ORS 183.341(1) & (2), 183.425(2), 183.452, 183.745 & 471.730(5) & (6)

Stats. Implemented: ORS 183.310, 183.341(1) & (2), 183.425(2), 183.430(2), 183.435, 183.452, 183.460, 183.745, 471.331(1) & 471.380(2)

Proposed Amendments: 845-003-0200, 845-003-0210, 845-003-0220, 845-003-0270, 845-003-0331, 845-003-0340, 845-003-0460, 845-003-0590, 845-003-0670

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

Summary: All contested case hearings must be conducted pursuant to the Attorney General's (AG) Model Rules of Procedure for the Office of Administrative Hearings, set forth in Chapter 137 Division 3 of the Department of Justice's administrative rules. However, those rules authorize the Commission to promulgate its own procedural rules in selected areas, if not in conflict with the AG Model Rules. This package of Division 3 rules contains the Commission specific administrative rules governing contested case procedures. In an effort to improve the actual and perceived fairness of the contested case process, as well as to simplify the rule language, the AG Model Rules have been amended effective January 31, 2012. We need to amend the Commission's contested case rules so that our procedures do not conflict with the AG Model Rules. The proposed amendments reflect the Model Rule changes in the main areas of discovery requirements, a uniform "good cause" standard, and the sufficiency of a hearing request to serve as a general denial of the facts alleged in the notice. Staff also proposes further amendments to update terminology and other similar housekeeping amendments.

Rules Coordinator: Jennifer Huntsman

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

Telephone: (503) 872-5004

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Oregon Medical Board Chapter 847

Rule Caption: Delegates authority to the Executive Director in a state of emergency.

Stat. Auth.: ORS 401.168, 402.105, 433.441 & 677.265

Stats. Implemented: ORS 401.165 & 677.265

Proposed Adoptions: 847-003-0100

Last Date for Comment: 5-21-12, Close of Business

Summary: Proposed new rule delegates authority to the Executive Director of the Board when a state of emergency is in effect.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

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Rule Caption: Adds employment with the Indian Health Service to the Military/Public Health registration status.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172, 677.228 & 677.265

Proposed Amendments: 847-008-0015, 847-008-0018

Last Date for Comment: 5-21-12, Close of Business

Summary: Proposed rule amendments adds employment with the Indian Health Service to the Military/Public Health registration status.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

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Rule Caption: Adds a fine for providing false, misleading or deceptive information on an application.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.175, 677.190, 677.205, 677.265 & 677.510

Proposed Amendments: 847-008-0040

Last Date for Comment: 5-21-12, Close of Business

Summary: Proposed rule amendment adds a fine for violating ORS 677.190(8), providing false, misleading or deceptive information on an application for registration. Proposed rule amendment also contains general grammar housekeeping.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

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Rule Caption: Clarifies continuing education requirements and the audit timelines.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-008-0070

Last Date for Comment: 5-21-12, Close of Business

Summary: Proposed rule revision clarifies the amount of CME required for each licensee, clarifies that audits may occur at the Board's discretion and at a time other than the biennial renewal, and revises the audit timelines.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

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Rule Caption: Proposed new title reflects the language used in the implemented statute.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 127.885

Proposed Adoptions: 847-010-0081

Last Date for Comment: 5-21-12, Close of Business

Summary: The proposed rule amendment changes the title of the rule to reflect the language used in the implemented statute.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

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

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 677.265 & 679.255

Stats. Implemented: ORS 677.060, 677.085, 677.097 & 677.265
Proposed Amendments: 847-017-0000, 847-017-0005, 847-017-0010, 847-017-0015, 847-017-0020, 847-017-0025, 847-017-0030, 847-017-0035, 847-017-0040

Last Date for Comment: 5-21-12, Close of Business

Summary: Proposed rule amendment reorganizes the definitions, clarifies that office-based invasive procedures include cosmetic procedures, expands the definition of office-based surgeries, clarifies the facility and provider qualifications and requirements for patient safety based on the type of procedure to be performed, and contains general grammar and language housekeeping changes.

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

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Rule Caption: Requires competency assessment for applicants who have not had training or certification within 10 years.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.010, 677.175 & 677.265
Proposed Adoptions: 847-020-0182
Proposed Amendments: 847-020-0170, 847-020-0180

Last Date for Comment: 5-21-12, Close of Business
Summary: The proposed new rule clarifies the Board's requirement for a clinical competency assessment for applicants for initial license or reactivation who have not had sufficient postgraduate training or specialty board certification or recertification within the past 10 years. The proposed rule amendments remove the subsections requiring an applicant to show clinical competency after ceasing the practice of medicine for a period of 12 or more consecutive months because this requirement is included in another rule within Division 020 (847-020-0183).

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

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Rule Caption: Limits the type of contested case hearings for which an employee may represent the Board.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 183.452
Proposed Amendments: 847-001-0007
Last Date for Comment: 5-21-12, Close of Business
Summary: The proposed rule amendment limits the type of contested case hearings for which an employee may represent the Board and omits the list of specific violations.

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

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Oregon State Lottery Chapter 177

Rule Caption: Revises probability of winning tables for the Division 2, 3, and 4 Megabucks prizes.

Date:	Time:	Location:
5-15-12	2 p.m.	Oregon Lottery 500 Airport Rd. SE Salem, OR 97301

Hearing Officer: Larry Trott
Stat. Auth.: ORS 461
Other Auth.: Oregon Constitution, Article XV, § 4(4)
Stats. Implemented: ORS 461.210, 461.220, 461.230 & 461.250
Proposed Amendments: 177-075-0040
Last Date for Comment: 5-15-12, 2:30 p.m.

Summary: The Oregon Lottery has initiated permanent rulemaking to revise the probability of winning tables for the Division 2, 3, and 4 Megabucks prize categories.

Rules Coordinator: Mark W. Hohlt
Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301
Telephone: (503) 540-1417

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Rule Caption: Clarifies rules for placement of Video Lottery terminals; Other provisions.

Date:	Time:	Location:
5-15-12	9 a.m.	Lottery Headquarters 500 Airport Road SE Salem, OR 97301

Hearing Officer: Larry Trott
Stat. Auth.: ORS Chapter 461
Other Auth.: Oregon Constitution, Article XV, Section 4(4)
Stats. Implemented: ORS 461.300 & 461.200

Proposed Amendments: 177-040-0001, 177-045-0000, 177-045-0010, 177-045-0030
Proposed Repeals: 177-040-0017

Last Date for Comment: 5-15-12, 5 p.m.
Summary: The Oregon State Lottery has initiated permanent rulemaking to clarify its rules concerning placement of Video Lottery game terminals by: Consolidating related rules into Division 45; more clearly defining terms used in the rules; and clarifying the requirements for placement of Video Lottery game terminals, including additionally specifying that Lottery game terminals will not be placed in a business where there is a concentration of Video Lottery retailers. In addition, Lottery is clarifying when an application for a retailer contract may be submitted.

Lottery intends to amend OAR 177-040-0001 to specify when an application may be submitted; repeal OAR 177-040-0017 and consolidate this rule into OAR 177-045-0030; to amend OAR 177-045-0000 to add definitions of terms used within the Division 45 rules; to amend OAR 177-045-0010 with minor edits; and to amend OAR 177-045-0030 to clarify current requirements and specify a new requirement related to placement of Video Lottery game terminals.

Lottery is also proposing to amend OAR 177-045-0030 to specify when the amendments to this rule apply to applicants and to existing Lottery retailers. Included in this rulemaking are two alternate versions of a new section, (5) "Applicability", and the Lottery invites public comment on both versions.

Rules Coordinator: Mark W. Hohlt
Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301
Telephone: (503) 540-1417

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Oregon University System, Oregon Institute of Technology Chapter 578

Rule Caption: To amend the schedule of Parking Fees.

Date:	Time:	Location:
6-19-12	4 p.m.	27500 SW Parkway Ave. Wilsonville, OR 97070-9296

Hearing Officer: Mary Ann Zemke
Stat. Auth.: ORS 51
Stats. Implemented: ORS 351-070
Proposed Amendments: 578-072-0030
Last Date for Comment: 6-19-12, Close of Hearing
Summary: 578-072-0030 Amends the Parking Permit and Fees. Amendments allow for increases, revisions, additions, or deletions of parking permit fees for fiscal year 2012–2013. The schedule of subject fees may be obtained from the Oregon Institute of Technology Business Affairs Office.
Rules Coordinator: Leticia Hill

NOTICES OF PROPOSED RULEMAKING

Address: Oregon University System, Oregon Institute of Technology, 3201 Campus Drive, Klamath Falls, OR 97601-8801
Telephone: (541) 885-1133

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

Rule Caption: Sets fees/charges at Oregon State University, fiscal year 2012–2013.

Date:	Time:	Location:
5-25-12	1 p.m.	MU 206 Oregon State University Corvallis, OR

Hearing Officer: Beth Giddens

Stat. Auth.: ORS 351.070, 352.360

Other Auth.: OAR 580-040-0010

Stats. Implemented: ORS 351.070, 352.360

Proposed Amendments: 576-010-0000

Last Date for Comment: 6-4-12, Close of Business

Summary: The proposed amendment will set fees and charges for designated services at Oregon State University for fiscal year 2012–2013. The rule states: “The University hereby adopts by reference a list of fees and charges for fiscal year 2012–2013. The list of fees and charges is available at Oregon State University’s Valley Library, and is hereby incorporated by reference in this rule.”

Rules Coordinator: Beth Giddens

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

Telephone: (541) 737-2449

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Rule Caption: Amending rules regarding parking on campus.

Date:	Time:	Location:
5-25-12	1 p.m.	MU 206 Oregon State University Corvallis, OR

Hearing Officer: Beth Giddens

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 351.070 & 352.360

Proposed Amendments: 576-030-0015, 576-030-0020, 576-030-0040, 576-030-0045, 576-030-0050, 576-030-0055, 576-030-0060

Last Date for Comment: 6-4-12, Close of Business

Summary: The proposed rule change supplements its definitions by adding Parking Space, Golf Cart, Motorcycle, Motorized scooter, Moped and Trailer, and by adding “Moped” to the definition of Vehicle. Two provisions regarding parking permits are added. Three hours of free parking in ADA spaces with visitor parking permit are added.

Rules Coordinator: Beth Giddens

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

Telephone: (541) 737-2449

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Rule Caption: Amending rules regarding Athletic Department drug testing.

Date:	Time:	Location:
5-25-12	1 p.m.	MU 206 Oregon State University Corvallis, OR

Hearing Officer: Beth Giddens

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 576-023-0005, 576-023-0010, 576-023-0030, 576-023-0035, 576-023-0040

Proposed Repeals: 576-023-0012, 576-023-0015, 576-023-0020, 576-023-0025

Last Date for Comment: 6-4-12, Close of Business

Summary: Modifies the grounds for drug-testing athletes, the testing methods and conditions, and the potential consequences of a positive drug test result. Modifications also deal with the secure handling of drug testing results and records.

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Rules Coordinator: Beth Giddens

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

Telephone: (541) 737-2449

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**Oregon University System,
Southern Oregon University
Chapter 573**

Rule Caption: Parking Enforcement and Appeals.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Proposed Amendments: 573-050-0015, 573-050-0025

Last Date for Comment: 5-30-12, 3 p.m.

Summary: This amendment in division 50 edits language to correct subsections of the rule.

Rules Coordinator: Treasa Sprague

Address: Oregon University System, Southern Oregon University, 1250 Siskiyou Blvd., Ashland, OR 97520

Telephone: (541) 552-6319

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

Rule Caption: Amend 571-050-0005 – Smoking and tobacco restrictions on University owned or controlled properties.

Date:	Time:	Location:
5-22-12	9 a.m.	Walnut Room, EMU University of Oregon Eugene, OR

Hearing Officer: Kathie Stanley

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 351.060

Proposed Amendments: 571-050-0005

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

Summary: The University of Oregon has determined that amendments to the current smoking restrictions on University owned or controlled property are necessary because of the harm caused by second-hand smoke and the chronic disease and death caused by tobacco use. The University of Oregon is also committed to educating its employees and students about the harm associated with tobacco use.

The rule defines smoking and tobacco and tobacco-related items that are prohibited on University of Oregon owned or controlled property, outlines sanctions resulting from violations, sets forth a mechanism to appeal sanctions, and notes assistance provided to treat tobacco addiction.

Copies of proposed amendments may be obtained from Lauren Townsend, Rules Coordinator, at lm@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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**Public Utility Commission
Chapter 860**

Rule Caption: In the Matter of Data Transfer of Customer Information for Public Purposes.

Date:	Time:	Location:
5-21-12	9:30 a.m.	Public Utility Commission Main Hearing Rm. 550 Capitol St. NE Salem, OR 97301

Hearing Officer: Patrick Power

Stat. Auth.: ORS Ch. 183, 756.040 & 757.600–757.667

Other Auth.: PUC Order Nos. 02-634, 05-934, 07-426, & 06-191

Stats. Implemented: ORS 756.040 & 757.600–757.667

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: 860-086-0000, 860-086-0010, 860-086-0020, 860-086-0030, 860-086-0040

Proposed Amendments: 860-038-0580

Proposed Repeals: 860-038-0540

Last Date for Comment: 6-4-12, Close of Business

Summary: This rulemaking proposes rules to facilitate the transfer of information between electric and natural gas utilities and the entity that administers the public purposes described in ORS 757.612(3)(b)(A) and (B), currently the Energy Trust of Oregon. These rules will allow the Administrator to more efficiently and comprehensively acquire energy efficiency and promote renewable energy development. The proposed rules update the standardized framework for the sharing of customer information, allowing the Administrator to more easily access and match customer information, which will improve customer service and program planning efficiencies. These proposed rules also provide participating electric and natural gas utilities with more information about how their customers are participating in energy efficiency and renewable energy programs.

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 564 on comments and file them by e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us and also send a signed hard copy to the Filing Center at PO Box 2148, Salem, Oregon 97308-2418. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=17460>

Participants wishing to monitor the hearing by telephone (listen only) must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business Thursday, May 17, 2012, to request a dial-in number. To present oral comment at the hearing, participants must attend in person.

Rules Coordinator: Diane Davis

Address: Public Utility Commission of Oregon, PO Box 2148, Salem, OR 97308

Telephone: (503) 378-4372

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**Public Utility Commission,
Board of Maritime Pilots
Chapter 856**

Rule Caption: Amends substantive elements of ratemaking provisions.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Proposed Amendments: 856-030-0000

Last Date for Comment: 5-25-12

Summary: Proposed rule amendments to substantive elements of ratemaking provisions adds Board consideration of evidence of economic and market conditions; and compensation and benefits of licensees serving Puget Sound and San Francisco.

Rules Coordinator: Susan Johnson

Address: Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232

Telephone: (971) 673-1530

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**Secretary of State,
Corporation Division
Chapter 160**

Rule Caption: Amends the fees on federal tax lien filings.

Stat. Auth.: ORS 87.246(3), 87.767, 87.821, 177.130 & 192.440

Stats. Implemented: ORS 87.246, 87.736, 87.767, 87.821, 177.130 & 192.440

Proposed Amendments: 160-050-0140

Last Date for Comment: 5-21-12, Close of Business

Summary: This rule amends the filing fee for the various types of federal tax lien filings.

Rules Coordinator: Ginger Spotts

Address: Secretary of State, Corporation Division, 255 Capitol St. NE, Suite 151, Salem, OR 97310

Telephone: (503) 986-2333

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Rule Caption: E-mail address rule.

Stat. Auth.: ORS 56.022

Stats. Implemented: ORS 56.016

Proposed Adoptions: 160-010-0050

Last Date for Comment: 5-21-12, Close of Business

Summary: This rule requires online filers to provide an e-mail address for notices and filing acknowledgments.

Rules Coordinator: Ginger Spotts

Address: Secretary of State, Corporation Division, 255 Capitol St. NE, Suite 151, Salem, OR 97310

Telephone: (503) 986-2333

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

Rule Caption: Amendment to Penalty Matrix for Other Campaign Finance Violations.

Stat. Auth.: ORS 246.150 & 260.200

Stats. Implemented: ORS 260.200, 260.215, 260.232 & 260.995

Proposed Amendments: 165-013-0010

Last Date for Comment: 5-24-12, Close of Business

Summary: This rule is proposed for amendment to clarify penalties assessed for failure to timely a statement of organization. Additionally the proposed amendment clarifies to whom the proposed penalty notice is issued and which party is responsible for payment of the penalty.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Adopting the Restrictions on Political Campaigning by Public Employees ORS 260.432 Manual.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 260.432

Proposed Adoptions: 165-013-0030

Last Date for Comment: 5-24-12, Close of Business

Summary: This rule adopts the manual Restrictions on Political Campaigning by Public Employees ORS 260.432. This manual provides guidance on ORS 260.432 and informs the public of permissible and impermissible activities by public employees.

To request a copy of the draft Restrictions on Political Campaigning by Public Employees ORS 260.432 manual please contact Summer Davis, Compliance Specialist, phone 503-986-1518; fax 503-373-7414; or e-mail elections.sos@state.or.us

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Amending Voters' Pamphlet Rules to Reflect Current State Law and Current Policies.

Stat. Auth.: ORS 246.150, 251.014, 251.065, 251.075 & 251.255

Stats. Implemented: ORS 251.046, 251.049, 251.055, 251.065, 251.075, 251.085, 251.087, 251.095, 251.115, 251.255 & 251.285

Proposed Adoptions: 165-016-0100, 165-016-0105

Proposed Amendments: 165-016-0040, 165-016-0045, 165-016-0050, 165-016-0055, 165-016-0070, 165-016-0080

Last Date for Comment: 5-24-12, Close of Business

NOTICES OF PROPOSED RULEMAKING

Summary: These rules are proposed for adoption or amendment to clarify the process for submitting candidate statements, measure arguments or statement of arguments by any political party or assembly of electors. These rules set forth the process by which statements, photos, or arguments must be filed as well as the order in which they will appear in the state voters' pamphlet, allowable formatting and provides a process for contacting statement or argument filers regarding required revisions.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Veterinary Medical Examining Board

Chapter 875

Rule Caption: Defines licensing eligibility requirements for Certified Euthanasia Technicians.

Stat. Auth.: ORS 686.210

Other Auth.: ORS 475.190(4)

Stats. Implemented: ORS 686.110, 120, 130, 132, 135, 150, 160, 170 & 475

Proposed Adoptions: 875-040-0010

Last Date for Comment: 5-30-12, Close of Business

Summary: Defines licensing eligibility requirements for Certified Euthanasia Technicians.

Rules Coordinator: Lori V. Makinen

Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0224

ADMINISTRATIVE RULES

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: Reduce the biennial renewal fee for PE, PLS, RPP registrations.

Adm. Order No.: BEELS 1-2012(Temp)

Filed with Sec. of State: 3-16-2012

Certified to be Effective: 3-16-12 thru 5-15-12

Notice Publication Date:

Rules Amended: 820-010-0305, 820-010-0505

Subject: OAR 820-010-0305 – Fees. Reduces the annual renewal fees of a professional engineering certificate, professional land surveyor certificate, and registered professional photogrammetrist certificate from \$90.00 to \$75.00.

OAR 820-010-0505 – Biennial Renewal of Registration or Certification. Reduces the biennial renewal fees to renew a professional engineering, professional land surveyor, or registered professional photogrammetrist registration from \$180.00 to \$150.00.

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

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.

(h) Fundamentals of engineering examination re-application – \$25.

(i) Fundamentals of land surveying examination re-application – \$25.

(j) Professional engineering (PE) examination re-application – \$90.

(k) Professional geotechnical examination re-application – \$365.

(l) Professional land surveying (PLS) examination re-application – \$130.

(m) Oregon law portion of PLS examination re-application – \$55.

(n) National portion of PLS examination re-application – \$75.

(o) Professional photogrammetric mapping examination re-application – \$110.

(p) Certified Water Rights Examiner test re-application – \$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

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 post-marked 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

(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

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wage for the period beginning January 1, 2012

Adm. Order No.: BLI 4-2012

Filed with Sec. of State: 3-29-2012

Certified to be Effective: 3-29-12

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning January 1, 2012.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

ADMINISTRATIVE RULES

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the publication of the Bureau of Labor and Industries entitled Prevailing Wage Rates on Public Works Contracts in Oregon dated January 1, 2012, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning January 1, 2012, and the effective dates of the applicable special wage determination and rates amendments: Amendments to Oregon Determination 2012-01 (effective April 1, 2012).

(2) Copies of Prevailing Wage Rates on Public Works Contracts in Oregon dated January 1, 2012, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00, cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02, cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02, cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04, cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06, cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06, cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07, cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07, cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07, cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09; BLI 16-2009, f. & cert. ef. 7-22-09; BLI 17-2009, f. & cert. ef. 7-29-09; BLI 19-2009, f. & cert. ef. 8-18-09; BLI 20-2009, f. & cert. ef. 9-14-09; BLI 21-2009, f. & cert. ef. 9-21-09; BLI 22-2009, f. 9-30-09, cert. ef. 10-1-09; BLI 23-2009, f. & cert. ef. 10-8-09; BLI 24-2009, f. & cert. ef. 11-12-09; BLI 25-2009, f. & cert. ef. 11-23-09; BLI 29-2009, f. 12-31-09, cert. ef. 1-1-10; BLI 1-2010, f. 1-8-10, cert. ef. 1-12-10; BLI 2-2010, f. 1-11-10, cert. ef. 1-13-10; BLI 3-2010, f. & cert. ef. 1-19-10; BLI 4-2010, f. & cert. ef. 1-27-10; BLI 13-2010, f. & cert. ef. 4-1-10; BLI 17-2010, f. 6-29-10, cert. ef. 7-1-10; BLI 20-2010, f. & cert. ef. 10-1-10; BLI 24-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 2-2011, f. 3-25-11, cert. ef. 4-1-11; BLI 4-2011, f. 6-30-11, cert. ef. 7-1-11; BLI 7-2011, f. & cert. ef. 10-12-11; BLI 10-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 4-2012, f. & cert. ef. 3-29-12

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Department of Agriculture Chapter 603

Rule Caption: Repeal Obsolete Rules Related to Diseases of Orchard, Mint and Barberry.

Adm. Order No.: DOA 5-2012

Filed with Sec. of State: 3-22-2012

Certified to be Effective: 3-22-12

Notice Publication Date: 1-1-2012

Rules Repealed: 603-052-0117, 603-052-0201, 603-052-0206, 603-052-0207, 603-052-0208, 603-052-0209, 603-052-0334, 603-052-0800

Subject: Oregon Department of Agriculture proposes to repeal four regulations: 603-052-0117 Quarantine Against peach Latent Mosaic Viroid; 603-052-0201 to 209 Umatilla County Control Area; 603-052-0334 Union County Mint Control Area and Procedures; 603-052-0800 Rust-Resistant Varieties of Barberry, Mahonia, and Mahoberberis. The Peach Latent Mosaic quarantine was adopted in 1974. This viroid is now widespread in U.S. orchards including the Pacific Northwest. The Umatilla County Orchard Pest Control Area was also adopted in 1941. The complicated boundaries make it impossible to enforce and a local ordinance makes it redundant. Verticillium wilt has been found in Union County since 2005. The quarantine is no longer scientifically valid. Oregon Barberry rust statute was repealed in 2009. Federal regulations remain in place.

Rules Coordinator: Sue Gooch—(503) 986-4583

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Rule Caption: Expands Sudden Oak Death Quarantine and Allows Use of Tanoak From Disease-Free Areas.

Adm. Order No.: DOA 6-2012

Filed with Sec. of State: 3-22-2012

Certified to be Effective: 3-22-12

Notice Publication Date: 1-1-2012

Rules Amended: 603-052-1230

Subject: Phytophthora ramorum (sudden oak death) has been found north of the current quarantine boundary near Cape Sebastian in Curry Co. The proposed amendment would expand the quarantine northward to include the new site and a buffer area of approximately three miles. With the expansion of the quarantine, it is proposed to define disease-free and generally-infested areas within the quarantine. Provisions are proposed that would allow use of tanoak logs and firewood from disease-free areas. Encouraging use of tanoak should help slow the spread of the disease and lessen the impact on residents.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-1230

Quarantine: *Phytophthora ramorum*

(1) Establishing a quarantine: A quarantine is established against *Phytophthora ramorum*, the cause of sudden oak death and other plant diseases. This quarantine is established under ORS 561.510 and 561.540 to protect Oregon's agricultural industries and natural resources from the artificial spread of *P. ramorum*. This pathogen causes mortality in susceptible oak (*Quercus spp.*), tanoak (*Notholithocarpus densiflorus syn. Lithocarpus densiflorus*), rhododendron (*Rhododendron spp.*), viburnum (*Viburnum spp.*), evergreen huckleberry (*Vaccinium ovatum*), and other plant species. In other susceptible plants it causes leaf spots, twig dieback and/or stem cankers. Methods for exclusion of commodities potentially infected with this disease and procedures for eradication of incipient infections are prescribed in this quarantine.

(2) Area under quarantine:

(a) The following counties in California: Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma;

(b) The following portion of Curry County that lies inside the area south of the northern border of T37S R 15W section 13, T37S R14W sections 15, 16, 17, and 18, then west of the eastern border of T37S R14W sections 15, 22, 27, and 34, and T38S R14W sections 3 and 10, then south of the northern border of T38S R14W sections 13 and 14, then west of the eastern border of T38S R14W sections 13, 24, 25, and 36, then south of the northern border of T39S R13W 1, 2, 3, 4, 5, 6 and T38S R12W sections 29 and 30; and then west of the eastern border of T38S R12W sections 29 and 32, T39S R12W sections 5, 8, 17, 20, 29, and 32, T40S R12W sections 5, 8, 17, 20, 29, and 32, and then north of the southern border T40S R12W sections 31, 32 and T41S R13W section 12, west of the western boundary of section 13, north of the southern boundary of section 14 to the intersection with US Highway 101 and then northeast of US Highway 101 to the intersection with West Benham Lane and then north of West Benham Lane directly west to the Pacific Coastline; then east of the Pacific Coastline;

ADMINISTRATIVE RULES

(c) Any country, state, county, province or area covered by the federal interim rule, 7 CFR 301.92, *Phytophthora ramorum*; quarantine and regulations;

(d) Any property in Oregon where *P. ramorum* is found, including a buffer zone of up to three (3) miles surrounding the infested site during any eradication or containment program.

(3) The following definitions apply to ORS 603-052-1230:

(a) "Best management practices" is defined as any actions or activities that can be used to prevent or eliminate new *P. ramorum* infections.

(b) "Disease-free area" means an area located more than one-quarter (1/4) mile from the generally infested area, which has been officially surveyed within the past 6-months and found free of *P. ramorum*.

(c) "Generally-infested area" means the area within the quarantine boundary where *P. ramorum* has been commonly found or in which there is reason to believe *P. ramorum* is present because of the proximity, one-quarter (1/4) mile or less, to known infested sites. A map showing the generally infested area is available from the Oregon Department of Agriculture, http://www.oregon.gov/ODA/CID/PLANT_HEALTH/, 635 Capitol St. NE, Salem, OR 97301, telephone: 503-986-4620.

(d) "Hosts and associated plants" means plants on the USDA APHIS List of Regulated Hosts and Plants Associated with *Phytophthora ramorum*, last revised March 1, 2012.

NOTE: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone: 503-986-4644.

(e) "Infested site" is defined as the area within fifty (50) feet of one or more plants officially confirmed as infected with *P. ramorum*.

(f) "Treatment area" is defined as the area delimited by the Oregon Department of Agriculture (ODA) or an official cooperater in which treatments to eliminate or reduce *P. ramorum* inoculum and sources thereof is required or recommended. The treatment area may range from 50 to 300 or more feet from infected or symptomatic plants.

(g) "Type 1" is defined as an infested site(s) that because of its geographical location in relationship to other infested sites, surrounding flora, and based on the best available data on disease spread, is considered to be of highest risk for advancing further spread of *P. ramorum* into previously un-infested areas. By definition, Type 1 sites are typically located outside of the generally infested area.

(h) "Type 2" is defined as an infested site(s) that because of its geographical location in relationship to other infested sites, surrounding flora, and based on the best available epidemiological data on disease spread, is considered to be of less risk for advancing further spread of *P. ramorum* into previously un-infested areas. By definition, Type 2 sites are typically located inside of the generally infested area.

(i) "Non-commercial" is defined as any activity or entity that does not in some sense involve commerce, relative to similar activities that do have a commercial objective.

(j) "Nursery stock" is defined in ORS 571.005. Tissue culture plantlets in sealed, sterile containers are exempt from this regulation;

(4) Commodities regulated:

(a) All plants and plant parts of hosts and associated plants: Examples of regulated commodities include all portions of the plants including, but not limited to nursery stock, logs, bark, wood chips, mulch, firewood, sawdust, green waste, other plant products that may contain bark or foliage;

(b) Any other plant found to be naturally infected with *P. ramorum*, any product or article that an official inspector determines to present a risk of spreading *P. ramorum*. All life stages of *P. ramorum*.

(5) Provisions of the quarantine: Movement out of the quarantined area of regulated commodities originating from the area under quarantine, and any other area found to be infested with *P. ramorum* during the life of this quarantine, is prohibited unless one of the following requirements has been met:

(a) The regulated commodity meets the official treatment and certification requirements for interstate movement as defined in the federal interim rule, 7 CFR 301.92. The regulated commodity must be accompanied by an official certificate that includes the following additional declaration "The (type of covered commodity) from (name of county or other location identifier) has been treated for *Phytophthora ramorum* as required prior to shipment." As applicable, the specific requirements of the treatment must be recorded on the official certificate;

(b) Provisions for Douglas fir, grand fir, alder, and other non-hosts and non-bole hosts (as defined in 7 CFR 301.92) harvested within the quarantine area, including the generally-infested area. Logs and firewood of non-hosts and non-bole hosts are not regulated per 7 CFR 301.92 and can move freely within or outside the quarantine area. Soil, needles, foliage, and plant debris (including branches less than or equal to one (1) inch in diameter) must stay within the quarantine area.

(c) Provisions for tanoak logs and firewood harvested within the quarantine area.

(A) Tanoak logs and firewood - Intrastate. Tanoak logs and firewood may be shipped intrastate provided the logs were harvested from a disease-free area and the logs and firewood are safeguarded from contamination prior to shipment out of the quarantine area.

(B) Tanoak logs and firewood - Interstate. Tanoak logs and firewood may be shipped interstate provided the logs and firewood were harvested from a disease-free area, have been debarked according to federal requirements (see 7 CFR 301.92), and are accompanied by an official phytosanitary certificate verifying the debarking of the logs and firewood prior to shipment.

(C) Tanoak logs and firewood harvested within the generally-infested area are not eligible for movement outside of the quarantine area.

(d) Nursery stock grown in a quarantined county or area may be eligible for shipment to and within Oregon providing the nursery is part of an official certification program and has been inspected and tested as required by the federal interim rule, 7 CFR 301.92, for *P. ramorum*. The official certificate must include the following additional declaration: "The (covered commodity) from (name of county or other location identifier) has met the *Phytophthora ramorum* quarantine requirements for shipment into and within Oregon."

NOTE: Recipients of tree and shrub nursery stock imported into the state must notify the ODA no later than two business days after its arrival as required by OAR 603-054-0027.

(e) Soil and potting media from the quarantine area at a known infested site or from within five (5) meters of an infested host plant must be sterilized before shipment. The soil or potting media must reach a minimum temperature of 60 degrees C (140 degrees F) for one (1) hour measured at the center of the mass of soil or potting media. Soil or potting media that has never been associated with the covered commodities is exempt. Treatments must be officially verified. The official certificate must include the following additional declaration "The (soil or potting media) from (name of county or other location identifier) has been treated for *Phytophthora ramorum* as required prior to shipment." The length and temperature of the treatment must be recorded on the official certificate.

(6) Infested properties in Oregon: Confirmation of a *P. ramorum* infection must be made by the ODA or an official cooperater. The required response depends on whether the infested site is of high priority (Type 1) or normal priority (Type 2) in terms of importance for slowing disease spread as determined by ODA or an official cooperater. The ODA or an official cooperater will notify the landowner when a Type 1 infested site has been detected on their property.

(a) Type 1 sites must be treated as quickly as possible in accordance with USDA APHIS's Official Regulatory Protocol for *Phytophthora ramorum* Detections in Residential or Landscaped Commercial Settings, last revised September 1, 2009 or the *Phytophthora ramorum* APHIS Response Protocol for Forest and Wildland Environments Version 1.0, updated November 21, 2008. Subject to the availability of funds dedicated to the rapid treatment of *P. ramorum* infested sites, the cost of treatment will be borne by the State.

NOTE: These protocols are available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone: 503-986-4644.

Affected property owners will be issued infestation and treatment area location and treatment requirements in the form of an Administrative Directive. For public and private forested lands, the Oregon Departments of Agriculture and Forestry (ODF) will work with the landowner to develop a treatment plan that will be based on the best available science. The treatment plan may include some or all of the following activities:

- (A) Cutting and piling susceptible trees and shrubs;
- (B) Burning the wood and plant debris when safe to do so;
- (C) Herbicide treatment of stumps, standing trees, and sprouts;
- (D) Fungicide application;
- (E) Sampling and monitoring;
- (F) Replanting with suitable plant species to meet landowner objectives and to prevent intensification and spread of the disease.

(b) On Type 2 sites disease suppression through the implementation of best management practices is encouraged. Subject to availability of funds dedicated to the suppression of *P. ramorum* in urban and forested environments, a cost-share program may be available through the ODF to help defray costs of implementing best management practices to suppress disease spread (Oregon Department of Forestry, 415 Redwood Street, Brookings, OR 97415, telephone: 541-469-5040). A landowner with a Type 2 site may, after consultation with the ODA and ODF, allow use of their infested site(s) for *P. ramorum*-related research by Oregon State University, ODF, or ODA. Trees killed by *P. ramorum* within an infested Type 2 treatment area may be used as firewood under the following conditions:

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(A) The firewood from the infected tree(s) is for non-commercial use only;

(B) The firewood does not leave the generally-infested area.

NOTE: Best management practices for managing *P. ramorum* infestations within the generally infested area are available on the California Oak Mortality website, <http://www.suddenoakdeath.org>, or from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone: 503-986-4644, or the Oregon Department of Forestry - Coos Bay, 63612 Fifth Road, Coos Bay, 97420, telephone: 541-267-4136.

(7) Infested nurseries in Oregon: Confirmation of a *P. ramorum* infestation must be made by the ODA or an official cooperater. Nurseries are required to eradicate the disease as quickly as possible in accordance with USDA APHIS's Official Regulatory Protocol for Wholesale and Production Nurseries Containing Plants Infected with *Phytophthora ramorum* Version 8.0, updated March 31, 2010, or the Official Regulatory Protocol for Retail Nurseries Containing Plants Infected with *Phytophthora ramorum* Version 1.0, modified August 12, 2009, will be implemented immediately. Nurseries from which *P. ramorum* has been detected in multiple growing seasons will be required to implement best management practices as described in USDA APHIS's official regulatory protocols for positive nurseries for the mitigation of *Phytophthora* disease in plants for planting; alternatively, nurseries from which *P. ramorum* has been detected in multiple growing seasons may enter Oregon's Grower Assisted Inspection Program (GAIP).

NOTE: These best management practices and protocols and information about the GAIP for nurseries are available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone: 503-986-4644.

(8) Special permits: The Department, upon receipt of an application in writing, may issue a special permit allowing movement into this state, or movement within this state, of regulated commodities not otherwise eligible for movement under the provisions of this quarantine order. Movement of such commodities will be subject to any conditions or restrictions stipulated in the permit, and these conditions and restrictions may vary depending upon the intended use of the commodity and the potential risk of escape or spread of *P. ramorum*.

(9) Violation of quarantine: Violation of this quarantine may result in a fine, if convicted, of not less than \$500 no more than \$5,000, as provided by ORS 561.990. In addition, violators will be subject to civil penalties of up to \$10,000 as provided by 561.995. Commodities shipped in violation of this quarantine may be treated, destroyed or returned to their point of origin without expense or indemnity paid by the state.

Stat. Auth.: ORS 561.190 & 561.560

Stats. Implemented: ORS 561.560

Hist.: DOA 1-2001(Temp), f. & cert. ef. 1-5-01 thru 4-4-01, DOA 5-2001, f. & cert. ef. 3-27-01; DOA 1-2005, f. & cert. ef. 1-24-05; DOA 4-2006, f. & cert. ef. 3-10-06; DOA 7-2007, f. & cert. ef. 3-27-07; DOA 5-2008, f. & cert. ef. 1-16-08; DOA 5-2009, f. & cert. ef. 4-9-09; DOA 21-2010, f. & cert. ef. 12-17-10; DFW 14-2011, f. & cert. ef. 9-9-11; DOA 6-2012, f. & cert. ef. 3-22-12

Rule Caption: Housekeeping Updates to Six Plant Pest and Disease Quarantines, e.g. scientific names, pest distributions, treatments.

Adm. Order No.: DOA 7-2012

Filed with Sec. of State: 3-26-2012

Certified to be Effective: 3-26-12

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Rules Amended: 603-052-0115, 603-052-0116, 603-052-0118, 603-052-0126, 603-052-0150, 603-052-1025

Subject: The Department of Agriculture proposes to update six rules as follows: Blueberry Maggot Quarantine, clarify that fumigation with a labeled product is an acceptable option without a Director's exemption; Peach Yellows Phytoplasma, remove Alabama and West Virginia, add Ontario (Canada), update host list; Peach Rosette Phytoplasma, update host list; European Corn Borer, replace out-of-date prescriptive fumigation instructions with requirements to fumigate according to the label instruction; Cherry Fruit Fly, correct title; Small Broomrape, correct host list.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-0115

Quarantine; Blueberry Maggot

(1) Establishing Quarantine. A quarantine is established against blueberry maggot (*Rhagoletis mendax*).

(2) Area under Quarantine. All states, districts, and territories of the United States east of and including the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. All states of the United

States west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas are not included therein.

(3) Commodities Covered. All fresh fruit of blueberry and blueberry plants (except when free from soil and growing media; clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection).

(4) All commodities covered are prohibited entry into Oregon from the area under quarantine with the exception of items listed in (5) below.

(5) Exceptions:

(a) No restrictions are placed by this quarantine upon the entry into the State of Oregon of fruits which upon arrival are frozen solid and which are held under refrigeration to assure their solid frozen state;

(b) Fruits affected by this quarantine, which have been held in cold storage for a continuous period of at least 40 days during which period the temperature in said cold storage area has been maintained at 32° F or less, may be admitted into the State of Oregon providing that the lot or shipment of the same is accompanied by an official certificate, issued by an agency of the state of origin authorized to do so, evidencing compliance with the requirements of this subsection.

(c) Fruits that are accompanied by an official certificate showing that they have been treated with a fumigant effective against blueberry maggot according to label instructions.

(6) Disposition of Commodities in Violation of Quarantine. All commodities described in section (3) of this rule inspected by the Department and determined to be in violation of this quarantine and not permitted entry pursuant to section (5) of this rule, shall be immediately returned by the person receiving the same to the point of origin or, at his option and without expense or indemnity paid by the Department, destroyed by such person.

Stat. Auth.: ORS 561.190, 561.510 - 561.600 & 570.305 - 570.325

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415

Hist.: AD 1033(20-74), f. 6-26-74, ef. 7-25-74; AD 10-1997, f. & cert. ef. 7-2-97; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 7-2012, f. & cert. ef. 3-26-12

603-052-0116

Quarantine; Peach Yellows Phytoplasma

(1) Establishing a Quarantine. A quarantine is established against the disease of peach known as Peach Yellows Phytoplasma.

(2) Areas under Quarantine. Connecticut, Delaware, Florida, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas, Tennessee, Virginia, and District of Columbia and Ontario (Canada).

(3) Commodities Covered:

(a) Propagating parts, except seeds, and any tree budded or grafted on understock of the following species of plum which are symptomless carriers of Peach Yellows, phytoplasma:

(A) Native American plum, *Prunus hortulana* and *P. americana*;

(B) Common or European plum, *P. domestica*;

(C) Japanese plum, *P. salicina*;

(D) Myrobalan plum, *P. cerasifera*;

(E) Othello plum, *P. cerasifera* var. *atropur-purea*;

(F) Wild goose plum, *P. munsoniana*.

(b) All trees, roots, stalks, cuttings, grafts, scions, and buds of all species and varieties of *Prunus*;

(c) Any tree or bud grafted on peach or plum understock.

(4) Exceptions:

(a) Seedling trees or trees budded on admissible rootstock which are grown from seed and shipped in one growing season may be certified provided any budwood used in the production of such trees meets the conditions of subsection (c) of this section and Peach Yellows disease has not occurred during the growing season either on or within one mile of the growing ground property;

(b) Certificates may be issued for reshipment of dormant host trees and propagative parts which have been produced outside the areas under quarantine and have remained dormant while within such areas. Certificates shall state the name of the state where produced;

(c) Species and varieties other than symptom-less carriers may be shipped into this state provided they are properly labeled as to scientific name and each lot or shipment is accompanied by a state-of-origin inspection certificate certifying that the following conditions have been met:

(A) Adequate surveys have been made by state agricultural officials, at the proper time in relation to diseases and hosts, and as Peach Yellows disease has not been found during the last two growing seasons previous to digging the trees or taking the buds either on or within one mile of the growing grounds or bud source properties; and

(B) The growing premises have been free from any prohibited symptomless species of plum trees or any other tree growing on any prohibited

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species of plum understock and, during the last two growing seasons previous to digging the trees or taking the buds, any prohibited symptomless species of plum trees has not existed within one mile of the growing premises or bud source properties.

(5) Disposition of Commodities in Violation of Quarantine. Commodities shipped in violation of this quarantine shall be refused entry into this state and shall be immediately sent out of this state or, at his option and without expense to or indemnity paid by the Department, destroyed under departmental supervision by the person receiving the same. Violators may also be subject to civil penalties of up to \$10,000 as provide by Oregon Laws 1999, Chapter 390, section 2.

(6) Special Permits. This section does not apply to experimental shipments moved by, or at the request of, the United States Department of Agriculture. The Department, upon receipt of an application in writing, may issue a special permit allowing entry into this state of quarantined commodities for research purposes only. Movement of such commodities shall be subject to any conditions or restrictions stipulated in the permit.

Stat. Auth.: ORS 561.190, 561.510 - 561.600 & 570.305

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415

Hist.: AD 1041(31-74), f. 8-28-74, ef. 9-25-74; AD 1085(8-76), f. & ef. 3-11-76; AD 3-1995, f. & cert. ef. 4-5-95; DOA 6-2005, f. & cert. ef. 2-15-05; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 7-2012, f. & cert. ef. 3-26-12

603-052-0118

Quarantine; Peach Rosette Phytoplasma

(1) Establishing a Quarantine. A quarantine is established against the phytoplasma disease of peach known as Peach Rosette.

(2) Areas Under Quarantine. Alabama, Arkansas, Georgia, Illinois, Indiana, Kansas, Kentucky, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee, Texas and West Virginia.

(3) Commodities Covered. The following commodities are hereby declared to be hosts or possible carriers of the disease herein quarantined, and are prohibited from entry into this state, either directly, indirectly, diverted, or reconsigned:

(a) Symptomless carriers of Peach Rosette, namely trees and propagating parts, except seed, of Wilson apricot (a variety of *Prunus armeniaca*) and Marianna plum (a hybrid variety of *P. cerasifera*) and any tree budded or grafted on Marianna plum understock;

(b) All trees, roots, stalks, cuttings, grafts, scions, or buds of *Prunus angustifolia*, *P. armeniaca*, *P. avium*, *P. besseyi*, *P. cerasus*, *P. davidiana*, *P. domestica*, *P. dulcis* (*P. amygdalus*), *P. mahaleb*, *P. persica*, *P. pumila*, *P. salicina*, *P. tomentosa*, *P. triloba*, *P. virginiana*, and *Acer rubrum*;

(c) Any tree or bud grafted on peach or plum understock.

(4) Exceptions:

(a) Seedling trees or trees budded on admissible rootstocks which are grown from seed and shipped in one growing season may be certified, and provided any budwood used in the production of such trees meets the conditions of subsection (c) of this section, and Peach Rosette has not occurred during the growing season either on or within one mile of the growing ground property;

(b) Certificates may be issued for reshipment of dormant host trees and propagative parts which have been produced outside the areas under quarantine and have remained dormant while within such areas. Certificates shall state the name of the state where produced;

(c) Species and varieties other than symptom-less carriers may be shipped into this state provided they are properly labeled as to scientific name and each lot or shipment is accompanied by a state-of-origin inspection certificate certifying that the following conditions have been met:

(A) Adequate surveys have been made by state agricultural officials, at the proper time in relation to diseases and hosts, and no Peach Rosette has been found during the last two growing seasons previous to digging the trees or taking the buds either on or within one mile of the growing premises or bud source properties;

(B) The growing premises have been found free from Wilson apricot and Marianna plum trees and any other tree growing on Marianna plum understock and, during the last two growing seasons previous to digging the trees or taking the buds, Wilson apricot or Marianna plum trees have not existed within one mile of the growing premises or the bud source properties.

(5) Disposition of Commodities in Violation of Quarantine. Commodities shipped in violation of this quarantine shall be refused entry into this state and shall be immediately sent out of the state or, at his option and without expense to or indemnity paid by the Department, destroyed under departmental supervision by the person receiving the same. Violators may also be subject to civil penalties of up to \$10,000 as provided by Oregon Laws 1999, Chapter 390, section 2.

(6) Special Permits. This section does not apply to experimental shipments moved by, or at the request of, the United States agency. The Department, upon receipt of an application in writing, may issue a special permit allowing entry into this state of quarantined commodities for research purposes only. Movement of such commodities shall be subject to any conditions or restrictions stipulated in the permit.

Stat. Auth.: ORS 561.190, 561.510 - 561.600 & 570.305

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415

Hist.: AD 1041(31-74), f. 8-28-74, ef. 9-25-74; AD 1086(9-76), f. & ef. 3-11-76; AD 3-1995, f. & cert. ef. 4-5-95; DOA 8-2005, f. & cert. ef. 2-15-05; DOA 7-2012, f. & cert. ef. 3-26-12

603-052-0126

Quarantine; European Corn Borer

A quarantine is established effective October 15, 1969, against the following pest, its hosts, and possible carriers:

(1) Pest. European corn borer (*Ostrinia nubilalis*).

(2) Area Under Quarantine. All states and districts of the United States, except the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, New Mexico, Utah, and Washington.

(3) Infested Area. Entire States of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

(4) Commodities Covered. (Restricted Products) Corn, broomcorn, sorghums, and Sudan grass, plants and all parts thereof (including shelled grain and stalks, ears, cobs, and all other parts, fragments, or debris of said plants); beans in the pod; beets; celery; peppers (fruits); endive; Swiss chard; and rhubarb (cut or plants with roots); cut flowers and entire plants of aster, chrysanthemum, calendula, cosmos, hollyhock, marigold, zinnia, Japanese hop, dahlia (except tubers without stems), and gladiolus (except corms without stems), are hereby declared to be hosts or possible carriers of the pest herein quarantined against.

(5) Restrictions:

(a) Definitions. As used in the quarantine and section:

(A) "Portions of Plants or Fragments Capable of Harboring Larva of European Corn Borer" means any portion of a host plant of any shape or size which cannot be passed through a 1/2-inch (1.27 cm) square aperture, and any completely whole, round, uncrushed section, portion, or piece of cob, stalk, or stem of one inch or more in length and 3/16-inch (0.48 cm) or more in diameter;

(B) "Official Certificate" means a document, issued by a duly authorized representative of the designated state, district, or federal department of agriculture, evidencing compliance with the provisions of this regulation and setting forth all information and facts hereinafter required;

(C) "Department" means the Department of Agriculture of the State of Oregon;

(D) "Shelled Grain" means the seeds or kernels separated from all other plant parts of corn, broomcorn, sorghum, and Sudan grass.

(b) Certification required on all shelled grain from area under quarantine. Except as provided in section (6) of this rule, each lot or shipment of shelled grain of corn, broomcorn, sorghums, and Sudan grass grown in or shipped from the area under quarantine described in section (2) of this rule, imported or brought into this state, must be accompanied by an official certificate evidencing compliance with one of the following conditions:

(A) Certificates on shelled grain grown in or shipped from the infested area described in section (3) of this rule, must either affirm that said grain has been passed through a 1/2-inch (1.27 cm) mesh screen or less, or otherwise processed prior to loading and is believed to be free from stalks, cobs, stems, or portions of plants or fragments capable of harboring larva of the European corn borer, and further, that the car or truck was free from stalks, cobs, stems, or such portions of plants or fragments at time of loading, or affirm that said grain has been fumigated by a method and in a manner prescribed by the Department, and setting forth the date of fumigation, dosage schedule, and kind of fumigant used;

(B) Certificate on shelled grain grown in and shipped from states under quarantine not listed in section (3) of this rule, must be issued by the proper official of the state wherein such grain was produced, affirming that all such grain covered by said certificate is a product of said state wherein no European corn borer is known to exist and that its continued identity has been maintained to assure no blending or mixing with grain, plants, or portions thereof produced in or shipped from infested areas described in section (3) of this rule;

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(C) Any lot or shipment of shelled grain arriving in this state which is not accompanied by an official certificate as herein before required, or which is certified on the basis of freedom from contamination with portions of plants or fragments capable of harboring larva of European corn borer as defined above, and which is found to be so contaminated, shall be deemed to be in violation of this quarantine and regulation and subject to disposal as provided by law and by section (16) of this rule quarantine;

(D) All certificates issued in compliance with paragraph (A) or (B) of this subsection must also set forth the kind and quantity of the commodity constituting the lot or shipment covered thereby, the initials and number of the railway car, or license number in the case of truck, and the names and addresses of the shipper and consignee.

(6) Certain Grain Products Conditionally Exempt from Certification. Certification requirements of subsection (5)(b) of this rule, are hereby waived on shelled popcorn, seed for planting, and on individual shipments or lots of one hundred pounds or less of other clean, shelled grain, or comprised of packages of less than ten pounds, subject to inspection and freedom from portions of plants or fragments capable of harboring European corn borer.

(7)(a) Stalks, ears, cobs, or other parts, fragments, or debris of corn, broomcorn, sorghums, and Sudan grass admitted under disinfection or treatment certificate. Stalks, ears, cobs, or other parts, fragments, or debris of corn, broomcorn, sorghums, and Sudan grass grown in or shipped from the area under quarantine imported as such or as packing or otherwise, will be admitted into the State of Oregon only provided each lot or shipment is accompanied by an official certificate of the state from which shipped, affirming that all stalks, ears, cobs, or other parts, fragments, or debris of such plants accompanied thereby have been disinfected or sterilized by a method and in a manner prescribed by the Department, and setting forth the date and full particulars of treatment applied, except that stalks, ears, cobs, or other parts, fragments, or debris of said plants grown in and shipped from states under quarantine not listed in the infested area described in section (3) of this rule will be admitted into the State of Oregon provided each shipment or lot is accompanied by an official certificate of the state where produced, affirming that such product is a product of said state wherein no European corn borer is known to exist, and that continued identity of the product has been maintained to assure no handling or storage in association with stalks, ears, cobs, or other parts, fragments, or debris of such plants grown in or shipped from infested areas herein described;

(b) All certificates issued in compliance with this section (7) of this rule must also set forth the kind and quantity of the commodity constituting the lot or shipment covered thereby, the initials and number of the railway car, or license number in the case of truck, and the names and addresses of the shipper and consignee.

(8)(a) Certification required on certain vegetable and ornamental plants and plant products produced in or shipped from infested area. Except as provided in section (6) of this rule, beans in the pod, beets, celery, peppers (fruits), endive, Swiss chard, and rhubarb (cut or plants with roots); cut flowers and entire plants of aster, chrysanthemum, calendula, cosmos, hollyhock, marigold, zinnia, Japanese hop, dahlia (except tubers without stems), gladiolus (except corms without stems) produced in or shipped from the infested area described in section (3) of this rule, will be admitted into the State of Oregon only provided each lot or shipment is officially certified by an inspector of the Plant Quarantine Division of the U.S. Department of Agriculture or by the duly authorized official of the state where produced, evidencing that such plants, products, or cut flowers have been inspected or that the greenhouse or growing grounds where same were produced were inspected and no European corn borer was found, or that such plants, products, or cut flowers have been fumigated by a method and in a manner prescribed by the Department and setting forth the date of fumigation, dosage schedule, and kind of fumigant used;

(b) No restrictions are placed by this regulation on the entry into this state of such vegetable and ornamental plants and plant products produced in and shipped from any state not listed in section (3) of this rule.

(9) Certain Restricted Products Conditionally Exempt from Certification. Certification requirements of section (8) of this rule, are hereby waived on individual shipments or lots of certain restricted vegetables, ornamental plants, and plant products described therein, under and subject to the following conditions:

(a) In lots or shipments of ten pounds or less, beans in the pod, beets, peppers (fruits), endive, Swiss chard, and rhubarb (cut or plants with roots);

(b) During period November 30 to May 1, divisions without stems of the previous year's growth, rooted cuttings, seedling plants, and cut flowers of aster, chrysanthemum, calendula, cosmos, hollyhock, marigold, zinnia, and Japanese hop.

(10) Manufactured or Processed Products Exempt from Restriction. No restrictions are placed by this proclamation upon the movement of the restricted products herein defined which are processed or manufactured in such a manner as to eliminate all danger of carrying the pest herein quarantined against.

(11) Certification Waived on Small Lots. Under section (16) of this rule and the European Corn Borer Exterior Quarantine, the Department may release small lots of shipments which may be adequately inspected in lieu of origin certification provided no living stage of European corn borer is found or the lot or shipment may be treated in an approved manner under official supervision. It is intended that this disposition will only apply to lots or shipments of a size which will permit a 100 percent inspection involving less inspection time and effort than would be required to issue rejection notices and hold for origin certification. Rejection notices need not be filed on the lots or shipments which are adequately inspected and released in lieu of origin certification.

(12) Fumigation Instructions. The articles listed in this quarantine will be admitted to the State of Oregon if they are accompanied by an official certificate, showing they have been fumigated with a fumigant effective against European corn borer according to label instructions.

(13) Disposition of Violations. Any or all shipments or lots of the quarantined articles enumerated in section (4) of this rule, arriving in Oregon in violation of this quarantine shall immediately be sent out of Oregon, or destroyed, or treated by a method approved by the Department, all at the expense of the owner or owners. All of such procedures shall only be carried out under and at the direction and/or order of the Department. The provisions of this section do not prohibit the Department from taking any other action or procedure authorized by law against persons or commodities or articles that are in violation of law or this quarantine.

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

Stat. Auth.: ORS 561.190, 561.510 - 561.600, 570.305, ORS 570.405 & 570.410 - 570.415

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415

Hist.: AD 906(12-69), f. 9-23-69, ef. 10-15-69; DOA 7-2012, f. & cert. ef. 3-26-12

603-052-0150

Control Areas and Procedures

(1) As authorized by ORS 570.405 to 570.435, a control area is established in each of the following counties for the protection of the cherry industry in that area through the eradication or control of the cherry fruit fly:

- (a) Hood River County;
- (b) Lane County;
- (c) Linn County;
- (d) Marion County;
- (e) Polk County;
- (f) Sherman County;
- (g) Umatilla County;
- (h) Union County;
- (i) Yamhill County; and
- (j) The portion of Wasco county, north of Warm Springs Reservation.

(2) Approved IPM practices, including spray formulations, are those recommended by the Oregon State Extension Service as described for specific control areas in the following extension documents:

(a) For Hood River and Wasco counties: Pest Management Guide for Tree Fruits in the Mid-Columbia Area. EM 8203, Oregon State University Extension Service.

(b) For Lane, Linn, Marion, Polk and Yamhill counties: Pest Management Guide for the Willamette Valley, EM 8329, Oregon State University Extension Service.

(c) For Umatilla and Union counties Cherry Fruit Fly Pest Management for control areas in Umatilla and Union counties. EM 8587, Oregon State University Extension Service.

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

Stat. Auth.: ORS 570

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415

Hist.: AD 603, f. & ef. 10-31-58; AD 974(7-72), f. 7-27-72, ef. 8-15-72; AD 1073(19-75), f. & ef. 12-5-75; AD 11-1977, f. 5-10-77, ef. 5-20-77; DOA 4-2005, f. & cert. ef. 2-14-05; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 11-2011, f. & cert. ef. 7-20-11; DOA 7-2012, f. & cert. ef. 3-26-12

603-052-1025

Quarantine; Small Broomrape

(1) Establishing Quarantine. A quarantine is established to prevent the spread of small broomrape, *Orobanche minor*, within Oregon and to protect markets for Oregon seed crops. This quarantine is established under ORS 561.510 and 561.540 to protect Oregon's agricultural industries from the artificial spread of small broomrape. Small broomrape is not widely preva-

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lent within or distributed throughout the state of Oregon. Small broomrape is dangerous to Oregon's agricultural industries because it parasitizes the root systems of host crop plants in the legume, potato, carrot and sunflower families. Clover is the most susceptible host. Damage includes direct yield losses, up to and including crop failure, as well as possible market losses due to restrictions imposed by trading partners on commodities potentially contaminated with small broomrape seed.

(2) Area under Quarantine: State of Oregon.

(3) Commodities Covered: Small broomrape plants including seeds, clover (*Trifolium pretense*, *T. repens*, and *T. subterraneum*) seed, and soil, commodities and equipment that may be contaminated with small broomrape seeds.

(4) Provisions of the Quarantine:

(a) Imported red clover seed lots must have been cleaned by a process that includes, at a minimum, the stages in (4)(b)(A)–(C) below or an official seed sample must be taken and tested prior to planting to ensure freedom from contamination by small broomrape seed. Contaminated lots will be returned or destroyed without expense or indemnity paid by the State.

(b) All red clover seed lots harvested in counties west of the Cascade Mountains must be cleaned by an approved process before transport, purchase, sale or offering for sale. Approved cleaning processes must include, at a minimum, all the stages in (A)–(C) below. Seed lots meeting this requirement need not be sampled and tested for small broomrape contamination.

(A) Air separator;

(B) Indent roller;

(C) Gravity separator.

(c) Alternative cleaning processes may also be acceptable if approved by the Department. Cleaning facilities using alternative processes must be under compliance agreement with the Department.

(d) The Department may take random samples of finished red clover seed lots from cleaners meeting the requirements of (b) or (c) above and test them for small broomrape. The cost of this random sampling and testing will be born by the Department. If small broomrape is found, cleaning of red clover seed will be curtailed until the cleaning process is reviewed and problems corrected. All available clover seed lots from that cleaner will be sampled and tested for small broomrape. Any infested lots will be re-cleaned and released only after testing negative for small broomrape. The costs of all follow-up sampling and testing after a positive find will be the responsibility of the cleaner. The cleaner will be put under compliance agreement before additional lots of red clover seed may be cleaned.

(e) Seed lots not meeting the cleaning requirements outlined in (b) or (c) above must be officially sampled, tested and found free of small broomrape seeds before transport, purchase, sale or offering for sale. Upon request, Department inspectors will draw official seed samples, which will be analyzed at a laboratory using a USDA-approved protocol for small broomrape testing. Costs of sampling and testing will be the responsibility of the grower or other responsible party. Contact: Commodity Inspection Division, Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301. Telephone: (503) 986-4620. Any seed lots found to contain small broomrape seed are prohibited from transport, purchase, sale, or offering for sale until they are re-cleaned, re-tested and determined to be free from small broomrape.

(f) Screenings from seed lots contaminated with small broomrape shall be disposed of in a manner that will devitalize the seed or eliminate the risk of spread of the weed such as pelletization, burning or burying.

(5) Violation of this quarantine may result in a fine, if convicted, of not less than \$500 not more than \$5,000, as provided by ORS 561.990(4). Violators may also be subject to civil penalties of up to \$10,000 as provided by Oregon Laws 1999, chapter 390, section 2. Commodities harvested or shipped in violation of this quarantine shall be treated or destroyed without expense or indemnity paid by the State.

Stat. Auth.: ORS 561.510 & 561.190

Stats. Implemented:

Hist.: DOA 6-2000, f. & cert. ef. 2-24-00; DOA 33-2000, f. & cert. ef. 12-15-00; DOA 15-2003, f. & cert. ef. 4-18-03; DOA 7-2012, f. & cert. ef. 3-26-12

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Rule Caption: Changes standards for examination of somatic cells in milk.

Adm. Order No.: DOA 8-2012

Filed with Sec. of State: 4-13-2012

Certified to be Effective: 7-1-12

Notice Publication Date: 2-1-2012

Rules Amended: 603-024-0592

Subject: The amendment reduces the somatic cell count standard for milk from 750,000 parts per mL to 500,000 parts per mL. while simultaneously raising the somatic cell count for goat's milk from one million parts per mL to 1,500,000 parts per mL.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-024-0592

Examination for Somatic Cells

Examination of milk and enforcement of the standard for Grade A milk and milk products shall be as follows:

(1) A Wisconsin mastitis test or D.M.S.C.C. shall be conducted on each producer's or producer-distributor's raw milk at least four times during separate months in each six-month period.

(2) Except for the standard set forth in section (5) of this rule, a milk sample having a somatic cell count of 500,000 or more per milliliter (ml.) shall be deemed to be violative of the somatic cell standard.

(3) Except for the standard set forth in section (5) of this rule, the three-out-of-five compliance method shall apply in the case of all abnormal milk showing 500,000 or more somatic cells per ml. except that a period of no more than twenty one days shall be allowed between warning notice and the taking of the next official test (including a D.M.S.C.C. for enforcement purposes).

(4) Except for the standard set forth in section (5) of this rule, whenever two of the last four consecutive somatic cell counts exceed the limit of the standard, the producer shall be given a warning letter which shall be in effect so long as two of the last four samples exceed the limit. An additional sample shall be taken but not before the lapse of twenty one days. Immediate suspension of the milk shall be instituted whenever the standard is violated by three of the last five somatic cell counts. No action shall be taken if the additional sample is within the standard (less than 500,000 cells per ml.). Release from suspension shall be made with first satisfactory sample.

(5) A sample of goat's milk having a somatic cell count of 1,500,000 or more per milliliter (ml.) shall be deemed to be violative of the somatic cell standard. Otherwise, the provisions of this section apply to the milk.

Stat. Auth.: ORS 561 & 621

Stats. Implemented: ORS 621.060 & 621.261

Hist.: AD 883(13-68), f. & ef. 7-1-68; AD 1044(34-74), f. 9-5-74, ef. 10-1-74; Renumbered from 603-024-0639.5; AD 10-1986, f. & ef. 6-11-86; DOA 6-2002, f. & cert. ef. 1-28-02; DOA 8-2012, f. 4-13-12, cert. ef. 7-1-12

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Department of Agriculture, Oregon Strawberry Commission Chapter 668

Rule Caption: Amend 668-010-0015 to change the assessment reporting months for the current reporting deadline dates.

Adm. Order No.: SBY 1-2012

Filed with Sec. of State: 4-12-2012

Certified to be Effective: 4-12-12

Notice Publication Date: 3-1-2012

Rules Amended: 668-010-0015

Subject: Amend OAR 668-010-0015(a) "January, February, March, April reported by May 15th" to state "December, January, February, March reported by May 15th".

Amend OAR 668-010-0015(b) "May, June, July, August reported by September 15th" to state "April, May, June, July reported by September 15th".

Amend OAR 668-010-0015(c) "September, October, November, December reported by January 15th" to state "August, September, October, November reported by January 15th"

This rule change will allow the commodity commission to collect complete and signed assessment reports on approved forms by first purchasers and handlers for the four months prior to the reporting deadline and give the first purchasers and handlers adequate time to submit their assessment reports for each deadline of the four month reporting periods.

Rules Coordinator: Rachel Denué—(541) 758-4043

668-010-0015

Reports and Payment of Assessment Moneys

(1) First purchasers and handlers must submit completed and signed assessment reports on commission approved forms. Assessment reports shall include all purchases by or deliveries to a first purchaser or handler of

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strawberries during the four months immediately preceding each reporting date. Assessment reports must be postmarked by 15th of the reporting month specified below. Assessments shall be reported as follows:

- (a) December, January, February, March reported by May 15th;
- (b) April, May, June, July reported by September 15th;
- (c) August, September, October, November reported by January 15th.

(2) When a first purchaser or handler has completed, signed, and forwarded a report covering his final purchases of strawberries for the crop season, he may mark such report in large letters "FINAL REPORT FOR THIS CROP SEASON". No further reports are necessary by such first purchaser, unless or until additional purchases are made.

(3) When a first purchaser lives or has his office in another state, or is a federal or governmental agency, the producer shall report to this Commission all sales made to such purchaser as required by section (1) of this rule, and shall pay the assessment directly to the Commission, unless such first purchaser voluntarily makes the proper deduction and remits the proceeds to this Commission.

(4) At the time that reports are due the Commission from the first purchaser, as required in section (1) of this rule, the first purchaser shall attach or forward payment to the Commission for the assessment due as set forth in each such report. The forms shall be signed by the first purchaser and completely filled out, and shall include, in addition to all other required information and figures, the date each transaction is made, the name and mailing address of each producer, the crop year, the tonnage, the price, and amount of assessment deducted and withheld.

(5) Any producer who performs the handling or processing functions on all or part of his production of the commodity, which normally would be performed by another person as the first purchaser thereof, shall report his sales of such commodity of his own production on forms provided by, and pay the assessment moneys directly to the Commission, unless the first purchaser from such producer voluntarily makes proper deduction and remits the proceeds to the Commission. (This is copied from the law. Examples would be the sale by a producer direct to a peddler, to a retail store, etc.)

Stat. Auth.: ORS 576
Stats. Implemented: ORS 576.325, 576.335 & 576.345
Hist.: SBY 1, f. 5-31-67; SBY 5, f. 12-24-74, ef. 1-25-75; SBY 1-2001, f. & cert. ef. 2-20-01; SBY 1-2012, f. & cert. ef. 4-12-12

Rule Caption: Amend 668-030-0020 "Two members will be handlers" to "One member will be a handler".

Adm. Order No.: SBY 2-2012
Filed with Sec. of State: 4-12-2012

Certified to be Effective: 4-12-12
Notice Publication Date: 3-1-2012

Rules Amended: 668-030-0020
Subject: Amend OAR 668-030-0020(2c) "Two members will be handlers" to state "One member will be a handler".

This rule will allow the Oregon Strawberry Commission to consist of seven commissioners to be appointed by the Oregon Department of Agriculture with the commission consisting of a majority of the members being producers, one member being a public member, and one member being a handler.

Rules Coordinator: Rachel Denué—(541) 758-4043

668-030-0020

Qualifications of Commissioners

(1) For purposes of this rule:

(a) A "producer" is a person growing or producing within this state or procuring within the state, its rivers or the offshore waters, but not the Columbia River, for commercial handling within the state, a commodity for market, or receiving a share thereof as landowner, landlord, tenant, sharecropper, boat skipper or otherwise. A producer must have paid the commission assessment, if any, on the commodity in each of the preceding three calendar years.

(b) A "handler" is any producer, processor, distributor or other person engaged in handling or marketing of or dealing in the commodity, whether as owner, agent, employee, broker or otherwise. A handler must have collected the commission assessment, if any, each of the preceding three calendar years.

(2) Members of the Oregon Strawberry Commission will have the following qualifications, which will continue during the term of office of the member:

(a) One member of the commission will be a member of the public with an active interest in the positive economic development, production and/or marketing of the commodity, but who is not associated with the production or handling of strawberries;

(b) A majority of the members will be producers;

(c) One member will be a handler;

(d) All members who are not a handler or the public member will be producers.

(3) In addition to the qualifications set forth in subsection (2) of this rule, members should be representative of all growing areas.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576
Stats. Implemented: 2003 OL Ch. 604 & ORS 576
Hist.: SBY 1-2004, f. & cert. ef. 1-15-04; SBY 2-2012, f. & cert. ef. 4-12-12

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

Rule Caption: Mid-cycle code amendment for recreational vehicle construction.

Adm. Order No.: BCD 3-2012(Temp)

Filed with Sec. of State: 4-6-2012

Certified to be Effective: 4-9-12 thru 9-30-12

Notice Publication Date:

Rules Amended: 918-525-0042

Subject: This temporary rule amends one of the standards for the construction, conversion, alteration, and repair of recreational vehicles in Oregon. This rule amends the 2011 NFPA 70, National Electrical Code (NEC), Article 551-42 (C) to allow a sixth circuit in a 30 ampere power supply assembly.

Rules Coordinator: Stephanie Snyder—(503) 373-7438

918-525-0042

Amendments to the Adopted Minimum Safety Standards

(1) Amend NFPA 1192, Section 5.4 Fuel-Burning Appliances by adding the following language after Section 5.4.1. "Solid-fuel-burning appliances shall not be installed in recreational vehicles, except where specifically permitted in these rules."

(2) Amend ANSI 119.5 as follows:

(a) Amend Chapter 1 by inserting the following language after Section 1-5.

(A) Each loft area shall have a minimum of one electrical light fixture and a convenience receptacle.

(B) Each enclosed stairway shall have a light fixture that is controlled by switches from both the top and the bottom of the stairway. The light fixture in subparagraph (A) of this rule may be used to serve this purpose.

(b) Amend Section 2-6 Fuel-Burning Appliances by inserting the following language after Section 2-6.1. "Wood-burning stoves, wood-burning fireplaces and pellet fired appliances may be installed if they are approved and listed for recreational vehicle use or for manufactured home use and installed according to the manufacturer's installation instructions.

(3) Effective April 9, 2012, amend NFPA 70, Article 551.42 (C) by adding a new exception. "Exception 2: A sixth circuit, without employing an energy management system, shall be permitted to serve only the power converter provided the combined load of all six circuits does not exceed the allowable load permitted by a five-circuit system."

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

Stat. Auth.: ORS 183.325 - 183.410 & 446.003 - 446.285

Stats. Implemented: ORS 446.185

Hist.: BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11; BCD 3-2012(Temp), f. 4-6-12, cert. ef. 4-9-12 thru 9-30-12

Department of Consumer and Business Services, Insurance Division Chapter 836

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

Adm. Order No.: ID 6-2012(Temp)

Filed with Sec. of State: 3-27-2012

Certified to be Effective: 4-15-12 thru 10-10-12

Notice Publication Date:

Rules Adopted: 836-053-0863

Rules Suspended: 836-053-0862

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Subject: This rulemaking suspends rules adopted by the Department of Consumer and Business Services (DCBS) related to state continuation of health insurance. The suspended rules include material required by federal law (American Recovery and Reinvestment Act) that is no longer applicable to state continuation. During the 2012 Legislative Session, the governing statute was amended to reflect new requirements for the notice that carriers must provide for persons eligible for state continuation of health insurance. The changes required by that legislation are incorporated in the new rule, OAR 736-053-0863(T). DCBS anticipates further changes may be necessary to reflect federal guidance related to the Affordable Care Act. These temporary rules provide the requirements for carriers until permanent rules can be adopted that reflect all changes to the notice requirements under both the state continuation and portability program. OAR 836-053-0862 will be suspended until permanent rules are adopted by DCBS, at which time the rule will be repealed.

Rules Coordinator: Sue Munson—(503) 947-7272

836-053-0862

Notifications

(1) For purposes of the notice required by ORS 743.610(10):

(a) An insurer may provide a single notice under ORS 743.610(10) to a covered person and a qualified beneficiary when:

(A) The notice is addressed to the covered person or qualified beneficiary at the last known address of the covered person or qualified beneficiary;

(B) The covered person and qualified beneficiary are eligible for state continuation coverage by virtue of the same qualifying event; and

(C) The covered person and qualified beneficiary have the same last known mailing address.

(b) An insurer that does not require a covered person or qualified beneficiary to complete a form to request continuation of coverage need not include a form in the notice. However, the insurer must provide sufficient instructions to inform the covered person or qualified beneficiary how to apply for continuation of coverage.

(c) An insurer is not required to include premium rates in the notice. However, an insurer that does not provide premium rates for continuation of coverage in the notice must instruct the covered person or qualified beneficiary how and from whom the premium rates can be obtained.

(d) The requirement to provide written notice under ORS 743.610(1) may be triggered either by the notification of a qualifying event received from the covered person or qualified beneficiary under ORS 743.610(5) or notice of the qualifying event submitted to the insurer by the group policy holder.

(e) The enrollment information required to be in the notice under ORS 743.610(10) may instruct the covered person or qualified beneficiary to contact the employer or group for information about additional coverage for which the covered person or qualified beneficiary may be eligible.

(f) The explanation of appeal rights required to be included in the notice under ORS 743.610(1) may be provided by a statement that continuation coverage constitutes continued coverage under the group policy and that the covered person or qualified beneficiary has the same rights to appeal or grieve a decision by the insurer on a medical claim that exists under the group policy unless the group policy has been replaced with coverage that provides different appeal or grievance rights.

(2) Notice provided under ORS 743.610 must include the following information: "Oregon Insurance Division, (503) 947-7984 or (888) 877-4894."

Stat. Auth.: ORS 731.244, 743.601 & 743.610

Stats. Implemented: ORS 743.601 & 743.610

Hist.: ID 23-2011, f. & cert. ef. 12-19-11; Suspended by ID 6-2012(Temp), f. 3-27-12, cert. ef. 4-15-12 thru 10-10-12

836-053-0863

Notifications

(1) For purposes of the notice required by ORS 743.610(10), an insurer must use the notice set forth on the website for the Insurance Division of the Department of Consumer and Business Services at www.insurance.oregon.gov. An insurer:

(a) May incorporate the notice into another document provided that the notice remains prominent.

(b) May modify the font of the document but the font must be at least 12 point.

(c) May add headings, logos and other company identifiers.

(d) Must modify the notice to include the correct insurer or employee-specific information as indicated in the brackets.

(2) An insurer may provide a single notice under ORS 743.610(10) to a covered person and a qualified beneficiary when:

(a) The notice is addressed to the covered person or qualified beneficiary at the last known address of the covered person or qualified beneficiary;

(b) The covered person and qualified beneficiary are eligible for state continuation coverage by virtue of the same qualifying event; and

(c) The covered person and qualified beneficiary have the same last known mailing address.

(3) The requirement to provide written notice under ORS 743.610(1) may be triggered either by the notification of a qualifying event received from the covered person or qualified beneficiary under ORS 743.610(5) or notice of the qualifying event submitted to the insurer by the group policy holder.

Stat. Auth.: ORS 731.244 & 743.610

Stats. Implemented: ORS 743.610

Hist.: ID 6-2012(Temp), f. 3-27-12, cert. ef. 4-15-12 thru 10-10-12

Rule Caption: Adoption of Attorney General's 2012 Model Rules of Procedure for Insurance Division.

Adm. Order No.: ID 7-2012

Filed with Sec. of State: 3-27-2012

Certified to be Effective: 3-27-12

Notice Publication Date:

Rules Amended: 836-005-0107

Subject: This rulemaking adopts the Oregon Attorney General's Model Rules of Procedure under the Administrative Procedures Act dated January 31, 2012.

Rules Coordinator: Sue Munson—(503) 947-7272

836-005-0107

Model Rules of Procedure Governing Rulemaking

The Model Rules of Procedure, OAR 137-001-0005 to 137-005-0070, in effect on January 31, 2012, as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act, are adopted as the rules of procedure for the Insurance Division.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedures is available from the Office of the Attorney General or the Insurance Division.]

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.025, 183.090 & 183.310 - 183.550

Hist.: IC 2-1981, f. & ef. 11-20-81; IC 7-1983, f. & ef. 9-28-83; IC 3-1986, f. & ef. 3-5-86; IC 16-1988, f. & cert. ef. 10-12-88; ID 19-1990, f. & cert. ef. 12-13-90; ID 3-1992, f. & cert. ef. 2-13-92; ID 2-1994, f. & cert. ef. 3-23-94; ID 8-1995, f. & cert. ef. 12-8-95; ID 7-1998, f. & cert. ef. 4-15-98; ID 10-2000, f. & cert. ef. 11-3-00; ID 3-2002, f. & cert. ef. 1-24-02; ID 3-2004, f. & cert. ef. 5-7-04; ID 8-2006, f. & cert. ef. 4-27-06; ID 7-2012, f. & cert. ef. 3-27-12

Rule Caption: Annual Update of Rule Relating to Health Insurance Coverage of Prosthetic and Orthotic Devices.

Adm. Order No.: ID 8-2012

Filed with Sec. of State: 4-5-2012

Certified to be Effective: 4-5-12

Notice Publication Date: 1-1-2012

Rules Amended: 836-052-1000

Subject: This rulemaking adopts the annual update to the Insurance Division rule listing the prosthetic and orthotic devices that must be covered by group and individual health insurance policies. The rulemaking implements ORS 743A.144, which requires all such policies that provide coverage for hospital, medical or surgical expenses to include coverage for prosthetic and orthotic devices. This statute also requires the Director to adopt and annually update the list of covered prosthetic and orthotic devices.

Rules Coordinator: Sue Munson—(503) 947-7272

836-052-1000

Prosthetic and Orthotic Devices

(1) This rule is adopted under the authority of ORS 731.244 and 743A.144, for the purpose of implementing 743A.144.

(2) The list of prosthetic and orthotic devices and supplies in the Medicare fee schedule for Durable Medical Equipment, Prosthetics, Orthotics and Supplies is adopted for the purpose of listing the prosthetic and orthotic devices and supplies for which coverage is required by ORS 743A.144, insofar as the list is consistent with 743A.144. The list is limit-

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ed to those rigid or semi rigid devices used for supporting a weak or deformed leg, foot, arm, hand, back or neck, or restricting or eliminating motion in a diseased or injured leg, foot, arm, hand, back or neck or an artificial limb device or appliance designed to replace in whole or in part an arm or a leg that the Centers for Medicare and Medicaid Services (CMS) has designated in the 4-digit L Codes of Healthcare Common Procedure Coding System (HCPC) Level II, which is accessible by selecting the link for the 2012 Alpha-Numeric HCPCS File at: <https://www.cms.hhs.gov/HCPCSReleaseCodeSets/ANHCPCS/list.asp>.

(3) Under ORS 743A.144(4), benefits payable under a policy may not be subject to internal or separate limits or caps other than the policy lifetime maximum benefits as they apply to the coverage for prosthetic and orthotic devices required by ORS 743A.144.

(4) A managed care plan to which ORS 743A.144(6) applies is a health insurance policy that requires an enrollee to use a closed network of providers managed, owned, under contract with or employed by the insurer in order to receive benefits under the plan.

Stat. Auth.: ORS 731.244 & 743A.144

Stats. Implemented: ORS 743A.144

Hist.: ID 12-2007, f. 12-18-07, cert. ef. 1-1-08; ID 12-2009, f. & cert. ef. 12-18-09; ID 8-2011, f. & cert. ef. 2-23-11; ID 8-2012, f. & cert. ef. 4-5-12

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

Rule Caption: Adopt federal corrections and technical amendments to general industry, construction, and shipyard employment.
Adm. Order No.: OSHA 1-2012

Filed with Sec. of State: 4-10-2012

Certified to be Effective: 4-10-12

Notice Publication Date: 2-1-2012

Rules Amended: 437-002-0080, 437-002-0100, 437-002-0120, 437-002-0161, 437-002-0180, 437-002-0182, 437-002-0220, 437-002-0240, 437-002-0280, 437-002-0300, 437-002-0312, 437-002-0340, 437-002-0360, 437-002-0373, 437-003-0001, 437-003-0875, 437-005-0001

Subject: This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Federal OSHA published in the December 27, 2011 Federal Register corrections of typographical errors and non-substantive technical amendments to a number of standards in general industry, construction, and shipyard employment. The technical amendments include updating or revising cross-references. These revisions do not affect the substantive requirements or coverage of those standards, do not modify or revoke existing rights or obligations, and do not establish new rights or obligations.

Oregon OSHA adopts these corrections and amendments to the standards Oregon has adopted previously to reflect federal OSHA's changes. We are also making rule reference changes in a number of standards to reflect the newly adopted OAR 437-002-0134 Personal Protective Equipment.

Please visit our web site www.orosha.org Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final rules.

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-002-0080

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.94 Ventilation, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(2) 29 CFR 1910.95 Occupational Noise Exposure, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

NOTE: 29 CFR 1910.96 Ionizing radiation, has been redesignated to 29 CFR 1910.1096.

(3) 29 CFR 1910.97 Nonionizing radiation, published 3/7/96, FR vol. 61, no. 46, p. 9236.

(4) 29 CFR 1910.98 Effective dates, published 6/27/74, Federal Register, vol. 39, p. 23502.

(5) 29 CFR 1910.99 Sources of standards, published 3/7/96, FR vol. 61, no. 46, p. 9236.

(6) 29 CFR 1910.100 Standards organization, published 3/7/96, FR vol. 61, no. 46, p. 9236.

These standards are on file with the Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 2-1992, f. 2-6-92, cert. ef. 5-1-92; OSHA 4-1993, f. 4-1-93, cert. ef. 5-1-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 3-2003, f. & cert. ef. 4-21-03; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 7-2008, f. & cert. ef. 5-30-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 1-2012, f. & cert. ef. 4-10-12

437-002-0100

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.101 Compressed gases (General requirements), published 3/7/96, FR vol. 61, no. 46, p. 9236.

(2) 29 CFR 1910.102 Acetylene. Repealed. Oregon OSHA Admin. Order 1-2010, f. 2/19/10, ef. 2/19/10. In Oregon, OAR 437-002-2102 applies.

(3) 29 CFR 1910.103 Hydrogen, published 12/14/07, FR vol. 72, no. 240, p. 71061.

(4) 29 CFR 1910.104 Oxygen, published 3/7/96, FR vol. 61, no. 46, p. 9237.

(5) 29 CFR 1910.105 Nitrous oxide, published 3/7/96, FR vol. 61, no. 46, p. 9237.

(6) 29 CFR 1910.106 Flammable and combustible liquids, published 9/13/05, FR vol. 70, no. 176, p. 53925.

(7) 29 CFR 1910.107 Spray finishing using flammable and combustible materials, amended with AO 3-2003, removed 1910.107, and Oregon note added, f. and ef. 4/21/03.

(8) 29 CFR 1910.108 Reserved. Published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(9) 29 CFR 1910.109 Explosives and blasting agents, published 6/18/98, FR vol. 63, no. 117, p. 33466.

(10) 29 CFR 1910.110 Storage and handling of liquefied petroleum gases, published 12/14/07, FR vol. 72, no. 240, p. 71061.

(11) 29 CFR 1910.111 Storage and handling of anhydrous ammonia, published amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01; 12/14/07, FR vol. 72, no. 240, p. 71061.

(12) Reserved for 29 CFR 1910.112 (Reserved)

(13) Reserved for 29 CFR 1910.113 (Reserved)

(14) 29 CFR 1910.114 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(15) 29 CFR 1910.115 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(16) 29 CFR 1910.116 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9238.

(17) 29 CFR 1910.119 Process safety management of highly hazardous chemicals, published 12/27/11, FR vol. 76, no. 248, p. 80735.

(18) 29 CFR 1910.120 Hazardous waste operations and emergency response, published 12/27/11, FR vol. 76, no. 248, p. 80735.

(19) 29 CFR 1910.121 Reserved. Published 3/23/99, Federal Register, vol. 64, no. 55, p. 13909.

(20) 29 CFR 1910.122 Table of contents. Repealed with OR-OSHA Admin. Order 9-2007, f. and ef. 12/3/07.

(21) 29 CFR 1910.123 Dipping and coating operations: Coverage and definitions. Repealed with OR-OSHA Admin. Order 9-2007, f. and ef. 12/3/07.

(22) 29 CFR 1910.124 General requirements for dipping and coating operations. Repealed with OR-OSHA Admin. Order 9-2007, f. and ef. 12/3/07.

(23) 29 CFR 1910.125 Additional requirements for dipping and coating operations that use flammable or combustible liquids. Repealed with OR-OSHA Admin. Order 9-2007, f. and ef. 12/3/07.

(24) 29 CFR 1910.126 Additional requirements for special dipping and coating applications. Repealed with OR-OSHA Admin. Order 9-2007, f. and ef. 12/3/07.

These standards are on file with the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

ADMINISTRATIVE RULES

Hist.: APD 19-1988, f. & ef. 11-17-88; APD 12-1989, f. & ef. 7-14-89; OSHA 22-1990, f. 9-28-90, cert. ef. 10-1-90; OSHA 3-1992, f. & cert. ef. 2-6-92; OSHA 3-1993, f. & cert. ef. 2-23-93; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 4-2002, f. & cert. ef. 5-30-02; OSHA 3-2003, f. & cert. ef. 4-21-03; OSHA 4-2004, f. & cert. ef. 9-15-04; OSHA 4-2005, f. & cert. ef. 12-14-05; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 9-2007, f. & cert. ef. 12-3-07; OSHA 7-2008, f. & cert. ef. 5-30-08; OSHA 1-2010, f. & cert. ef. 2-19-10; OSHA 1-2012, f. & cert. ef. 4-10-12

437-002-0120

Adoption by Reference

In addition to, and not in lieu of, any other health and safety codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.132 General requirements. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(2) 29 CFR 1910.133 Eye and face protection. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(3) 29 CFR 1910.134 Respiratory protection, published 6/8/11, Federal Register vol 76, no. 110, p. 33590.

(4) 29 CFR 1910.135 Occupational head protection. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(5) 29 CFR 1910.136 Occupational foot protection. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(6) 29 CFR 1910.137 Electrical protective equipment, published 1/31/94, FR vol. 59, no. 20, pp. 4435-7.

(7) 29 CFR 1910.138 Hand Protection. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(8) 29 CFR 1910.139 Respiratory protection for M. tuberculosis. Removed, 12/3/03, FR vol. 68, p. 75776-75780 (OR-OSHA Admin. Order 1-2004, f. 3/26/04, ef. 7/1/04).

(9) Appendices:

(a) **Appendix A** – References for further information (nonmandatory).

(b) **Appendix B** – Nonmandatory compliance guidelines for hazard assessment and personal protective equipment selection; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

These standards are available from the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services; and the United States Government Printing Office.

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

Stat. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 9-1993, f. 7-29-93, cert. ef. 9-15-93; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 3-1997, f. & cert. ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 1-2004, f. 3-26-04, cert. ef. 7-1-04; OSHA 5-2004, f. & cert. ef. 11-19-04; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 1-2012, f. & cert. ef. 4-10-12

437-002-0161

Medical Services and First Aid

(1) Definitions.

(a) "Emergency medical service" is the provision of care by a medically trained person, whether this service is provided by a hospital, clinic, ambulance, disaster car, or rescue vehicle.

(b) "In proximity" is defined as that which is available nearby to ensure prompt treatment in the event of need.

(c) "Qualified first aid person" means a person with evidence to show valid (current) first aid training by the American Red Cross or equivalent.

(2) First Aid Supplies.

(a) The employer shall provide first aid supplies based upon the intended use and types of injuries that could occur at the place of employment. The first aid supplies shall be available in close proximity to all employees. Either bulk pack or unit pack supplies are acceptable.

(b) First aid supplies must be stored in containers adequate to protect the contents from damage, deterioration, or contamination. The container shall be clearly marked, available when needed and must not be locked, but may be sealed.

(c) The employer shall ensure that the first aid supplies are available for each shift.

NOTE: Supplies such as gloves and a mouth barrier device are considered personal protective equipment, and are regulated by OAR 437-002-0134 in Division 2/I, Personal Protective Equipment.

NOTE: The Safety Code for Motor Vehicle Transportation of Workers (Rule 735 120 000) adopted by the Motor Vehicles Division of the Department of Transportation contains requirements for the first aid kit which is required when school buses are used to transport workers. In addition, the Public Utilities Commission has adopted Federal Motor Carrier Safety Regulations which apply to for hire buses.

(3) Personnel.

(a) The employer shall ensure the ready availability of emergency medical services for the treatment of all injured employees.

(b) Where emergency medical services are not in proximity to the place of employment, a qualified first aid person shall be available.

NOTE: More specific requirements for first aid training are found in: 1910.94, Ventilation, in Division 2/G; OAR 437-002-0118, Reinforced Plastics, in Division 2/H; 1910.120, Hazardous Waste Operations and Emergency Response, in Division 2/H; 1910.252 in Division 2/Q, Welding, Cutting and Brazing; OAR 437-002-0304, Ornamental Tree & Shrub Services, in Division 2/R; 1910.268, Telecommunications, in Division 2/R; Division 2/T, Commercial Diving Operations.

(4) Emergency Medical Plan.

(a) An emergency medical plan to ensure the rapid provision of medical services to employees with major illnesses and injuries shall be developed. In such cases, the employer shall determine that the service will be available in an emergency.

(b) If a physician or an ambulance with Emergency Medical Technicians is readily accessible to the place of employment, then the minimum emergency medical plan must contain the emergency telephone number of the ambulance service. The emergency telephone number shall be posted conspicuously at the place of employment.

(c) Employers in areas with a designated 911 telephone number may utilize the 911 service in lieu of posting the specific ambulance telephone number.

(d) If the place of employment is not in proximity to emergency medical services, then the employer shall have, in addition to the information required in 437-002-0161(4)(a), a definite plan of action to be followed in the event of serious injury to an employee. The plan of action shall consist of the arrangements for:

(A) Communication. Two-way radio, telephone, or provision for emergency communication to contact the emergency medical services.

(B) Transportation. Availability of transportation to a point where an ambulance can be met or to the nearest suitable medical facility. Vehicles provided for this purpose shall be available at all times, shall have right of way over all vehicles or equipment under the control of the employer, and shall be equipped so that due consideration can be given to the proper care and comfort of the injured employee.

(C) Qualified medical personnel at destination.

(D) All employees shall be knowledgeable concerning the qualified first aid person(s), the first aid requirements, and emergency medical plan.

(5) Emergency Eyewash and Shower Facilities.

(a) Where employees handle substances that could injure them by getting into their eyes or onto their bodies, provide them with an eyewash, or shower, or both based on the hazard.

(A) Emergency eyewash and showers must meet the following:

(i) Locate it so that exposed employees can reach it and begin treatment in 10 seconds or less. The path must be unobstructed and cannot require the opening of doors or passage through obstacles unless other employees are always present to help the exposed employee.

(ii) Water must flow for at least 15 minutes.

(iii) Install the equipment according to the manufacturer's instructions.

(iv) The eyewash must have valves that stay open without the use of the hands. The shower must not be subject to unauthorized shut-off.

(v) Follow the system manufacturer's criteria for water pressure, flow rate and testing to assure proper operation of the system.

(vi) Emergency shower and eyewash facilities must be clean, sanitary and operating correctly.

(vii) In self-contained systems, do not use solutions or products past their expiration date.

NOTE: If the employer can demonstrate, with the support of a physician board certified in ophthalmology, toxicology or occupational medicine, that an alternative eyewash solution is adequate for their specific hazard, OR-OSHA will accept that solution. An example would be a buffered isotonic solution preserved with a suitable antibacterial agent, that may be less irritating when used in a 15-minute flush.

(b) If the product label, MSDS or other information about the expected contaminant gives treatment instructions different from those required in this section, follow the most protective of those instructions.

(c) If the contaminant manufacturer requires specific decontaminants or procedures, you must provide them in addition to the eyewash or shower. The employer must assure this treatment is available.

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(d) If eyewash facilities or showers can freeze, take protective measures to prevent freezing.

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

Stat. Auth.: ORS 654.025(2) & 757.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCB 13-1979, f. & ef. 7-7-75; WCB 4-1975, f. 10-6-75, ef. 11-1-75; WCB 4-1976, f. 4-5-76, ef. 4-15-76; OSHA 2-1993, f. & cert. ef. 2-3-93; OSHA 1-2000, f. & cert. ef. 1-28-00; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 1-2012, f. & cert. ef. 4-10-12

437-002-0180

Adoption by Reference

In addition to and not in lieu of, any other health and safety codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.155 Scope, application and definitions applicable to this subpart, published 4/12/88, FR vol. 53, p. 12122.

(2) 29 CFR 1910.156 Fire brigades, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(3) 29 CFR 1910.157 Portable fire extinguishers. REPEALED with OR-OSHA Admin. Order 7-2007, f. and ef. 11/8/07.

(4) 29 CFR 1910.158 Standpipe and hose systems, published 3/7/96, FR vol. 61, no. 46, p. 9239.

(5) 29 CFR 1910.159 Automatic sprinkler systems, published 5/1/81, FR vol. 46, p. 24557.

(6) 29 CFR 1910.160 Fixed extinguishing systems, general, published 9/12/80, FR vol. 45, p. 60711; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(7) 29 CFR 1910.161 Fixed extinguishing systems, dry chemical, published 9/12/80, FR vol. 45, p. 60712.

(8) 29 CFR 1910.162 Fixed extinguishing systems, gaseous agent, published 5/1/81, FR vol. 46, p. 24557.

(9) 29 CFR 1910.163 Fixed extinguishing systems, water spray and foam, published 9/12/80, FR vol. 45, p. 60712.

(10) 29 CFR 1910.164 Fire detection systems, published 9/12/80, FR vol. 45, p. 60713; amended with AO 12-2001, Oregon note added, f. and ef. 10/26/01.

(11) 29 CFR 1910.165 Employee alarm systems, published 9/12/80, FR vol. 45, p. 60713.

(12) Appendix A to Subpart L – Fire protection, published 9/12/80, FR vol. 45, p. 60715; amended 5/1/81, FR vol. 46, p. 24557; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(13) Appendix B to Subpart L – National consensus standards, published 9/12/80, FR vol. 45, p. 60715; amended 6/30/93, FR vol. 58, no. 124, p. 35309.

(14) Appendix C to Subpart L – Fire protection references for further information, published 9/12/80, FR vol. 45, p. 60715; amended 6/30/93, FR vol. 58, no. 124, p. 35309.

(15) Appendix D to Subpart L – Availability of publications incorporated by reference in Section 1910.156, Fire Brigades, published 9/12/80, FR vol. 45, p. 60715; amended 6/30/93, FR vol. 58, no. 124, p. 35309; 3/7/96, FR vol. 61, no. 46, p. 9239.

(16) Appendix E to Subpart L – Test methods for protective clothing, published 9/12/80, FR vol. 45, p. 60715; amended 5/1/81, FR vol. 46, p. 24557.

These standards are available from the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 14-1993, f. 8-37-93, cert. ef. 11-1-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 7-2007, f. & cert. ef. 11-8-07; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 1-2012, f. & cert. ef. 4-10-12

437-002-0182

Oregon Rules for Fire Fighters.

(1) Scope and Application.

(a) These rules apply to all activities, operations and equipment of employers and employees providing fire protection services, emergency first response, and related activities that are subject to the provisions of the Oregon Safe Employment Act. These rules do not apply to the following exempted fire fighting activities:

(A) Aircraft fire fighting and rescue;

(B) Forest and uncultivated, wildland fire fighting;

(C) Private industry fire brigades.

(D) Marine Fire Fighting and rescue. EXCEPTION: When a public fire department elects to participate in one or more of the exempted fire

fighting activities, that fire department must comply with all of the provisions of OAR 437-002-0182.

(b) The provisions of OAR 437-002-0182 must be supplemented by the provisions of other applicable safety and health rules of Oregon OSHA.

(2) Definitions.

Aerial device: An aerial ladder, elevating platform, aerial ladder platform, or water tower that is designed to position personnel, handle materials, provide egress and discharge water.

Afterflame: The time a test specimen continues to flame after the flame source has been removed.

ANSI: American National Standards Institute.

Apparatus: A mobile piece of fire fighting equipment such as pumper, water tender, etc.

Confined space means a space that:

Is large enough and so configured that a person can bodily enter and perform assigned work; and

Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry); and

Is not designed for continuous occupancy.

Drill tower: A structure, which may or may not be attached to the station that is over two stories high and primarily used for nonclassroom training of the fire fighters in fire service techniques.

Emergency incident: Any situation where the fire department delivers emergency services, rescue, fire suppression, medical treatment, and other forms of hazard control and mitigation.

Emergency scene: The site where the suppression of a fire or the emergency exists.

Fire chief: An employer representative responsible for managing the fire department's operation.

Fire fighter:

A person involved in performing fire department duties and responsibilities, including fire suppression.

A fire fighter may be a career or volunteer member of a fire department and may occupy any position or rank within the fire department.

Fire retardant: A material to reduce, stop or prevent flame spread.

Fire training: Training received by fire fighters to maintain proficiency in performing their assigned duties.

Flame-resistance: The property of materials, or combinations of component materials, to retard ignition and restrict the spread of flame.

Hazardous material incident: The accidental release of hazardous materials from their containers.

Helmet: A head protective device consisting of a rigid shell, energy absorption system, and chin strap intended to protect the head against impact, flying or falling objects, electric shock, penetration, heat, and flame.

Hose tower: A vertical structure where a hose is hung to dry.

Immediately dangerous to life or health (IDLH): Any condition that poses a threat to life, could cause irreversible adverse health effects, or could interfere with an individual's ability to escape unaided from a confined space.

IFSTA: International Fire Service Training Association.

Lifeline: The rope that secures employees when in extremely hazardous areas.

Live fire training: Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate the training of fire fighters under actual fire conditions.

MSHA: Mine Safety and Health Administration.

NFPA: National Fire Protection Association.

Nondestructive testing: A test to determine the characteristics or properties of a material or substance that does not involve its destruction or deterioration.

Private Industry Fire Brigades: A group of employees within an industry who are required to fight interior structural fires at their place of employment.

Protective clothing: The clothing or equipment worn to protect the head, body, and extremities from chemical, physical, and health hazards.

Rescue saw (Cutoff saw): A powered saw with a large circular cutting blade covered in part by a movable guard used to cut metal, wood, or concrete enclosures.

Respirators: Atmosphere-supplying respirator is a respirator that supplies the respirator user with air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

Air-purifying respirator is a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

Positive Pressure demand respirator is a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

Pressure demand respirator is a positive pressure atmosphere-supplying respirator that admits air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

SCBA is a self-contained breathing apparatus designed to provide the wearer with a supply of respirable air carried in and generated by the breathin apparatus. This apparatus requires no intake of oxygen from the outside atmosphere, and can be designed to be a demand or pressure demand type respirator.

Supplied-air respirator (SAR) or airline respirator is an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

Responding: Answering an emergency call or other alarm.

Scabbard: A guard that prevents injury and covers the blade and pick of an axe or other sharp instrument when worn by the fire fighter.

Station (Fire station): Structure to house the fire service apparatus and personnel.

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Tailboard: Standing space at rear of an engine or pumper apparatus where fire fighters ride.

Training: Instruction with hands-on practice in the operation of equipment, including respiratory protection equipment, that is expected to be used and in the performance of assigned duties.

Warning light: A flashing or rotating light.

GENERAL REQUIREMENTS

(3) Organizational statement. The employer must prepare and maintain a statement or written policy that includes basic organizational structure and functions of the organization, in addition to the type, amount, and frequency of training to be provided to fire fighters. This statement must be made available for inspection by the administrator and by employees or their designated representatives.

(4) Personnel.

(a) The employer must review and evaluate the physical capability of each employee annually to determine their ability to perform duties that may be assigned. The review and evaluation will be accomplished through physical examination, stress testing, or satisfactory performance demonstrated during the performance of their assigned duties.

(b) The employer must not permit an employee with known medical condition that would significantly impair their ability to engage in fire suppression activities at the emergency scene unless a physician's certificate of the employees' fitness to participate in such activities is provided. This will not limit the employer's ability to assign personnel to support activities (versus fire suppression activities).

(5) Employer's Responsibility.

(a) Each employer must comply with the provisions of this division to protect the life, safety, and health of employees.

(b) It is the responsibility of the employer to establish and supervise:

(A) A safe and healthful working environment, as it applies to non-emergency conditions or to emergency conditions at the scene after the incident has been terminated, as determined by the officer in charge.

(B) Programs for training employees in the fundamentals of accident prevention.

(C) A safe and healthful working environment as it applies to live fire training exercises.

(c) The employer must maintain all equipment in a safe condition.

(d) The employer must see that employees who participate in exempted fire fighting activities listed in OAR 437-002-0182(1) are properly trained, protected, clothed, and equipped for the known hazards of that particular emergency operation. The following note refers to the Respiratory Protection Standard, 1910.134(g)(3) and (4), Procedures for Interior Structural Fire Fighting ("two-in/two-out rule") adopted in Oregon on July 7, 1998.

NOTE: If, upon arriving at the scene, members find an imminent life threatening situation where immediate action may prevent the loss of life or serious injury, the requirements for personnel in the outside standby mode may be suspended, when notification is given by radio to incoming companies that they must provide necessary support and backup upon their arrival.

(6) Employee's Responsibility.

(a) Each fire fighter must comply with the sections of OAR 437-002-0182 that are applicable to their own actions and conduct in the course of their employment.

(b) Fire fighters must notify the appropriate employer or safety committee representative of unsafe practices, equipment, or workplaces.

(c) All fire fighters, at regularly scheduled times, must attend required training and orientation programs designed to increase their competency in occupational safety and health.

(d) Fire fighters and other employees must apply the principles of accident prevention in their work. They must use all required safety devices and protective equipment.

(e) Each fire fighter must take proper care of their protective equipment.

(f) Fire fighters who are expected to perform fire fighting operations must notify their employer when health conditions arise that will limit their capability of performing those duties.

(7) Safety Committee.

(a) Fire departments must have a separate safety committee or hold safety meetings according to the requirements of OAR 437-001-0765 in Division 1, General Administrative Rules.

(b) When applicable, the representation on the safety committee must include both career and volunteer fire fighters.

(8) Incident Management. An incident management system that meets the requirements of NFPA standard 1561, on Fire Department Incident Management, must be established with written standard operating procedures, applying to all members involved in emergency operations. All members involved in emergency operations must be familiar with the system.

(9) Accountability.

(a) The fire department must establish written standard operating procedures for a personnel accountability system according to Section 2-6, 1995 of NFPA 1561, standard on Fire Department Incident Management System, that provides for the tracking and inventory of all members operating at an emergency incident.

(b) It is the responsibility of all members operating at an emergency incident to actively participate in the personnel accountability system.

(10) Fire Fighting Training and Education.

(a) The employer or employer representative must establish and implement a policy for educating and training throughout the fire fighting classifications (ranks). Such education and training must be provided to fire fighters before they perform assigned duties on a continuing basis.

(b) Before fire fighters participate in structural fire fighting activities, or in live fire training in a structure, they must meet the training levels prescribed by the Department of Public Safety Standards and Training's (DPSST) 'Entry-level Firefighter' or have equivalent training.

(c) When live fire training occurs, it must be conducted under the direction of the fire department training officer, or employer authorized representative. All live fire training must be conducted following the requirements of Appendix C of this standard.

(d) During live fire training, fire fighters must wear the protective equipment normally required for that type of fire fighting.

(e) When rope rescue training occurs, it must be conducted under the direction of the fire department training officer or department-designated authority according to the equipment manufacturers' recommendations. The training officer must keep records of the manufacturers' training requirements, and must comply with all such requirements.

(f) All fire hoses used by fire departments for training and fire combat must meet the service testing requirements noted in Chapter 5 of NFPA 1962, 1993 edition.

(g) The employer must provide training for the purpose, proper selection, fitting, and limitations of personal protective equipment.

(h) The employer must ensure that each employee is informed of the procedure of reporting unsafe work conditions or equipment.

(11) General Requirements for Protective Clothing.

(a) The employer must provide employees all required protective clothing, except that an employee may opt to supply protective clothing. The employer must provide the protective clothing at no cost to employees. The protective clothing must meet the requirements in OAR 437-002-0182(11) through (16), whether supplied by the employer or employee.

(b) The employer must ensure that new protective clothing intended for structural fire fighting that is ordered, used, or purchased after the effective date of this division, meets the requirements contained in OAR 437-002-0182(11) through (16). The employer must ensure that fire fighters wear this clothing when performing structural fire fighting.

(c) In situations other than structural fire fighting, the employer must ensure that protective clothing appropriate for the known hazards of that particular emergency operation is worn.

(d) The employer must ensure that appropriate protective clothing protects the head, body, and extremities. It must consist of at least the following components: foot and leg protection, hand protection, body protection, and eye, face, and head protection.

(12) Body Protection. To ensure full body protection for the wearer coats and trousers used by structural fire fighters shall be at least equivalent to the National Fire Protection Association (NFPA) standard, No. 1971, 1991 edition, entitled "Protective Clothing for Structural Fire Fighting." (See also Appendix A.)

(13) Head Protection.

(a) Head protection must consist of a protective head device, ear protection, flaps, and chin strap, which meet the requirements of NFPA Standard 1971-2000, Protective Ensemble for Structural Fire Fighting.

(b) Use, care, alterations, and maintenance instructions for protective headgear must be supplied for each helmet.

(c) Care, maintenance, and alteration of helmets must conform to the manufacturer's recommendations.

(d) During structural fire fighting helmet accessories designed to provide or maintain protection from health and safety hazards must be worn in the manufacturer's recommended position. (See also Appendix A.)

(e) A flame-resistant protective hood that will not adversely affect the seal of a respirator facepiece and meeting the requirements of NFPA Standard 1971, 1996 edition, must be worn during interior structural fire fighting operations to protect the sides of the face and hair.

(14) Hand Protection. Hand protection for fire fighting activities must consist of protective gloves or glove system that will provide protection

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against cut, puncture, and heat penetration. Gloves or glove system must meet the requirements of NFPA Standard 1973, 1988 edition, titled "Gloves for Structural Fire Fighting."

(15) Foot and Leg Protection.

(a) Foot and leg protection must meet the requirements of OAR 437-002-0182(15)(a)(A) and (B) and may be achieved by either of the following methods:

(A) Fully extended boots, which provide protection for the legs; or
(B) Protective shoes or boots worn in combination with protective trousers that meet the requirements of OAR 437-002-0182(12).

(b) Protective footwear must meet the requirements of NAPA Standard 1971, 1996 edition, titled "Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting."

(c) Fire fighters' boots may be resoled but must meet the requirements of this rule.

(16) Eye and Face Protection. Eye and face protection worn by fire fighters at the fire ground must comply with the following regulations:

(a) General requirements. Face protection must be required where there is a reasonable probability of injury that can be prevented by such protection. When such face protection does not protect the eyes from foreign objects, additional eye protection must be provided.

(b) When self-contained respiratory equipment is being used by fire fighters, additional eye and face protection will not be required. Employers must make conveniently available a type of protection suitable for the work performed, and employees must use such protectors. Protectors must meet the following minimum requirements.

(A) They must provide adequate protection against the particular hazards for which they are designed.

(B) They must be reasonably comfortable when worn under the designated conditions.

(C) They must be durable.

(D) They must be capable of being disinfected.

(E) They must be easy to clean.

(F) Protectors that can be worn over corrective lenses must be available for those who need them, and should be kept clean and in good repair.

(c) Face shields.

(A) Face shields must be clear transparent or colored transparent.

(B) Disinfection. When a person is assigned protective equipment, this equipment must be cleaned and disinfected regularly.

(C) Face shields must be an integral part of the fire helmet and may be installed in a fixed position or hinged allowing adjustment of the shields.

(D) In the event a breathing apparatus within a face mask is being used, the face mask will be considered an acceptable face shield.

(d) Goggles, flexible, or cushioned fitting. Goggles must consist of a fully flexible frame, a lens holder or a rigid frame with integral lens or lenses, and a separate cushioned fitting surface on the full periphery of the facial contact area.

(A) Materials used must be chemical-resistant, nontoxic, nonirritating and slow-burning.

(B) There must be support on the face, such as an adjustable headband of suitable material or other appropriate support to hold the frame comfortably and snugly in front of the eyes.

(e) Design, construction, testing, and use of eye and face protection must be according to ANSI Z87.1, Occupational Eye and Face Protection (1979).

NOTE: Fire fighters must be protected from noise that exceeds the levels deemed safe in OAR 437, Division 2/G, 1910.95, Occupational Noise Exposure.

(17) Requirements for Respiratory Protection. See OAR 437, Division 2/I, 1910.134, Respiratory Protection.

(18) Criteria for Approved Self-Contained Breathing Apparatus.

(a) All compressed air cylinders used with self-contained breathing apparatus must meet Department Of Transportation and NIOSH criteria. In emergency and lifesaving situations, approved self-contained compressed-air breathing apparatus may be used with approved cylinders from other approved self-contained compressed-air breathing apparatus provided that such cylinders are of the same capacity and pressure rating. Once the emergency is over, return SCBA's to their original approved condition.

(b) Self-contained breathing apparatus must be provided with an indicator that automatically sounds an alarm when the remaining air supply of the apparatus is reduced to within a range of 20 to 25 percent of its rated service time.

(19) (Reserved)

(20) Personal Alert Safety System (PASS). Each member involved in rescue, fire suppression, or other hazardous duties, must be provided with and must use a PASS device in the hazardous area when self-contained

breathing apparatus is in use. PASS devices must meet the requirements of NFPA 1982, Standard on Personal Alert Safety Systems for Fire Fighters. Each PASS device must be tested at least monthly and must be maintained according to the manufacturer's instructions.

(21) (Reserved)

(22) (Reserved)

(23) (Reserved)

(24) Breathing Air Compressors and Cylinders. In addition to the requirements contained in 1910.134(i), air samples must be taken every six months from the compressor and analyzed by the employer or an independent laboratory for Grade D breathing air. Air samples must also be tested when the system is installed or repaired. Analysis must be conducted according to ANSI/CGA Standard G7.1-1989 edition, Commodity Specification for Air.

(25) Identification of Hazardous Material Locations.

(a) A means must be provided for identifying nonresidential premises where hazardous materials are stored, as defined in the Uniform Fire Code, 1991 edition, Articles 4 and 80, and in quantities as set forth in the hazardous material permit required by Article 4 of the Uniform Fire Code.

(b) Hazardous chemicals required to be identified defined in Article 9, Section 9.110, and Article 80, Section 80.101 of the Uniform Fire Code.

(26) Hazardous Material Response Plan.

(a) Fire departments that expect or plan to respond to hazardous material incidents must develop a written response plan.

(b) The written response plan must contain the policies and procedures on:

(A) Pre-emergency planning and coordination with outside parties,

(B) Personnel roles, lines of authority, training, and communication,

(C) Emergency recognition and prevention,

(D) Safe distances,

(E) Scene security and control,

(F) Evacuation procedures,

(G) Decontamination,

(H) Emergency medical treatment and first aid,

(I) Personnel withdrawal procedures,

(J) Critique of response and follow-up,

(K) Personal protective equipment and emergency equipment and response procedures.

(c) The incident commander must be responsible for:

(A) Identifying the hazardous substance and condition,

(B) Implementing emergency operations,

(C) Ensuring personal protective equipment is worn,

(D) Limiting access of hot zone to those with a specific mission assignment,

(E) Implementing decontamination procedures,

(F) Designating a safety officer,

(G) Using appropriately trained personnel,

(H) Providing on-scene medical surveillance for emergency responders.

FIRE FIGHTING APPARATUS

(27) Fire Apparatus Area.

(a) Walkways around apparatus must be kept free of obstructions.

(b) The station's apparatus floors must be kept free of grease, oil, and tripping hazards.

(c) Class I or II flammable liquids must not be used to remove grease or dirt from apparatus.

(d) Exhaust gases from diesel or gasoline apparatus within buildings must be maintained within the limits of OAR 437, Division 2/Z, OAR 437-002-0382, Oregon Air Contaminant Rules.

(28) Design and Construction of Fire Apparatus.

(a) All fire apparatus with the exception of specialized apparatus must conform to OAR 437, Division 2/N, Oregon Rules for Commercial and Industrial Vehicles.

(b) Employers who have purchased used fire apparatus or used military equipment prior to the effective date of this division are not required to bring them under a more stringent code than the one in force at the time the apparatus was manufactured. The exception to this rule is regarding seat belts and communication systems between the tailboard and driver compartment as required by OAR 437-002-0182(29) (Automotive Fire Apparatus Equipment) and roll bars on all open top off-road vehicles as required by OAR 437-002-0182(28)(f).

(c) Fire fighters' vehicle tailboards must not project out of the vehicle sides or fenders and must be designed to provide safe footing.

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(d) Exhaust systems must be installed and properly maintained and must be designed to minimize the exposure of exhaust gases by the fire fighter.

(e) The loaded gross weight and empty height of the vehicle must be posted in the vehicle such that it can be clearly read by the driver.

(f) Roll bars must be in place on all open top off-road vehicles for rollover protection.

(29) Automotive Fire Apparatus Equipment.

(a) All equipment on a vehicle must be adequately secured when the vehicle is in motion.

(b) Workers being transported by fire department vehicles must ride only in designated secure positions. Safety restraints must be provided for fire fighters riding the tailboard. (See also OAR 437, Division 2/N, Oregon Rules for Commercial and Industrial Vehicles.)

(c) Vehicles with obstructed view to the rear of the vehicle when backing, must be equipped with:

(A) An automatic back-up alarm that must sound when backing; or

(B) A fire fighter, who is visible in the driver's left-side mirror, must stand to the rear of the truck to guide the driver while backing.

(d) Fire fighting vehicles must come to a full stop before workers disembark.

(e) If workers are required to ride the tailboard, an electrical signal system or voice communication system must be installed between the tailboard and the driver's compartment. A code of signals must be used for controlling the movement of the vehicle.

(f) When traffic flow is inhibited, vehicles equipped with emergency warning lights must be used to control traffic at emergency scenes. The use of traffic cones, fire department personnel, police, or other traffic control measures must be used as soon as practical.

(30) Automotive Apparatus Maintenance and Repair. Each employer must establish written records and procedures whereby apparatus has:

(a) A scheduled monthly maintenance check; or

(b) A maintenance check each time the apparatus is returned following an emergency response, drill, or test drive.

(31) Tires. Tires that are excessively worn, cracked, deteriorated or damaged in any way must not be used. All tires must have a minimum tread depth of 2/32-inch.

(32) Aerial Devices.

(a) Aerial devices used for fire fighting must be inspected and tested by a person competent in performing such tests and inspections according to the recommendations of NFPA Standard 1914, 1991 edition, at least annually.

(b) Where defects are found in critical components of an aerial device, the repairs must be tested and certified according to NFPA Standard 1914, 1991 edition, by a registered professional engineer or manufacturer of the apparatus or an American Welding Society (AWS) Certified Welding Inspector. A permanent record of such tests and repairs must be maintained for each unit.

HOSE DRYING AND DRILL TOWERS

(33) Hose Drying Towers.

(a) Floor openings on hose tower platforms must be equipped with a guardrail meeting the requirements of OAR 437, Division 2/D, 1910.23, Guarding Floor and Wall Openings and Holes.

(b) The toeboard requirements for elevated work platforms in hose drying towers must not apply unless hand tools or objects other than hoses are carried onto the platforms.

(c) The requirements for ladders must meet the requirements of OAR 437, Division 2/D, 437-002-0027, Fixed Ladders.

(d) Ropes used to hoist hose in the hose towers must have a breaking strength to safe load strength (rated working load) ratio of 3 to 1.

(34) Drill Towers. Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from the requirements of offset platform landings and ladder cage guards.

FIRE SERVICE EQUIPMENT

(35) Testing, Maintenance and Inspection of Fire Service Equipment. The employer must maintain and inspect fire service equipment at least annually and perform any tests recommended by the manufacturers at the date of manufacture, or the recommendations of NFPA or IFSTA.

(36) Confined Space Rescue

(a) Employers subject to this section must comply with 1910.146 for their own confined spaces.

(b) Employers subject to this section must comply with 1910.146(k)(2) when they agree to serve as a designated rescue service provider.

(c) Employers subject to this section that will respond to emergency calls for rescue from confined spaces must:

(A) Train responders to recognize inherent confined space hazards before assigning or attempting any related duties in confined space rescues.

(i) Provide responders with understanding, knowledge, and skills necessary for safe performance of confined space rescues.

(ii) Practice a confined space rescue operation at least once every year from a real or simulated confined space.

(B) Certify responders in writing to Department of Public Safety Standards and Training (DPSST) Fire Fighter 1 levels or equivalent.

(C) Use the Incident Management System during confined space rescue incidents that meet the requirements of the NFPA Standard 1561, Fire Department Incident Management.

(D) Assess the situation and determine if it qualifies as a confined space incident.

(i) Classify the operation as a rescue or body recovery.

(ii) Assess and secure physical hazards related to the incident or rescue.

(iii) Assess atmospheric hazards.

(I) Use calibrated direct-reading instruments to test the atmosphere in confined spaces for oxygen content, flammable gases and vapors, and toxic air contaminants.

(II) When calibrated direct-reading instruments are not available, the Incident Commander must assume the situation is immediately dangerous to life and health (IDLH) and assure that responders who enter are equipped with appropriate respiratory protective equipment.

(iv) Determine if the space should be ventilated.

(E) Provide the appropriate rescue, emergency, and personal protective equipment for safe entry into and rescue from confined spaces.

(F) Provide necessary equipment to facilitate non-entry retrieval for responders, unless the retrieval equipment would increase the overall risk or would not contribute to the rescue operations.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1993, f. 7-29-93, cert. ef. 9-15-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 2-2000, f. & cert. ef. 1-28-00; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 3-2005, f. & cert. ef. 6-10-05; OSHA 9-2008, f. 9-19-08, cert. ef. 1-1-09; OSHA 8-2009, f. 7-9-09, cert. ef. 10-1-09; OSHA 1-2012, f. & cert. ef. 4-10-12

437-002-0220

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.176 Handling materials – general, published 10/24/78, FR vol. 43, p. 49749.

(2) 29 CFR 1910.177 Servicing of multi-piece and single piece rim wheels; published 12/27/11, FR vol. 76, no. 248, p. 80735.

(3) 29 CFR 1910.178 Powered industrial trucks, published 4/3/06, FR vol. 71, no. 63, p. 16669.

(4) 29 CFR 1910.179 Overhead and gantry cranes, published 3/7/96, FR vol. 61, no. 46, p. 9239.

(5) 29 CFR 1910.180 Crawler, locomotive and truck cranes, published 3/7/96, FR vol. 61, no. 46, p. 9239.

(6) 29 CFR 1910.181 Derricks, published 3/7/96, FR vol. 61, no. 46, p. 9240.

(7) 29 CFR 1910.182 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9240.

(8) 29 CFR 1910.183 Helicopters, published 6/18/98, FR vol. 63, no. 117, p. 33467.

(9) 29 CFR 1910.184 Slings, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

(10) 29 CFR 1910.189 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9240.

(11) 29 CFR 1910.190 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9240.

These rules are on file at the Oregon Occupational Safety and Health Division, Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 13-1993, f. 8-20-93, cert. ef. 11-1-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 3-2011, f. & cert. ef. 11-1-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 1-2012, f. & cert. ef. 4-10-12

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437-002-0240

Adoption by Reference

In addition to and not in lieu of, any other health and safety codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910 in the Federal Register:

- (1) 29 CFR 1910.211 Definitions; published 12/3/74, FR vol. 39, pp. 41846-41848; 3/14/88, FR vol. 53, p. 8353.
- (2) 29 CFR 1910.212 General requirements for all machines; published 10/24/78, FR vol. 43, p. 49750.
- (3) 29 CFR 1910.213 Woodworking machines; published 2/10/84., FR vol. 49, p. 5323.
- (4) Reserved for 29 CFR 1910.214 Cooperage machinery.
- (5) 29 CFR 1910.215 Abrasive wheel machinery; published 3/7/96, FR vol. 61, no. 46, p. 9240.
- (6) 29 CFR 1910.216 Mills and calendars in the rubber and plastics industries; published 3/7/96, FR vol. 61, no. 46, p. 9240.
- (7) 29 CFR 1910.217 Mechanical power presses; published 12/27/11, FR vol. 76, no. 248, p. 80735.
- (8) 29 CFR 1910.218 Forging machines; published 3/7/96, FR vol. 61, no.46, p. 9240.
- (9) 29 CFR 1910.219 Mechanical power-transmission apparatus; published 6/8/04, FR vol. 69, p. 31880-31882.

NOTE: These standards are available from the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services; and the United States Government Printing Office.
Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: APD 22-1988, f. 12-30-88, ef. 1-1-89; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 4-2004, f. & cert. ef. 9-15-04; OSHA 1-2012, f. & cert .ef. 4-10-12

437-002-0280

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

- (1) 29 CFR 1910.251 Definitions, published 12/14/07, FR vol. 72, no. 240, p. 71061.
- (2) 29 CFR 1910.252 General Requirements, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.
- (3) 29 CFR 1910.253 Oxygen-Fuel Gas Welding and Cutting, published 12/14/07, FR vol. 72, no. 240, p. 71061.
- (4) 29 CFR 1910.254 Arc Welding and Cutting, published 9/13/05, FR vol. 70, no. 176, p. 53925.
- (5) 29 CFR 1910.255 Resistance Welding, published 4/11/90, Federal Register, vol. 55, no. 70, pp. 13710-13711.

These rules are on file with the Oregon Occupational Safety and Health Division, Department of Consumer and Business Services, and the United States Government Printing Office.
Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 232-1990, f. 9-28-90, cert. ef. 12-1-90; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 4-2005, f. & cert. ef. 12-14-05; OSHA 7-2008, f. & cert. ef. 5-30-08; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 1-2012, f. & cert .ef. 4-10-12

437-002-0300

Adoption by Reference

In addition to and not in lieu of, any other health and safety codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

- (1) Reserved for 29 CFR 1910.261 Pulp, Paper, and Paperboard Mills
- (2) 29 CFR 1910.262 Textiles, published 6/18/98, FR vol. 63, no. 117, p. 33467.
- (3) 29 CFR 1910.263 Bakery Equipment, published 3/7/96, FR vol. 61, no. 46, p. 9241.
- (4) 29 CFR 1910.264 Laundry Machinery and Operations, published 11/7/78, FR vol. 43, p. 51760.
- (5) 29 CFR 1910.265 Sawmills, published 12/27/11, FR vol. 76, no. 248, p. 80735.
- (6) Reserved for 29 CFR 1910.266 Pulpwood Logging.
(NOTE: In Oregon, Pulpwood Logging rules are Oregon-initiated rules provided in Division 7, Forest Activities.)
- (7) Reserved for 29 CFR 1910.267 Agricultural Operations.

(8) 29 CFR 1910.268 Telecommunications, published 6/18/98, FR vol. 63, no. 117, p. 33467; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(9) 29 CFR 1910.269 Electric power generation, transmission and distribution, published 6/30/94, FR vol. 59, no. 125, pp. 33658-33664; amended 4/6/01, OR-OSHA Admin. Order 5-2001.

(10) 29 CFR 1910.272 Grain Handling Facilities, and Appendices A, B and C, published 12/27/11, FR vol. 76, no. 248, p. 80735.

(11) 29 CFR 1910.274 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9242.

(12) 29 CFR 1910.275 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9242.

NOTE: These standards are available from the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services; and the United States Government Printing Office.
Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: APD 10-1988, f. & ef. 7-7-88; OSHA 23-1990, f. 9-28-90, ef. 12-1-90; OSHA 27-1990, f. 12-12-90, ef. 2-1-91; OSHA 14-1991, f. 10-10-91, cert. ef. 11-1-91; OSHA 7-1993, f. 6-8-93, cert. ef. 8-1-93; OSHA 11-1993, f. 8-4-93, cert. ef. 10-1-93; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 6-1995, f. 4-18-95, cert. ef. 6-1-95; OSHA 3-1996, f. & cert. ef. 7-22-96; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 3-1999, f. & cert. ef. 4-30-99; OSHA 5-2001, f. & cert. ef. 4-6-01; OSHA 4-2004, f. & cert. ef. 9-15-04; OSHA 4-2005, f. & cert. ef. 12-14-05; OSHA 1-2012, f. & cert .ef. 4-10-12

437-002-0312

Oregon Rules for Pulp, Paper and Paperboard Mills

(1) General Requirements.

(a) Application. This section applies to establishments where pulp, paper, and paperboard are manufactured or converted. This section does not apply to logging and the transportation of logs to pulp, paper, and paperboard mills.

(b) Standards incorporated by reference. Standards covering issues of occupational safety and health which have general application without regard to any specific industry are incorporated by reference in sections (2) through (14) of this rule and in subsections (c) and (d) of this rule and made applicable under this rule. Such standards shall be construed according to the rules set forth in §1910.5, Applicability of Standards, in Subdivision A.

(c) General incorporation of standards. Establishments subject to this section shall comply with the following standards of the American National Standards Institute:

(A) Safety Requirements for Floor and Wall Openings, Railings, and Toeboards, A10.18-1983.

(B) Scheme for the Identification of Piping Systems, A13.1-1981 (R1993).

(C) Safety Code for Portable Wood Ladders, A14.1-1990.

(D) Safety Code for Portable Metal Ladders, A14.2-1990.

(E) Safety Code for Fixed Ladders, A14.3-1990.

(F) Safety Code for Cranes, Derricks, and Hoists, B30.2-1990.

(G) Overhead and Gantry Cranes, B30.17-1992.

(H) Crawler, Locomotive, and Truck Cranes, B30.8-1993.

(I) Safety Code for Woodworking Machinery, ANSI O1.1-1992.

(J) Method of Measurement of Real-Ear Protection of Hearing Protectors – Physical Attenuation of Ear Muffs, ANSI S3.19-1974 (R1990).

(K) Practice for Occupational and Educational Eye and Face Protection, ANSI Z87.1-1989.

(L) Requirements for Sanitation in Places of Employment, ANSI Z4.1-1986.

(M) Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2-1979 (R 1991).

(N) Practices for Respiratory Protection, ANSI Z88.2-1992.

(O) Safety Requirements for Industrial Head Protection, ANSI Z89.1-1986.

(P) Safety Color Code, ANSI Z535.1-1991.

(Q) Practice for the Inspection of Elevators (Inspector's Manual), ANSI/ASME A17.2-1988.

(R) Safety Code for Elevators, Dumbwaiters, and Moving Walks, ANSI/ASME A17.1-1990.

(S) Safety Code for Mechanical Power-Transmission Apparatus, ANSI/ASME B15.1-1992.

(T) Safety Code for Conveyors, Cableways, and Related Equipment, ANSI/ASME B20.1- 1993.

(U) Power Piping, ANSI/ASME B31.1-1992.

(V) Safety Code for Powered Industrial Trucks, ANSI/ASME B56.1.

(W) Practice for Industrial Lighting, ANSI/IES RP-990.

(X) Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying, ANSI/NFPA 91-1992.

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(Y) Fire Department Self-Contained Breathing Apparatus Program, ANSI/NFPA 1404-1989.

(Z) Safety Code for Ventilation and Operation of Open-Surface Tanks, ANSI/UL 641-1985.

(d) Other standards. The following standards shall be considered standards under this section:

(A) ASME Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels 1992, including addenda.

(B) Building Exits Code for Life Safety from Fire, NFPA 101-1991.

(C) NFPA Code for Prevention of Sulfur Fires and Explosions, NFPA 655-1993.

(D) Safety in the Transportation, Storage, Handling and Use of Explosives, IME Pamphlet No. 17, March 1987, Institute of Makers of Explosives.

(2) Employee Training.

(a) Employees shall not be permitted to operate any machine or equipment until they have received proper training and are familiar with safe operating procedures.

(b) Employees shall be trained in proper lifting or moving techniques and methods. Mechanical devices should be used or employees should ask for assistance in lifting or moving heavy objects.

(c) In each area where hazardous substances may be encountered, personnel shall be trained to cope with emergencies arising from breaks, ruptures, or spills which would create a hazardous condition.

(d) Any faulty equipment or hazardous condition shall be promptly reported to the person in charge.

(e) When an employee is assigned to work alone in a remote or isolated area, a system shall be instituted whereby such employee reports to someone or a designated person shall check on his or her safety. The procedure shall designate the method of contact and the frequency. All persons will be trained on the procedures.

(3) Safe Practices.

(a) Guards. All driving mechanisms, power transmission apparatus, and prime movers shall be constructed, guarded, and used in conformity with Subdivision O, Machinery and Machine Guarding.

(b) Inspection of controls and safety devices. Brakes, back stops, antirunaway devices, overload releases, and other safety devices shall be inspected and tested frequently to insure that all are operative and maintained in good repair.

(c) Personal protective clothing and equipment. Personal protective clothing and equipment shall be provided and worn in accordance with Subdivision I, Personal Protective Equipment. Respiratory protection must conform to the requirements of §1910.134 of Subdivision I.

(d) Floors and platforms. Floors, platforms, and work surfaces shall be guarded and maintained in accordance with §1910.23, in Subdivision D, Walking-Working Surfaces.

(e) Lockouts. Lockout/tagout shall be in accordance with the requirements of §1910.147, in Subdivision J, with the exception that:

(A) There will be no tagouts allowed in lieu of lockout for that which can be locked out. Tags are provided for identification and information purposes only.

(B) Persons engaged in repair, inspection, maintenance, or clean-up shall lockout the affected equipment, retain possession of the keys to the locks, and personally remove the lock and tag upon completion of the work.

(C) Group lockout. (See Appendices A and B.)

(i) When servicing and/or maintenance is performed by a crew, craft, department or other group, they shall utilize a procedure which affords the employees a level of protection equivalent to that provided by the implementation of a personal lockout device.

(ii) Group lockout devices shall be used in accordance with the procedures required by §1910.147(c)(4) including, but not necessarily limited to, the following specific requirements.

(I) Primary responsibility is vested in an authorized employee for a set number of employees working under the protection of a group lockout device (such as an operations lock);

(II) Provision for the authorized employee to ascertain the exposure status of individual group members with regard to the lockout of the machine or equipment; and

(III) When more than one crew, craft, department, etc. is involved, assignment or overall job-associated lockout control responsibility to an authorized employee designated to coordinate affected work forces and ensure continuity of protection; and

(IV) Each authorized employee shall affix a personal lockout device to the group lock-out device, group lockbox, or comparable mechanism when he or she begins work, and shall remove those devices when he or she

stops working on the machine or equipment being serviced or maintained; and

(V) Any person involved in the lockout process shall have the right to place their own lock at each lockout location where group lockout procedures have been allowed.

(f) Confined space entry. Confined space entry shall be in accordance with §1910.146, Permit-Required Confined Spaces, in Subdivision J.

(g) Industrial power trucks.

(A) All industrial power trucks and operations shall conform to §1910.178, Powered Industrial Trucks, Subdivision N, Material Handling and Storage. All forklift trucks shall be provided with overhead guards. Design requirements shall provide protection for the liquid petroleum gas tank. All guards shall be designed in compliance with §1910.178, Powered Industrial Trucks, in Subdivision N.

(B) Mirrors or other methods to ensure visibility shall be installed at blind corners or intersections which will allow operators to observe oncoming traffic.

(C) Every power truck operated from an end platform or standing position shall be equipped with a platform extending beyond the operator's position, strong enough to withstand a compression load equal to the weight of the loaded vehicle applied along the longitudinal axis of the truck with the outermost projection of the platform against the flat vertical surface.

(D) Pushing of vehicles or rail cars with the forks or clamps of a lift truck is prohibited.

(h) Emergency lighting.

(A) Emergency lighting shall be provided wherever it is necessary for employees to remain at their machines or stations to shut down equipment in case of power failure. Emergency lighting shall be provided at stairways and passageways or aiseways used by employees for emergency exit in case of power failure. Emergency lighting shall be provided in all plant first aid and medical facilities.

(B) Emergency lighting shall be maintained in accordance with the manufacturer or engineering specifications, and shall be checked at least every 30 days for defects.

(i) Electrical equipment. All electrical installations and electrical utilization equipment shall comply with the National Electrical Code requirements and the provisions of Subdivision S, Electrical.

(4) Handling and Storage of Pulpwood and Pulp Chips.

(a) Handling pulpwood with forklift trucks. Where large forklift trucks, or lift trucks with clam-jaws, are used in the yard, the operator's enclosed cab shall be provided with an escape hatch, whenever the hydraulic arm blocks escape through the side doors.

(b) Handling pulpwood with cranes or stackers.

(A) Where locomotive cranes are used for loading or unloading pulpwood, the pulpwood shall be piled so as to allow a clearance of not less than 24 inches between the pile and the end of the cab of any locomotive crane in use, when the cab is turned in any working position.

(B) The minimum distance of the pulpwood pile from the centerline of a standard-gage track shall be maintained at not less than 8-1/2 feet.

(C) Logs shall be piled in an orderly and stable manner, with no projection into walkways or roadways.

(D) Rail cars shall not be spotted on tracks adjacent to the locomotive cranes unless a 24 inch clearance is maintained, as required in section (4)(b)(A) of this rule.

(E) The handling and storage of other materials shall conform to sections (4)(b)(A) and (B) of this rule with respect to clearance.

(F) Equipment and practices shall conform to American National Standards B30.2-1990 and B30.2.0-1967.

(G) Personal protective equipment for such uses as foot, head, and eye protection shall be required for workers on a job basis.

(H) No person shall be permitted to walk beneath a suspended load, bucket, or hook.

(c) Pulpwood storage and handling.

(A) Unauthorized vehicles and unauthorized foot traffic shall not be allowed in any active sorting, storing, loading, or unloading areas.

(B) Unloading lines shall be so arranged that it is not necessary for the workers to attach them on the pond or dump side of the load.

(C) Jackets or vests of fluorescent or other high visibility material shall be worn by persons working on dry land log storage.

(D) Wire rope doglines used for towing or rafting shall not be used when:

(i) They acquire jaggars to the extent that they present a hazard to the workers handling them; or

(ii) When they are weakened to the extent that they are hazardous.

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(E) Boom sticks shall be capable of safely supporting the weight imposed upon them.

(F) Stiff booms shall be made by fastening not less than two boom sticks together. The width of the stiff boom shall be not less than 36 inches measured from outside to outside of the outer logs. The boom sticks shall be fastened together with not less than 4-inch by 6-inch cross ties or cable lashing properly recessed into notches in the boom sticks and secured.

(G) Pike poles shall be kept in good repair. Conductive pike poles shall not be used where it is possible that they may come in contact with electrical conductors.

(H) All log dumps shall be periodically cleared of bark and other debris.

(I) When cutting bands on bundled logs, workers shall position themselves in a safe location. Double-bitted axes shall not be used for cutting bands. Caution shall be used to prevent being struck by ends of bands being cut and, if needed, personal protective equipment shall be worn.

(J) Storing or sorting on water, or any boom work other than boom boat operations, shall require a minimum of two persons.

(d) Handling pulpwood from ships.

(A) Ladders and gangplanks with railings to boat docks shall meet the requirements of American National Standards A10.18-1983, A14.1-1990, A14.2-1990, and A14.3-1990, and shall be securely fastened in place.

(B) The hatch tender shall be required to signal the hoisting engineer to move the load only after the employees working in the hold are in the clear.

(C) The air in the ship's hold, tanks, or closed vessels shall be tested for oxygen deficiency and for toxic, explosive and combustible gases and vapors.

(e) Handling pulpwood from flatcars and all other rail cars.

(A) Railroad flatcars for the conveyance of pulpwood loaded parallel to the length of the car shall be equipped with safety-stake pockets.

(B) Where pulpwood is loaded crosswise on a flatcar sufficient stakes of sizes not smaller than 4 by 4 inches shall be used to prevent the load from shifting.

(C) When it is necessary to cut stakes, those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side. Wire cutters equipped with long extension handles shall be used. No person shall be permitted along the dumping side of the car after the stakes have been cut.

(D) When steel straps without stakes are used, the steel straps shall be cut from a safe area to prevent employees from being struck by the falling logs.

(E) Flatcars and all other cars shall be chocked during unloading. Where equipment is not provided with hand brakes, rail clamping chocks shall be used.

(F) A derail shall be used to prevent movement of other rail equipment into cars where persons are working.

(f) Handling pulpwood from trucks.

(A) Cutting of stakes and binder wires shall be done in accordance with section (4)(e)(C) of this rule.

(B) Where binder chain and steel stakes are used, the binder chains shall be released and the stakes tripped from the opposite side of the load spillage.

(C) Where binder chains and crane slings are used, the crane slings shall be attached and taut before the binder chains are released. The hooker shall see that the helper is clear before signaling for the movement of the load.

(D) The truck driver shall leave the truck cab and be in the clear, in a designated area, and shall be in clear view of the unloading equipment operator while the unloader is approaching the loaded truck.

(E) The truck driver shall remain outside the cab and clear of the load while logs are being unloaded except that, after a complete load is lifted as a unit and held stationary, the driver may enter the cab and drive forward from under the suspended load.

(F) Log unloaders shall not be moved about the premises with loads raised higher than absolutely necessary.

(g) Handling pulp chips from rail cars.

(A) All cars shall be securely fastened in place and all employees in the clear before dumping is started.

(B) Personal protective equipment for such uses as foot, head, and eye protection shall be provided, and employees shall wear the equipment when working in the woodyard. Ear protection shall be provided when the noise level may be harmful.

(C) When a rollover-type unloading device is used for removing chips from cars, the cars shall be properly secured in place, and all employees shall be in the clear before dumping operation is started.

(h) Handling pulp chips and hog fuel from trucks and trailers.

(A) All trucks and trailers shall be secure and all employees in the clear before dumping is started.

(B) Personal protective equipment necessary to protect workers from hazards shall be provided and worn.

(C) Elevating platform-type or cable-lift type unloading devices shall have adequate back bumper stops.

(D) Side rails or other positive means to prevent the truck and/or trailer from falling shall be used while unloading the single trailer units.

(E) All persons shall be clear of all hoisting or elevating mechanisms before dumping commences.

(F) No person shall remain in any truck while the truck is being elevated.

(G) A safe area and suitable device shall be provided for the chip tester to use while taking chip samples.

(H) Rolled chip nets shall not be positioned where they cover the ladders on rail cars or trucks.

(I) Chip and hog fuel storage.

(i) When mobile equipment is used on top of hog fuel or chip piles, a roll-over protection system shall be installed on the equipment. If the cab is of the enclosed type, windshield wipers shall be installed.

(ii) Hog fuel bins shall be provided with standard railed platform or walkways near the top or other equally effective means shall be provided for use by employees engaged in dislodging hog fuel.

(iii) Extreme care shall be taken to prevent chips or hog fuel from creating an overhang or bridging.

(iv) Employees shall be prohibited from working under overhangs or bridges.

(J) Chip and sawdust bins. Steam or compressed-air lances, or other facilities, shall be used for breaking down the arches caused by jamming in chip lofts. No worker shall be permitted to enter a bin unless done in accordance with §1910.146, Permit-Required Confined Spaces, in Subdivision J.

(i) Crane operations.

(A) Crane boom and load capacities as specified by the manufacturer shall be posted in the cab of the crane in accordance with §1910.180, Crawler, Locomotive and Truck Cranes, in Subdivision N, Material Handling and Storage.

(B) A safety device such as a heavy chain or cable at least equal in strength to the lifting cables shall be fastened to the boom and to the frame of the boom crane (if it is other than locomotive) at the base. Alternatively, a telescoping safety device shall be fastened to the boom and to the cab frame, so as to prevent the boom from snapping back over the cab in the event of lifting cable breakage.

(C) A crane shall not be operated where any part thereof may come within 10 feet of overhead powerlines (or other overhead obstructions) unless the powerlines have been de-energized, or clearances are maintained as specified in §1910.303, General Requirements, in Subdivision S, Electrical.

(D) Standard signals for the operation of cranes shall be established for all movements of the crane, in accordance with American National Standards B30.2-1990 and B30.8-1988.

(E) Only one member of the crew shall be authorized to give signals to the crane operator.

(F) All cranes shall be equipped with a suitable warning device such as a horn or whistle.

(G) A sheave guard shall be provided beneath the head sheave of the boom.

(H) Grapples, tongs, and buckets shall not be left suspended when not in use.

(j) Traffic warning signs or signals.

(A) A flagger shall direct the movement of cranes or locomotives being moved across railroad tracks or roads, and at any points where the vision of the operator is restricted. The flagger must always remain in sight of the operator when the crane or locomotive is in motion. The blue flag policy shall be used to mark stationary cars day and night. This policy shall include marking the track in advance of the spotted cars (flag for daytime, light for darkness).

(B) After cars are spotted for loading or unloading, warning flags or signs shall be placed in the center of the track at least 50 feet away from the cars and a derail set to protect workers in or on the car.

(k) Rail car operations and railroad warning devices.

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(A) On a dead end spur, a blue signal may be displayed adjacent to the switch opening while cars are being loaded or unloaded. When such warning devices are displayed, the equipment shall not be coupled to or moved.

(B) Equipment which would obscure the blue signal shall not be placed on the track.

(C) Each maintenance crew shall display and remove its own set of blue signals.

(D) A flashing warning light or other device shall be installed near any opening which leads to a passageway crossing railroad tracks adjacent to the building. Such light or device shall be activated prior to any switching or movement of railroad equipment to warn workers of the dangerous condition in the area.

(E) Workers shall not crawl under or pass between coupled rail cars to cross tracks.

(F) An audible whistle, horn, or bell shall be sounded by the locomotive engineer to give adequate warning prior to switching across any road crossing.

(G) When switching railroad equipment in congested areas or across roadways or walkways, "flying switches" shall be prohibited.

(H) All freight car doors shall be inspected before workers open or close them. A safe method shall be used to open or close the door.

(I) Illumination. Artificial illumination shall be provided when loading or unloading is performed after dark, in accordance with American National Standard ANSI/IES-RP-1990, Practice for Industrial Lighting.

(m) Bridge or dock plates.

(A) The construction and use of bridge or dock plates shall conform to requirements of §1910.30(a), Walking-Working Surfaces, in Subdivision D.

(B) The sides of bridge or dock plates shall have an upturn or lip of at least 4 inches covering the area between the edge of the loading dock and edge of car or truck floor whenever the distance exceeds 18 inches to prevent wheeled equipment from running off the sides.

(C) Bridge or dock plates shall have at least 6 inches bearing surface on the loading dock.

(D) Bridge or dock plates intended to be moved by mechanized equipment shall be designed for this purpose or attachments for safe handling shall be used.

(n) Hand tools. Handles of wood hooks shall be locked to the shank to prevent them from rotating.

(o) Removal of pulpwood.

(A) The ends of a woodpile shall be properly sloped and cross-tied into the pile. Upright poles shall not be used at the ends of woodpiles. To knock down wood from the woodpile, mechanical equipment shall be used to permit employees to keep in the clear of loosened wood.

(B) If dynamite is used to loosen the pile, only authorized personnel shall be permitted to handle and discharge the explosive. An electric detonator is preferable for firing; if a fuse is used, it shall be an approved safety fuse with a burning rate of not less than 120 seconds per yard and a minimum length of 3 feet, in accordance with "Safety in the Transportation, Storage, Handling and Use of Explosives", IME Pamphlet No. 17, March 1987.

(p) Log hauls, slips and carriages.

(A) Controls shall be arranged to operate from a position where the operator will at all times be in the clear of logs, machinery, lines, and rigging.

(B) Controls shall be marked to indicate their function.

(C) An effective method of disengaging the head rig saws from the power unit shall be installed on all head rigs where the power unit is not directly controlled by the sawyer. The saws shall be disengaged from the source of power which shall be locked out before repairs or changes are made.

(D) When needed for protection of personnel, an automatic stop or interlocking device shall be installed on log hauls or slips.

(E) A barricade or other positive stop of adequate strength shall be provided to protect the sawyer from rolling logs.

(F) A guard shall be provided to prevent logs from rolling off the log deck into the well.

(G) The sawyer shall be safeguarded either by his or her location or by use of substantial screens or approved safety glass.

(H) A substantial stop or bumper shall be installed at each end of the carriage run.

(I) Canting gear or other equipment shall not be allowed to hang over the log deck in such a manner as to endanger employees.

(J) Canting gear controls shall be marked to indicate their function.

(K) The sawyer shall be primarily responsible for the safety of the carriage crew and off-bearers. He or she shall exercise due care in the operation of the carriage and log turning devices.

(L) A control device shall be provided so that the sawyer may stop the head rig section of the mill without leaving his or her stand.

(M) The feed control lever of friction or belt-driven carriage feed works shall be designed to operate away from the saws or carriage track.

(N) Feed works and log turning control levers shall be so arranged that they may be secured when not in use and shall be adequately guarded against accidental activation.

(O) Carriages upon which persons are required to work shall be solidly decked over and the employees properly protected.

(P) Substantial sweeps shall be installed in front of each carriage wheel. Such sweeps shall extend to within 1/4 inch of the rails.

(Q) Where power-operated log turners are used, carriage knees shall be provided with goosenecks or other substantial means of protecting the carriage crew.

(q) Belt conveyors.

(A) The sides of the conveyor shall be constructed so that the pulpwood will not fall off.

(B) Where conveyors cross passageways or roadways, a horizontal platform shall be provided under the conveyor extending out from the sides of the conveyor a distance equal to 1 1/2 times the length of the wood handled. The platform shall extend the width of the road plus 2 feet on each side and shall be kept free of wood and rubbish. The edges of the platform shall be provided with toeboards or other protection to prevent wood from falling, in accordance with American National Standard A10.18-1983.

(C) All conveyors for pulpwood shall have the in-running nips between chain and sprockets guarded; also, turning drums shall be guarded.

(D) Every belt conveyor shall have an emergency stop cable extending the length of the conveyor so that it may be stopped from any location along the line, or conveniently located stop buttons within 10 feet of each work station, in accordance with American National Standard ANSI/ASME B20.1-1993.

(r) Signs. Where conveyors cross walkways or roadways in the yards, signs reading "Danger - Overhead Conveyor" or an equivalent warning shall be erected, in accordance with American National Standard for Safety Color Code, ANSI Z535.1-1991.

(S) Handling and Storage of Raw Materials Other Than Pulpwood or Pulp Chips.

(a) Personal protective equipment.

(A) Whenever possible, all dust, fumes, and gases incident to handling materials shall be controlled at the source, in accordance with OAR 437-002-0382, Oregon Rules for Air Contaminants, in Subdivision Z. Where control at the source is not possible, respirators with goggles or protective masks shall be provided, and employees shall wear them when handling alum, clay, soda ash, lime, bleach powder, sulfur, chlorine, and similar materials, and when opening rag bales.

(B) When handling liquid acid or alkali, workers shall be provided with approved eye and face protection and protective clothing, in accordance with Subdivision I, Personal Protective Equipment.

(b) Clearance.

(A) When materials are being piled inside a building and upon platforms, an aisle clearance at least 3 feet greater than the widest truck in use shall be provided.

(B) Baled paper and rags stored inside a building shall not be piled closer than 18 inches to walls, partitions, or sprinkler heads.

(c) Piling and unpling pulp.

(A) Piles of wet lap pulp (unless palletized) shall be stepped back one-half the width of the sheet for each 8 feet of pile height. Sheets of pulp shall be interlapped to make the pile secure. Pulp shall not be piled over pipelines to jeopardize pipes, or so as to cause overloading of floors, or to within 18 inches below sprinkler heads.

(B) Piles of pulp shall not be undermined when being unplied.

(C) Floor capacities shall be clearly marked on all floors.

(d) Chocking rolls.

(A) Where rolls are pyramided two or more high, chocks shall be installed between each roll on the floor and at every row. Where pulp and paper rolls are stored on smooth floors in processing areas, rubber chocks with wooden core shall be used.

(B) When rolls are decked two or more high, the bottom rolls shall be chocked on each side to prevent shifting in either direction.

(6) Preparing Pulpwood.

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(a) Gang and slasher saws. A guard shall be provided in front of all gang and slasher saws to protect workers from wood thrown by saws. A guard shall be placed over tail sprockets.

(b) Slasher tables. Saws shall be stopped and power switches shall be locked out and tagged whenever it is necessary for any person to be on the slasher table.

(c) Slasher drive belts, pulleys, and shafts. All belts, pulleys, and shafts shall be guarded in accordance with American National Standard ANSI/ASME B15.1-1992.

(d) Runway to the jack ladder. The runway from the pond or unloading dock to the table shall be protected with standard handrails and toeboards. Inclined portions shall have cleats or equivalent nonslip surfacing, in accordance with Subdivision D, Walking-Working Surfaces. Protective equipment shall be provided for persons working over water.

(e) Guards below table. Where not protected by the frame of the machine, the underside of the slasher saws shall be enclosed with guards.

(f) Conveyors. The requirements of section (4)(q) of this rule shall apply.

(g) Circular saws (not slasher saws). Saws shall be provided with standard guards, in accordance with American National Standard ANSI O1.1-1992.

(h) Fixed chain saws, circular cut-off saws, drag and swing saws.

(A) Saws shall be so arranged that they will not project into any passageway when in an idle or working position. When existing conditions do not leave clear passage the saws shall be fenced off in order to make it impossible for anyone to walk into them.

(B) Drag saws and fixed chain saws shall be equipped with a device that will safely lock them in an "UP" position.

(C) All persons shall be in the clear before starting operations of a drag, chain, or swing saw.

(D) Log decks shall be equipped with a device to hold the material stable while being cut.

(i) Barker feed. Each barker shall be equipped with a feed and turnover device which will make it unnecessary for the operator to hold a bolt or log by hand during the barking operation. Eye, ear, and head protection shall be provided for the operator, in accordance with section (3)(c) of this rule.

(j) Guards. A guard shall be installed around barkers to confine flying particles, in accordance with ANSI/ASME B15.1-1992.

(k) Stops. All control devices shall be locked out and tagged when knives are being changed.

(l) Speed governor. Water wheels, when directly connected to barker disks or grinders, shall be provided with speed governors, if operated with gate wide open.

(m) Continuous barking drums.

(A) When platforms or floors allow access to the sides of the drums, a standard railing shall be constructed around the drums. When two or more drums are arranged side by side, proper walkways with standard handrails shall be provided between each set, in accordance with section (3)(d) of this rule.

(B) Sprockets and chains, gears, and trunnions shall have standard guards, in accordance with section (3)(a) of this rule.

(C) Whenever it becomes necessary for a worker to go within a drum, the driving mechanism shall be locked and tagged, at the main disconnect switch, in accordance with section (3)(e) of this rule.

(D) This subsection (m) also applies to barking drums employed in the yard.

(n) Intermittent barking drums. In addition to motor switch, clutch, belt shifter, or other power disconnecting device, intermittent barking drums shall be equipped with a device which may be locked to prevent the drum from moving while it is being emptied or filled.

(o) Hydraulic barkers.

(A) Hydraulic barkers shall be enclosed with strong baffles at the inlet and the outlet. The operator shall be protected by at least five-ply laminated glass.

(B) The high pressure hoses of hydraulic barkers shall be secured in such a manner that the hose connection ends will be restrained if a hose connection fails.

(p) Splitter block. The block upon or against which the wood is rested shall have a corrugated surface or other means provided that the wood will not slip. Wood to be split, and also the splitting block, shall be free of ice, snow, or chips. The operator shall be provided with eye and foot protection. A clear and unobstructed view shall be maintained between equipment and workers around the block and the workers' help area.

(q) Power control. Power for the operation of the splitter shall be controlled by a clutch or equivalent device.

(r) Knot cleaners. The operators of knot cleaners of the woodpecker type shall wear eye protection equipment.

(s) Chipper spout. The feed system to the chipper spout shall be arranged in such a way that the operator does not stand in a direct line with the chipper spout. All chipper spouts shall be enclosed to a height of at least 42 inches from the floor or operator's platform. When other protection is not sufficient, the operator shall be protected from falling into the chipper by the use of a safety belt and lanyard. Ear protection equipment shall be worn by the operator and others in the immediate area if there is any possibility that the noise level may be harmful (see §1910.95, Occupational Noise Exposure, in Subdivision G).

(t) Feeding material/clearing jams in machines. Appropriate safety belts and lanyards and face protection shall be used by employees who manually feed material or clear jams in machines unless other provisions are made which will protect the employees.

(u) Carriers for knives. Carriers shall be provided and used for transportation of knives.

(7) Rag and Old Paper Preparation.

(a) Ripping and trimming tools.

(A) Hand knives and scissors shall have blunt points, shall be fastened to the table with chain or thong, and shall not be carried on the person but placed safely in racks or sheaths when not in use.

(B) Hand knives and sharpening steels shall be provided with guards at the junction of the handle and the blade. Utility knives with blade exposure of 2-1/2 inches or less are exempted from this requirement.

(b) Shredders, cutters, and dusters.

(A) Rotating heads or cylinders shall be completely enclosed except for an opening at the feed side sufficient to permit only the entry of stock. The enclosure shall extend over the top of the feed rolls. It shall be constructed either of solid material or with mesh or openings not exceeding 1/2-inch and substantial enough to contain flying particles and prevent accidental contact with moving parts. The enclosure shall be bolted or locked into place.

(B) A smooth-pivoted idler roll resting on the stock or feed table shall be provided in front of feed rolls except when arrangements prevent the operator from standing closer than 36 inches to any part of the feed rolls.

(C) Any manually fed cutter, shredder, or duster shall be provided with an idler roll as per section (7)(b)(B) of this rule or the operator shall use special hand-feeding tools.

(D) Hoods of cutters, shredders, and dusters shall have exhaust ventilation, in accordance with §1910.94, Ventilation, in Subdivision G.

(c) Blowers.

(A) Blowers used for transporting rags shall be provided with feed hoppers having outer edges located not less than 48 inches from the fan.

(B) The arrangement of the blower discharge outlets and work areas shall be such as to prevent material from falling on workers.

(d) Conveyors. Conveyors and conveyor drive belts and pulleys shall be fully enclosed or, if open and within 7 feet of the floor, shall be constructed and guarded in accordance with section (4)(q) of this rule, and Subdivision N, Material Handling and Storage.

(e) Guarding requirements.

(A) Traveling sections of conveyors and other equipment with wheels which run on rails or guides shall be guarded by sweep guards, installed in front of the traveling wheels in all areas where workers may be exposed to contact. Sweep guards shall have not greater than 1/4 inch clearance above the rail or guide.

(B) When using mechanical equipment to elevate the front end of the chip containers for dumping into a hopper, the shear area between the floor and the elevated section shall be safeguarded.

(f) Dust. Measures for the control of dust shall be provided, in accordance with American National Standard ANSI/NFPA 91-1992 and Subdivision I, Personal Protective Equipment.

(g) Rag cookers.

(A) When cleaning, inspection, or other work requires that persons enter rag cookers, all steam and water valves, or other control devices, shall be locked and tagged in the closed or "off" position. Blank flanging of pipelines is acceptable in place of closed and locked valves.

(B) When cleaning, inspection, or other work requires that persons must enter the cooker, one person shall be stationed outside in a position to observe and assist in case of emergency, in accordance with section (3)(f) of this rule.

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(C) Rag cookers shall be provided with safety valves in accordance with the ASME Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels – 1992.

(8) Chemical Processes of Making Pulp.

(a) Industrial kiln guns and ammunition. Management shall develop written instructions, including safety procedures, for storing and operating industrial kiln guns and ammunition. All persons working with this equipment shall be instructed in these procedures and shall follow them.

(b) Sulfur burners.

(A) Sulfur-burner houses shall be safely and adequately ventilated, and every precaution shall be taken to guard against dust explosion hazards and fires, in accordance with American National Standard Z9.2-1979 (R1991), and NFPA 655-1993.

(B) Nonsparking tools and equipment shall be used in handling dry sulfur.

(C) Sulfur storage bins shall be kept free of sulfur dust accumulation, in accordance with American National Standard ANSI Z9.2-1979 (R1991).

(D) Electric equipment shall be of the explosion-proof type, in accordance with the requirements of Subdivision S, Electrical.

(E) Sulfur-melting equipment shall not be located in the burner room.

(C) Protection for employees (acid plants).

(A) Gas masks, fitted with canisters containing absorbents for the particular acids, gases, or mists involved, shall be provided for employees of the acid department.

(B) Supplied air respirators shall be strategically located for emergency and rescue use.

(C) During inspection, repairs, or maintenance of acid towers, the worker shall be provided with eye protection, a supplied air respirator, a safety belt, and an attached lifeline. The line shall be extended to an attendant stationed outside the tower opening.

(d) Acid tower structure. Outside elevators shall be inspected daily during winter months when ice materially affects safety. Elevators, runways, stairs, etc., for the acid tower shall be inspected monthly for defects that may occur because of exposure to acid or corrosive gases.

(e) Tanks (acid). Entering acid tanks shall be in accordance with §1910.146, Permit-Required Confined Spaces, in Subdivision J.

(f) Clothing. Where lime slaking takes place, employees shall be provided with rubber boots, rubber gloves, protective aprons, and eye protection. A deluge shower and eye fountain shall be provided to flush the skin and eyes to counteract lime or acid burns.

(g) Lead burning. When lead burning is being done within tanks, fresh air shall be forced into the tanks so that fresh air will reach the face of the worker first and the direction of the current will never be from the source of the fumes toward the face of the workers. Supplied air respirators (constant-flow type) shall be provided.

NOTE: (For specifics refer to Subdivision Q, Welding, Cutting and Brazing; and §1910.1025, Lead, in Subdivision Z.)

(h) Hoops for acid storage tanks. Hoops of tanks shall be made of rods rather than flat strips and shall be safely maintained by scheduled inspections.

(i) Quicklime stoppages. Water shall not be used to unplug quicklime stops or plugs in pipes or confined spaces.

(j) Digester building exits. At least one unobstructed exit at each end of the room shall be provided on each floor of a digester building.

(k) Digester building escape respirators. Escape respirators shall be available for escape purposes only. These respirators shall meet the requirements of §1910.134 in Subdivision I, including the requirement to be inspected at frequent intervals, not to exceed one month.

(l) Elevators.

(A) Elevators shall be constructed in accordance with American National Standard A17.1-1990.

(B) Elevators shall be equipped with escape respirators for the maximum number of passengers.

(C) Elevators shall be equipped with an alarm system to advise of failure.

(m) Blowoff valves and piping.

(A) The blowoff valve of a digester shall be arranged so as to be operated from another room, remote from safety valves.

(B) All fasteners used to secure digester piping shall conform to ANSI/ASME B31.1-1992.

(C) Digester blow valves shall be pinned or locked in closed position throughout the entire cooking period. This rule applies only to manually operated valves in batch digesters.

(n) Blow lines.

(A) When blow lines from more than one digester lead into one pipe, the cock or valve of the blow line from the tank being inspected or repaired

shall be locked and tagged out, or the line shall be disconnected and blocked off.

(B) Test holes in piping systems. Test holes in blow lines of piping systems shall not be covered with insulation or other materials.

(o) Inspection and repair of tanks. All piping leading to tanks shall be blanked off or valved and locked in accordance with §1910.147, Lockout/Tagout, in Subdivision J.

(p) Blow pits and blow tanks.

(A) Blow-pit openings shall be preferably on the side of the pit instead of on top. When located on top, openings shall be as small as possible and shall be provided with railings, in accordance with Subdivision D, Walking-Working Surfaces.

(B) Entrance into blow pits must be done in accordance with §1910.146, Subdivision J.

(C) A signaling device shall be installed in the digester and blow-pit rooms and chip bins to be operated as a warning before and while digesters are being blown.

(D) Blow-pit hoops shall be maintained in a safe condition.

(q) Blowing batch digester.

(A) Blowoff valves shall be opened slowly.

(B) After the digester has started to be blown, the blowoff valve shall be left open, and the hand plate shall not be removed until the digester cook signals the blowpit person that the blow is completed. Whenever it becomes necessary to remove the hand plate to clear stock, operators shall wear eye protection equipment and protective clothing to guard against burns from hot stock.

(C) Means shall be provided whereby the digester cook shall signal the person in the chip bin before starting to load the digester.

(r) Inspecting and repairing digester.

(A) Valves controlling lines leading into a digester shall be locked out and tagged in accordance with §1910.147, Lockout/Tagout, in Subdivision J.

(B) Sources of energy associated with a digester shall be isolated in accordance with §1910.147, Lockout/Tagout, in Subdivision J.

(C) Entry into the digester shall be in accordance with §1910.146, Permit-Required Confined Spaces, in Subdivision J.

(D) The concentration of lead in the air shall not exceed the limits specified in §1910.1025, Lead, Subdivision Z.

(E) All employees entering digesters for inspection or repair work shall be provided with protective headgear.

(F) Eye protection and dust respirators shall be provided to workers while the old brick lining is being removed, in accordance with Subdivision I, Personal Protective Equipment.

(G) Sanitary facilities shall be provided as specified in §1910.141, Sanitation, in Subdivision J.

(s) Pressure tanks-accumulators (acid).

(A) Safety regulations governing inspection and repairing of pressure tanks-accumulators (acid) shall be the same as those specified in section (8)(t) of this rule.

(B) The pressure tanks-accumulators shall be inspected twice annually and more frequently if required by the manufacturer or engineer's recommendations. (Refer to Boiler and Pressure Vessel Safety Laws of the State Building Codes Division, Department of Consumer and Business Services.)

(t) Pressure vessels (safety devices).

(A) Each unfired pressure vessel shall have a pressure relieving device or devices installed and operated in accordance with ASME Boiler and Pressure Vessel Code, Section VIII (Unfired Pressure Vessels – 1992). In the case of batch digesters with safety pressure relieving devices installed directly to the pressure vessel, means shall be devised to verify regularly that the safety devices have not become plugged or corroded to the point of being inoperative.

(B) All safety devices shall conform to Paragraph U-2 in the ASME Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels – 1992.

(u) Miscellaneous. Insofar as the processes of the sulfate and soda operations are similar to those of the sulfite processes, sections (8)(a) through (t) of this rule shall apply.

(A) Quick operating showers, bubblers, etc., shall be available for emergency use in case of caustic soda burns.

(B) Rotary tenders, smelter operators, and those cleaning smelt spouts shall be provided with eye protection equipment (fitted with lenses that filter out the harmful rays emanating from the light source) when actively engaged in their duties, in accordance with OAR 437-002-0134, in Subdivision I.

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(C) Piping, valves and fittings between the digester, blowpit, and blow tanks shall be in accordance with ANSI/ASME B31.1-1992. These shall be inspected at least semi-annually to determine the degree of deterioration and repaired or replaced when necessary, in accordance with American National Standards ANSI/ASME B31.1-1992.

(v) Welding. Welding on blow tanks, accumulator tanks, or any other vessels where turpentine vapor or other combustible vapor could gather shall be done only after the vessel has been completely purged of fumes. Fresh air shall be supplied workers inside of vessels.

NOTE: See Subdivision Q, Welding, Cutting and Brazing, for additional welding requirements.

(w) Turpentine systems and storage tanks. Nonsparking tools and ground hose shall be used when pumping out the tank. The tank shall be surrounded by a berm or moat.

(x) Recovery furnace area.

(A) An audible warning system shall be installed in kraft and soda base sulfite recovery furnace areas and shall be activated whenever an emergency exists.

(B) All personnel working in recovery furnace areas shall be instructed on procedures to be followed when emergency warning systems are activated.

(C) Emergency warning systems in the recovery furnace areas shall be kept in proper working condition and shall be tested or checked weekly.

(D) Workers shall stand to the side while opening a furnace or boiler firebox door.

(E) Smelt-dissolving tanks shall be covered and the cover kept closed, except when samples are being taken.

(F) Smelt tanks shall be provided with vent stacks and explosion doors, in accordance with American National Standard ANSI/UL 641-1985.

(G) An emergency shutdown procedure as currently recommended by the boiler manufacturer shall be implemented and used when an emergency shutdown is required. Both normal and emergency shutdown procedures shall be posted.

(H) Recovery furnaces and power boilers are to be constructed, maintained, and serviced as required by the State Building Codes Division of the Department of Consumer and Business Services.

(I) Open pipes shall not be used as punch bars if the use would create a hazard.

(J) Furnace room. Exhaust ventilation shall be provided where niter cake is fed into a rotary furnace and shall be so designed and maintained as to keep the concentration of hydrogen sulfide gas below the limits listed in OAR 437-002-0382, Oregon Rules for Air Contaminants, in Subdivision Z.

(9) Bleaching.

(a) Bleaching containers. Bleaching containers, such as cells, towers (bleaching engines), etc., except the Bellmer type, shall be completely covered on the top, with the exception of one small opening large enough to allow filling but too small to admit a person. Platforms leading from one engine to another shall have standard guardrails, in accordance with Subdivision D, Walking-Working Surfaces.

(b) Bleach plant alarm system. An audible alarm system shall be installed and it shall be activated whenever a serious leak or break develops in the bleach plant area which creates a health or fire hazard.

(c) Bleach mixing rooms.

(A) Areas where dry bleach powder is mixed shall be provided with adequate exhaust ventilation, located at the floor level, in accordance with ANSI/UL 641-1985.

(B) Respiratory protection shall be provided for emergency use, in accordance with American National Standards ANSI/NFPA 1404- 1989, and Z88.2-1980. Respiratory protection must conform to the requirements of §1910.134 of Subdivision I.

(C) For emergency and rescue work, self-contained air masks or supplied air equipment shall be provided in accordance with American National Standards Z88.2-1980. Respiratory protection must conform to the requirements of §1910.134 of Subdivision I.

(d) Liquid chlorine.

(A) Tanks of liquid chlorine shall be stored in an adequately ventilated unoccupied room, where their possible leakage cannot affect workers.

(B) Gas masks capable of absorbing chlorine shall be supplied, conveniently placed, and regularly inspected, and workers who may be exposed to chlorine gas shall be instructed in their use.

(C) For emergency and rescue work, independent self-contained breathing apparatus or supplied air equipment shall be provided.

(D) At least two exits, remote from each other, shall be provided for all rooms in which chlorine is stored.

(E) Spur tracks upon which tank cars containing chlorine and caustic are spotted and connected to pipelines shall be protected by means of a derail in front of the cars.

(F) All chlorine, caustic, and acid lines shall be marked for positive identification, in accordance with American National Standard A13.1-1981 (R 1985).

(e) Handling chlorine dioxide.

(A) Chlorine dioxide generating and storage facilities shall be placed in areas which are adequately ventilated and are easily kept clean of wood, paper, pulp, etc., to avoid contamination which might cause a reaction. This can be accomplished by placing these facilities in a separate room or in a designated outside space.

(B) Safety showers and/or jump tanks and eyewash fountains shall be provided for persons working around sodium chlorate and the other hazardous chemicals involved in this process.

(C) Water hoses for flushing spills shall be adequate in size and located where needed.

(D) The generating area shall have signs in accordance with Subdivision J, General Environmental Controls, warning of the hazard and restricting entrance to authorized personnel only.

(E) Facilities handling sodium chlorate and chlorine dioxide shall be declared "No Smoking" areas and shall have signs posted accordingly.

(F) All equipment involved in the chlorine dioxide process where pressure may be generated shall be provided with adequate pressure relief devices.

(G) Respiratory protective equipment approved for use in exposures to chlorine and chlorine dioxide gases shall be provided.

(H) Management shall be responsible for developing written instructions including safety procedures for operating and maintaining the generator and associated equipment. All personnel working on this equipment shall be thoroughly trained in these procedures and shall follow them.

(I) Only authorized personnel shall be allowed in close proximity to the chlorine dioxide generating equipment.

(J) When reasonably possible, the sample station should be located on the outside of the generating room. Goggles must be worn when taking samples.

(K) Welding or burning shall not be performed on the generator system while it is operating. Immediately before maintenance can be performed on the inside of any of this equipment, it shall be thoroughly flushed with water and purged of hazardous gases.

(L) Chlorine and chlorine dioxide gas shall be carried away from the work place and breathing area by an exhaust system. The gas shall be rendered neutral or harmless before being discharged into the atmosphere. The requirements of American National Standard Z9.2-1979 (R1991) shall apply to this subdivision.

(f) Handling sodium chlorate.

(A) Workers handling and working with sodium chlorate shall be thoroughly trained in precautions to be used in handling and special work habits.

(B) Workers exposed to direct contact with sodium chlorate shall wear appropriate personal protective equipment.

(C) Facilities for storage and handling of sodium chlorate shall be constructed so as to eliminate possible contact of dry or evaporated sodium chlorate with wood or other material which could cause a fire or explosion.

(D) Chlorine gas shall be carried away from the work place and breathing area by an exhaust system. The gas shall be rendered neutral or harmless before being discharged into the atmosphere. The requirements of American National Standard Z9.2-1979 (R1991) shall apply to this subdivision.

(E) Sodium chlorate facilities shall be constructed with a minimum of packing glands, stuffing boxes, etc.

(g) Bagged or drummed chemicals. Bagged or drummed chemicals require efficient handling to prevent damage and spillage. Certain oxidizing chemicals used in bleaching pulp and also in some sanitizing work require added precautions for safety in storage and handling. In storage, these chemicals shall be isolated from combustible materials and other chemicals with which they will react such as acids. They shall also be kept dry, clean and uncontaminated.

(10) Mechanical Pulp Process.

(a) Pulp grinders.

(A) Water wheels directly connected to pulp grinders shall be provided with speed governors limiting the peripheral speed of the grinder to that recommended by the manufacturer.

(B) Doors of pocket grinders shall be arranged so as to keep them from closing accidentally.

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(b) Butting saws. Hood guards shall be provided on butting saws, in accordance with American National Standard ANSI O1.1-1992.

(c) Floors and platforms. The requirements of section (3)(d) of this rule shall apply.

(d) Personal protection. Persons exposed to falling material shall wear eye, head, foot, and shin protection equipment, in accordance with Subdivision I, Personal Protective Equipment.

(11) Stock Preparation.

(a) Pulp shredders.

(A) Cutting heads shall be completely enclosed except for an opening at the feed side sufficient to permit only entry of stock. The enclosure shall be bolted or locked in place. The enclosure shall be of solid material or with mesh or other openings not exceeding 1/2-inch.

(B) Either a slanting feed table with its outer edge not less than 36 inches from the cutting head or an automatic feeding device shall be provided.

(C) Repairs for cleaning of blockage shall be done only when the shredder is shutdown and control devices locked.

(D) All power-driven mechanisms shall be guarded in accordance with section (3)(a) of this rule.

(b) Pulp conveyors. Pulp conveyors and conveyor drive belts and pulleys shall be fully enclosed, or if open and within 7 feet of the floor, shall be constructed and guarded in accordance with Subdivision N, Material Handling and Storage, and Subdivision O, Machinery and Machine Guarding.

(c) Floors, steps, and platforms. The requirements of section (3)(d) of this rule shall apply.

(d) Beaters.

(A) Beater rolls shall be provided with covers.

(B) Guardrails 42 inches high shall be provided around beaters where tub tops are less than 42 inches from the floor, in accordance with section (3)(d) of this rule and Subdivision D, Walking-Working Surfaces.

(C) When cleaning, inspecting, or other work requires that persons enter the beaters, all control devices shall be locked and tagged out, in accordance with §1910.147, Lockout, in Subdivision J.

(D) When beaters are fed from the floor above, the chute opening, if less than 42 inches from the floor, shall be provided with a complete rail or other enclosure. Openings for manual feeding shall be sufficient only for entry of stock and shall be provided with at least two permanently secured crossrails, in accordance with Subdivision D, Walking-Working Surfaces.

(E) Floors around beaters shall be provided with sufficient drainage to remove wastes.

(e) Pulpers.

(A) All pulpers having the top or any other opening of the vessel less than 42 inches from the floor or work platform shall have such openings guarded by railed or other enclosures. For manual charging, openings shall be sufficient only to permit the entry of stock and shall be provided with at least two permanently secured crossrails, in accordance with §1910.23, Guarding Floor and Wall Openings and Holes, in Subdivision D.

(B) When cleaning, inspecting or other work requires persons to enter the pulpers it shall be in accordance with §1910.146, Permit-Required Confined Spaces, in Subdivision J. All power mechanisms shall be guarded as required in Subdivision O, Machinery and Machine Guarding.

(C) Cleaning or inspecting pulpers or other work, including work above the pulper in a dangerous position, shall be in accordance with §1910.147, Lockout, in Subdivision J.

(D) All power mechanisms shall be guarded in accordance with Subdivision O, Machinery and Machine Guarding.

(f) Pulping devices.

(A) Emergency stop controls shall be provided at the feed point when pulping devices are fed manually from the floor above.

(g) Guillotine-type roll splitters. Rolls shall be centered and in a horizontal position directly below the guillotine-type blade while being split. No part of the body shall be under the guillotine-type blade.

(h) Stock chests and tanks.

(A) All control devices shall be locked when persons enter stock chests, in accordance with §1910.147, Lockout/Tagout, in Subdivision J.

(B) All power mechanisms shall be guarded in accordance with Subdivision O, Machinery and Machine Guarding.

(C) When cleaning, inspecting, or other work requires that persons enter stock chests, they shall be provided with a low-voltage extension light.

(12) Machine Room.

(a) Controls and safety devices.

(A) Electrically or manually operated power disconnecting devices for all power-operated equipment shall be provided within easy reach of the operator while in his or her normal operating position. If necessary for safety of the operation, the machine shall be so equipped that retarding or braking action can be applied at the time of or after the source of power is deactivated.

(B) Pulp and paper machines shall be equipped with stopping devices. The devices shall be located where they can be used readily to stop the machines or sections of the machine. Power disconnect devices and retarding or braking controls provided for in section (12)(a)(A) of this rule are required for the safe operation of a pulp and paper machine.

(C) Brakes, back stops, antirunaway devices, overload releases, and other safety devices shall be inspected and tested frequently to insure that all are operative and maintained in good repair.

(D) An audible alarm shall be sounded prior to starting up any section of a pulp or paper machine. Sufficient time shall be allowed between activation of the alarm system and start-up of the equipment to allow any persons to clear the hazardous area.

(E) In starting up a dryer section, dryers shall be preheated and steam for heating the drums shall be introduced slowly, while the drums are revolving.

(F) Employees shall not attempt to remove a broken carrier rope from a dryer while the section is running at operating speed.

(G) Employees shall not feed a stack with any hand-held device which is capable of going through the nip.

(H) Employees shall stop dryer to remove a wrap except in cases where it can be safely removed by using air or other safe means.

(I) Special protective gloves shall be provided and shall be worn by employees when filing or handling sharp-edged doctor blades.

(J) Employees shall not place their hands between the sharp edge of an unloaded doctor blade and the roll while cleaning the doctor blade.

(K) The crane operator shall ascertain that reels are properly seated at winder stand or at reel arms before he or she disengages the hooks.

(L) Shaftless winders shall be provided with a barrier guard of sufficient strength and size to confine the rolls in the event they become dislodged while running.

(M) Employees shall keep clear of hazardous areas around the lowerator, especially all lowerator openings in a floor and where roll is being discharged.

(N) If a powered roll ejector is used it should be interlocked to prevent accidental actuation until the receiving platform or roll lowering table is in position to receive the roll.

(O) Provision shall be made to hold the rider roll when in a raised position unless counter-balancing eliminates the hazard.

(b) Drives.

(A) All drives, pulleys, couplings, and shafts on equipment requiring service while operating shall have standard guards in accordance with section (3)(a) of this rule.

(B) All drives shall be provided with lockout devices at the power switch which interrupts the flow of current to the unit.

(C) All ends of rotating shafts including dryer drum shafts shall be completely guarded.

(D) All accessible disengaged doctor blades should be covered.

(E) All exposed shafts shall be guarded. Crossovers shall be provided.

(F) Oil cups and grease fittings shall be placed in a safe area remote from nip and heat hazards.

(c) Protective equipment. Face shields, aprons and rubber gloves shall be provided for workers handling acids in accordance with sections (3)(c) and (5)(a) of this rule.

(d) Walkways. Steps and footwalks along the fourdrinier and press section shall have nonslip surfacing and be complete with standard handrails, when practical, in accordance with §1910.23, in Subdivision D, Walking-Working Surfaces.

(e) Steps. Steps of uniform rise and tread with nonslip surfaces shall be provided at each press in accordance with Subdivision D, Walking-Working Surfaces.

(f) Plank walkways. A removable plank shall be provided along each press, with standard guardrails installed. The planks shall have nonslip surfaces in accordance with Subdivision D, Walking-Working Surfaces.

(g) Dryer lubrication. If a gear bearing must be oiled while the machine is in operation, an automatic oiling device to protect the oiler shall be provided, or oil cups and grease fittings shall be placed along the walkways out of reach of hot pipes and dryer gears.

(h) Levers. All levers carrying weights shall be constructed so that weights will not slip or fall off.

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(i) First dryer. Either a permanent guardrail or apron guard or both shall be installed in front of the first dryer in each section in accordance with Subdivision O, Machinery and Machine Guarding.

(j) Steam and hot-water pipes. All exposed steam and hot-water pipes within 7 feet of the floor or working platform or within 15 inches measured horizontally from stairways, ramps, or fixed ladders shall be covered with an insulating material, or guarded in such manner as to prevent contact.

(k) Dryer gears. Dryer gears shall be guarded except where the oilers' walkway is removed out of reach of the gears' nips and spokes and hot pipes in accordance with Subdivision O, Machinery and Machine Guarding.

(l) Broke hole.

(A) A guardrail shall be provided at broke holes in accordance with Subdivision D, Walking-Working Surfaces.

(B) Where pulpers are located directly below the broke hole on a paper machine and where the broke hole opening is large enough to permit a worker to fall through, any employee pushing broke down the hole shall wear a safety belt and lanyard. The lanyard shall be fastened in such a manner that it is impossible for the person to fall into the pulper.

(C) An alarm bell or a flashing light shall be actuated before dropping material through the broke hole.

(m) Feeder belt. A feeder belt or other effective device shall be provided for starting paper through the calender stack.

(n) Steps. Steps or ladders of uniform rise and tread with nonslip surfaces shall be provided at each calender stack. Handrails and hand grips shall be provided at each calender stack in accordance with Subdivision D, Walking-Working Surfaces.

(o) Grounding. All calender stacks and spreader bars shall be grounded in accordance with Subdivision S, Electrical, as protection against shock induced by static electricity.

(p) Sole plates. All exposed sole plates between dryers, calenders, reels, and rewinders shall have a nonskid surface.

(q) Nip points. The hazard of the nip points on all calender rolls shall be eliminated or minimized by means of an effective barrier device, or by feeding the paper into the rolls by means of a rope carrier, air jets, or hand feeding devices.

(r) Scrapers. Alloy steel scrapers with pullthrough blades approximately 3 by 5 inches in size shall be used to remove "scabs" from calender rolls.

(s) Illumination. Permanent lighting shall be installed in all areas where employees are required to make machine adjustments and sheet transfers in accordance with American National Standard ANSI/IES RP-1990.

(t) Control panels. All control panel handles and buttons shall be protected from accidental contact.

(u) Lifting reels.

(A) The reels shall stop rotating before being lifted from bearings.

(B) All lifting equipment (clamps, cables, and slings) shall be maintained in a safe condition and inspected regularly.

(C) Reel shafts with square block ends shall be guarded.

(v) Feeder belts. Feeder belts, carrier ropes, air carriage, or other equally effective means shall be provided for starting paper into the nip or drum-type reels.

(w) In-running nip.

(A) Where the nipping points of all drum winders and rewinders is on the operator's side, it shall be guarded by barrier guards interlocked with the drive mechanism.

(B) A zero speed switch or locking device shall be installed to prevent the guard from being raised, lowered, or removed while the roll is turning.

(x) Core collars. Set screws for securing core collars to winding and unwinding shafts shall not protrude above the face of the collar. All edges of the collar with which an operator's hand comes in contact shall be beveled to remove all sharp corners.

(y) Slitter knives. Slitter knives shall be guarded so as to prevent accidental contact. Carriers shall be provided and used for transportation of slitter knives.

(z) Winder shaft. The winder shall have a guide rail to align the shaft for easy entrance into the opened rewind shaft bearing housings.

(aa) Handling rolls, winders and core shafts. Mechanical handling equipment shall be provided for handling rolls, winder shafts, and core shafts that are too heavy for safe manual handling based on the NIOSH Work Practice Guide for Manual Lifting – 1981.

(bb) Winder area. A nonskid surface shall be provided in front of the winder to prevent accidental slipping.

(cc) Radiation. Special standards regarding the use of radiation equipment shall be posted and followed as required by §1910.1096, Ionizing Radiation, in Subdivision Z.

(13) Finishing Room.

(a) Cleaning rolls. Rolls shall be cleaned only on the outrunning side.

(b) Emergency stops. Electrically or manually operated quick power disconnecting devices, interlocked with braking action, shall be provided on all operating sides of the machine within easy reach of all employees. These devices shall be tested by making use of them when stopping the machine.

(c) Core collars. The requirements of section (12)(x) of this rule, and the requirements in Subdivision O, Machinery and Machine Guarding, shall apply.

(d) Elevators. These shall be in accordance with American National Standard ANSI/ASME A17.1-1990.

(e) Control panels. The requirements of section (12)(t) of this rule shall apply.

(f) Guillotine-type cutters.

(A) Each guillotine-type cutter shall be equipped with a control which requires the operator and helper, if any, to use both hands to engage the clutch when operated from within reach of blade.

(B) Each guillotine-type cutter shall be equipped with a nonrepeat device.

(C) Carriers shall be provided and used for transportation of guillotine-type cutter knives.

(g) Rotary cutter.

(A) On single-knife machines a guard shall be provided at a point of contact to the knife.

(B) On duplex cutters the protection required for single-knife machines shall be provided for the first knife, and a hood shall be provided for the second knife.

(C) Safe access shall be provided to the knives of a rotary cutter by means of catwalks with nonslip surfaces, railings, and toeboards in accordance with Subdivision D, Walking-Working Surfaces.

(D) A guard shall be provided for the spreader or squeeze roll at the nip side on sheet cutters.

(E) Electrically or manually operated quick power disconnecting devices with adequate braking action shall be provided on all operating sides of the machine within easy reach of all operators.

(F) The outside slitters shall be guarded.

(h) Platers.

(A) A guard shall be arranged across the face of the rolls to serve as a warning that the operator's hand is approaching the danger zone.

(B) A quick power disconnecting device shall be installed on each machine within easy reach of the operator.

(i) Finishing room rewinders.

(A) The nipping points of all drum winders and rewinders located on the operator's side shall be guarded by either automatic or manually operated barrier guards of sufficient height to protect fully anyone working around them. The barrier guard shall be interlocked with the drive mechanism to prevent operating above jog speed without the guard in place. A zero speed switch should be installed to prevent the guard from being raised while the roll is turning.

(B) A nonskid surface shall be provided in front of the rewriter to prevent an employee from slipping in accordance with section (3)(d) of this rule.

(C) Mechanical lifting devices shall be provided for placing and removing rolls from the machine.

(j) Control panels. The requirements of section (12)(t) of this rule shall apply.

(k) Roll-type embosser. The nipping point located on the operator's side shall be guarded by either automatic or manually operated barrier guards interlocked with the drive.

(l) Converting machines.

(A) When using a crane or hoist to place rolls into a backstand and the operator cannot see both ends of the backstand, appropriate means will be implemented to eliminate hazards involved. The operator shall ascertain that rolls are properly seated at winder stand or at roll arms before he or she disengages the hooks.

(B) All power closing sections shall be equipped with an audible warning system which will be activated when closing the sections.

(C) Slitters, slotters, and scorers not in use shall be properly stored so as not to create a hazard.

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(D) Mechanical handling equipment shall be provided for handling rolls or devices that are too heavy for safe manual handling based on the NIOSH Work Practice Guide for Manual Lifting – 1981.

(E) Sheer and pinch points. Sheer and pinch points at the feed mechanism shall be color-coded orange and/or identified by signs in accordance with Subdivision J, General Environmental Controls.

(m) Sorting and counting tables.

(A) Tables shall be smooth and free from splinters, with edges and corners rounded.

(B) Paddles shall be smooth and free from splinters.

(n) Roll splitters. The nip point and cutter knife shall be guarded by either automatic or manually operated barrier guards.

(o) Corrugators.

(A) Rails of rail-mounted devices such as roll stands shall be flush with the adjacent floor, and so installed to provide a minimum of 18 inch clearance between the equipment and walls or other fixed objects.

(B) All corrugating and pressure rolls shall be equipped with appropriately designed and installed threading guides so as to prevent contact with the infeed nip of the various rolls by the operator.

(C) Lower elevating conveyor belt rolls on the single facer bridge shall have a minimum nip clearance of 4 inches.

(D) Web shears at the discharge end of the double facer shall be equipped with barrier-type guards.

(E) Slitter stations not in use shall be disconnected from the power source by positive means.

(F) The adhesive system shall be so designed and installed as to keep fumes and airborne dust within limits in accordance with OAR 437-002-0382, Oregon Rules for Air Contaminants, in Subdivision Z.

(14) Materials Handling.

(a) Hand trucks. No person shall be permitted to ride on a powered hand truck unless it is so designed by the manufacturer. A limit switch shall be on operating handle – 30° each way from a 45° angle up and down.

(b) Power trucks. Power trucks shall comply with Subdivision N, Material Handling and Storage. Adequate ventilation shall be provided and the trucks properly maintained, so that dangerous concentrations of carbon monoxide cannot be generated, especially in warehouses or other isolated areas of a plant.

(c) Carton-stitching machine. The carton-stitching machine shall be guarded to prevent the operator from coming in contact with the stitching head.

(d) Banding of skids, cartons, cases, etc. Banders and helpers shall wear eye protection equipment in accordance with section (3)(c) of this rule.

(e) Unloading cars or trucks.

(A) Loading and unloading materials. Platforms with ladders or stairways shall be installed or alternative methods made available when needed so that workers may safely gain access to and perform work on the top of rail cars or trucks when ladders are not installed on such equipment.

(B) Where steel bands or wires are used in boxcars or trucks, all loaders and helpers shall wear eye protection in accordance with Subdivision I, Personal Protective Equipment.

(C) The construction and use of bridge or dock plates shall conform to the requirements of American National Standard B56.1-1988.

(D) Flag signals, derails, or other protective devices shall be used to protect workers during switching operations. The blue flag policy shall be invoked according to section (4)(j) of this rule.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 7-1994, f. & cert. ef. 11-4-94; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-2001, f. & cert. ef. 2-5-01; OSHA 1-2012, f. & cert. ef. 4-10-12

437-002-0340

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.401 Scope and application, published 2/17/04, FR vol. 69, p. 7351.

(2) 29 CFR 1910.402 Definitions, published 2/17/04, FR vol. 69, p. 7351.

(3) 29 CFR 1910.410 Qualification of dive team, published 7/22/77, Federal Register, vol. 42, p. 37668.

(4) 29 CFR 1910.420 Safe practices manual, published 4/30/84, FR vol. 49, p. 18295.

(5) 29 CFR 1910.421 Pre-dive procedures, published 6/7/89, FR vol. 54, p. 24334.

(6) 29 CFR 1910.422 Procedures during dive, published 7/22/77, Federal Register, vol. 42, p. 37668.

(7) 29 CFR 1910.423 Post-dive procedures, published 4/30/84, FR vol. 49, p. 18295.

(8) 29 CFR 1910.424 SCUBA diving, published 7/22/77, Federal Register, vol. 42, p. 37668.

(9) 29 CFR 1910.425 Surface-supplied air diving, published 7/22/77, Federal Register, vol. 42, p. 37668.

(10) 29 CFR 1910.426 Mixed-gas diving, published 7/22/77, Federal Register, vol. 42, p. 37668.

(11) 29 CFR 1910.427 Liveboating, published 7/22/77, Federal Register, vol. 42, p. 37668.

(12) 29 CFR 1910.430 Equipment, published 9/18/88, FR, vol. 51, p. 33033.

(13) 29 CFR 1910.440 Recordkeeping requirements, published 12/27/11, FR vol. 76, no. 248, p. 80735.

(14) 29 CFR 1910.441 Effective date, published 4/3/06, FR vol. 71, no. 63, p. 16669.

(15) 29 CFR 1910, Appendix A to Subdivision T, Examples of conditions which may restrict or limit exposures to hyperbaric conditions, published 7/22/77, Federal Register, vol. 42, p. 37668.

(16) 29 CFR 1910, Appendix B to Subdivision T, Guidelines for scientific diving, published 1/9/85, Federal Register, vol. 50, p. 1050.

(17) 29 CFR 1910, Appendix C to Subdivision T, Alternative Conditions under §1910.401(a)(3) for Recreational Diving Instructors and Diving Guides (Mandatory), published 2/17/04, Federal Register, vol. 69, p. 7351.

NOTE: These standards are on file at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 5-1993, f. 5-3-93, cert. ef. 6-1-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 2-2004, f. & cert. ef. 5-20-04; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 1-2012, f. & cert. ef. 4-10-12

437-002-0360

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) (Reserved) 29 CFR 1910.1000 Air contaminants.

NOTE: 29 CFR 1910.1000 was repealed on 11/15/93 by OR OSHA. In Oregon, OAR 437-002-0382 applies.

(2) 29 CFR 1910.1001 Asbestos, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(3) 29 CFR 1910.1002 Coal tar pitch volatiles, interpretation of term, published 1/21/83, Federal Register, vol. 43, p. 2768.

(4) 29 CFR 1910.1003 13 Carcinogens, published 12/27/11, FR vol. 76, no. 248, p. 80735.

(5) 29 CFR 1910.1004 See §1910.1003, 13 Carcinogens.

(6) Reserved for 29 CFR 1910.1005.

(7) 29 CFR 1910.1006 See §1910.1003, 13 Carcinogens.

(8) 29 CFR 1910.1007 See §1910.1003, 13 Carcinogens.

(9) 29 CFR 1910.1008 See §1910.1003, 13 Carcinogens.

(10) 29 CFR 1910.1009 See §1910.1003, 13 Carcinogens.

(11) 29 CFR 1910.1010 See §1910.1003, 13 Carcinogens.

(12) 29 CFR 1910.1011 See §1910.1003, 13 Carcinogens.

(13) 29 CFR 1910.1012 See §1910.1003, 13 Carcinogens.

(14) 29 CFR 1910.1013 See §1910.1003, 13 Carcinogens.

(15) 29 CFR 1910.1014 See §1910.1003, 13 Carcinogens.

(16) 29 CFR 1910.1015 See §1910.1003, 13 Carcinogens.

(17) 29 CFR 1910.1016 See §1910.1003, 13 Carcinogens.

(18) 29 CFR 1910.1017 Vinyl chloride, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12.

(19) 29 CFR 1910.1018 Inorganic arsenic, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(20) 29 CFR 1910.1020 Access to Employee Exposure and Medical Records, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

Appendix A Sample Authorization Letter.

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Appendix B Availability of NIOSH RTECS.

(21) 29 CFR 1910.1025 Lead, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; 12/27/11, FR vol. 76, no. 248, p. 80735; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(22) 29 CFR 1910.1026 Chromium (VI), published 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.

(23) 29 CFR 1910.1027 Cadmium, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(24) 29 CFR 1910.1028 Benzene, and Appendices A, B, C, D, and E, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(25) 29 CFR 1910.1029 Coke oven emissions, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(26) 29 CFR 1910.1030 Bloodborne pathogens, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

(27) 29 CFR 1910.1043 Cotton dust, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12.

(28) 29 CFR 1910.1044 1,2 dibromo-3 chloropropane, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(29) 29 CFR 1910.1045 Acrylonitrile, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(30) 29 CFR 1910.1047 Ethylene oxide, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(31) 29 CFR 1910.1048 Formaldehyde, and Appendices A, B, C, D and E, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589; amended with AO 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(32) 29 CFR 1910.1050 Methylene dianiline (MDA), published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(33) 29 CFR 1910.1051 1,3-Butadiene, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(34) 29 CFR 1910.1052 Methylene Chloride, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589; amended with AO 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

NOTE: 29 CFR 1910.1101 Asbestos, was repealed by Federal Register, vol. 57, no. 110, issued 6/8/92, p. 24330.

(35) 29 CFR 1910.1096 Ionizing radiation, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(36) 29 CFR 1910.1200 Hazard communication, published 3/7/96, FR vol. 61, no. 46, p. 9245.

(37) 29 CFR 1910.1201 Retention of DOT Markings, Placards and Labels, published 7/19/94, Federal Register, vol. 59, p. 36700.

(38) 29 CFR 1910.1450 Occupational Exposure to Hazardous Chemicals in Laboratories, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

(39) 29 CFR 1910.1499 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9245.

(40) 29 CFR 1910.1500 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9245.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 13-1988, f. 8-2-88 & ef. 8-2-88; APD 14-1988, f. & ef. 9-12-88; APD 18-1988, f. & ef. 11-17-88; APD 4-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 6-1989(Temp), f. 4-20-89, ef. 5-1-89; APD 9-1989, f. & ef. 7-7-89; APD 11-1989, f. 7-14-89, ef. 8-14-89; APD 13-1989, f. & ef. 7-17-89; OSHA 1-1990(Temp), f. & ef. 1-11-90; OSHA 3-1990(Temp), f. & ef. 1-19-90; OSHA 6-1990, f. & ef. 3-2-90; OSHA 7-1990, f. & ef. 3-2-90; OSHA 9-1990, f. 5-8-90, ef. 8-8-90; OSHA 11-1990, f. 6-7-90, ef. 7-1-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 14-1990, f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & ef. 8-31-90; OSHA 20-1990, f. & ef. 9-18-90; OSHA 21-1990, f. & ef. 9-18-90; OSHA 7-1991, f. & cert. ef. 4-25-91;

OSHA 13-1991, f. & cert. ef. 10-10-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 1-1992, f. & cert. ef. 1-22-92; OSHA 4-1992, f. & cert. ef. 4-16-92; OSHA 5-1992, f. 4-24-92, cert. ef. 7-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 9-1992(Temp), f. & cert. ef. 9-24-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 12-1992, f. & cert. ef. 10-13-92; OSHA 14-1992, f. & cert. ef. 12-7-92; OSHA 15-1992, f. & cert. ef. 12-30-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 6-1993(Temp), f. & cert. ef. 5-17-93; OSHA 12-1993, f. 8-20-93, cert. ef. 11-1-93; OSHA 17-1993, f. & cert. ef. 11-15-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 4-1996, f. & cert. ef. 9-13-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 8-1997, f. & cert. ef. 11-14-97; OSHA 1-1998, f. & cert. ef. 2-13-98; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 1-1999, f. & cert. ef. 3-22-99; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-2001, f. & cert. ef. 5-15-01; OSHA 10-2001, f. 9-14-01, cert. ef. 10-18-01; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2011, f. 12-8-11, cert. ef. 7-1-12; OSHA 1-2012, f. & cert. ef. 4-10-12

437-002-0373

Oregon Rules for Thiram

(1) Scope and Application.

(a) These rules include requirements for the control of worker exposure to thiram (Tetramethyl- thiuram disulfide).

(b) These rules apply where worker exposure to thiram may occur during manufacture, storage, packaging, tree application, treated seedling handling, or use of thiram or thiram treated seedlings.

(c) These rules apply to the transportation of thiram or thiram treated trees except to the extent that the U. S. Department of Transportation may regulate the hazards covered by these rules.

(2) Definitions. The following definitions shall apply in the application of the thiram rules:

(a) Clean – The absence of dirt or materials which may be harmful to a worker's health.

(b) Large Seedlings – Those seedlings of such size, either by length or breath, that during normal planting operations it is difficult to avoid contact of the thiram treated plant with the mouth or face.

(3) General Requirements. The following rules shall be applicable to thiram:

(A) Permissible Exposure Limits.

(A) No employee may be exposed to thiram at atmospheric concentrations greater than 0.15 mg/m³ over any 8-hour period; and

(B) No employee may be exposed to thiram at atmospheric concentrations greater than 0.30 mg/m³ averaged over any period not exceeding 15 minutes.

(C) Workers shall not be allowed to work more than five days in any seven day period with or around thiram or thiram treated seedlings.

(D) OAR 437-002-0373(3)(a)(C) above is not applicable if a specific thiram control program in addition to these rules and approved by the Administrator has been implemented.

(b) Washing and Worker Hygiene.

(A) Workers shall wash their hands prior to eating or smoking and at the close of work.

(B) Warm (at least 85°F, 29.4°C) wash water and single use hand wiping materials shall be provided for washing.

(C) The warm water and hand wiping materials shall be at fixed work locations or at the planting unit.

(D) Where warm water is not available within 15 minutes travel time, non-alcoholic based waterless hand cleaner shall also be provided.

(E) Every planter or nursery worker shall be advised to bathe or shower daily.

(F) The inside of crummies or other worker carrying vehicles shall be washed or vacuumed and wiped down at least weekly during the period of thiram use.

(c) Personal Protective Measures.

(A) Clothing shall be worn by workers to reduce skin contact with thiram to the legs, arms and torso.

(B) For those workers who have thiram skin irritations, exposed areas of the body shall be protected by a suitable barrier cream.

(C) Only impervious gloves may be worn by workers.

(D) Workers' hands should be clean of thiram before placing them into gloves.

(E) Nursery applicators shall be provided with and use NIOSH approved respirators according to OAR 437, Division 2/I, 1910.134, Respiratory Protection, disposable coveralls or rubber slickers or other impervious clothing, rubberized boots, head covers and rubberized gloves.

(F) Reserved.

(G) Nursery workers other than applicators who may be exposed to thiram shall be provided with and use disposable coveralls or rubber slickers or other impervious clothing, impervious footwear and gloves, and head

ADMINISTRATIVE RULES

covers unless showers in accordance with OAR 437, Division 2/J, 1910.141, Sanitation, have been provided and are used.

(H) Eye protection according to OAR 437, Division 2/I, 437-002-0134(8), shall be provided and worn by workers who may be exposed to splashes of thiram such as during spraying, plug bundling, belt line grading and plugging or other operations.

(d) Respiratory Protection.

(A) Only certified respiratory protection which is applicable and approved by NIOSH shall be provided to workers.

(B) All respirators shall be used and maintained in accordance with OAR 437, Division 2/I, 1010.134, Respiratory Protection.

(C) Respirators shall be worn when planting large seedlings to avoid mouth and face contact with the thiram treated plant unless equally effective measures or planting practices have been taken.

(e) Food Handling.

(A) Food, snacks, beverages, smoking materials, or any other item which is consumed shall not be stored or consumed in the packing area of the nursery.

(B) Crummies or other worker carrying vehicles shall have a clean area for carrying lunches.

(C) The clean area of the vehicle shall be elevated from the floor and not used to carry other than food or other consumable items.

(D) The carrying of lunches, food or other consumable items in tree planting bags is prohibited.

(E) Care shall be taken to ensure that worker exposure to thiram spray, including downwind driftings, is minimized or eliminated.

(F) Workers shall stand upwind when bags that contained thiram or thiram treated seedlings are burned.

(f) Thiram Use and Handling.

(A) Nurseries shall develop a quality control program approved by the Administrator to ensure that only the minimum amount of thiram necessary to achieve the desired anti-browsing results is applied to the tree seedlings.

(B) Thiram treated seedlings shall be allowed to set between the time of spraying and packing.

(C) Seedlings shall be kept moist during packing and whenever possible during planting operations.

(D) Floors where thiram is used shall not be dry swept but instead vacuumed, washed or otherwise cleaned at least daily.

(E) Silica chips used to cover seedling plugs shall be removed at the nursery.

(g) Labeling.

(A) In the event the Oregon Department of Agriculture, or the U.S. Environmental Protection Agency (EPA), has promulgated and maintained administrative rules relative to the labeling of thiram treated seedlings, such rules shall apply.

(B) In the event the Oregon State Department of Agriculture, or EPA, has not promulgated or maintained thiram labeling rules, there shall be attached to each container, bundle or wrapping of thiram treated seedlings, a clearly legible and visible tag or label, of waterproof material and printing, on which there is stated in English and Spanish the following:

CAUTION

These seedlings have been treated with an animal repellent containing **Thiram** (tetramethyl thiuram disulfide) which may flake off the seedlings during handling. Consumption of alcoholic beverages or use of alcohol-base creams or lotions during a time span from 12 hours before to 7 days after exposure to **Thiram** may result in nausea, headache, vomiting, fatigue, or flushness. Exposure to **Thiram** may also cause irritation of the eyes, nose, throat, or skin.

Thiram may interfere with or render ineffective medications taken by epileptics or heart patients with blood-clotting difficulties. Animal studies at very high concentrations (more than 250 mg-kg) indicate that Thiram may cause birth defects.

SAFETY PRECAUTIONS

1. Keep treated seedlings moist at all times.
2. Clothing shall be worn by workers to reduce skin contact with Thiram to the legs, arms and torso.
3. A fiber or cloth face mask (respirator) may be worn at the planter's discretion, except that when plating large seedlings, respirators shall be required to avoid mouth and face contact with thiram treated plants, unless equally effective measures have been taken.
4. Wash exposed skin areas thoroughly after handling treated seedlings and before smoking, drinking, eating or going to the bathroom.
5. If Thiram flakes come in contact with eyes, immediately flush eyes freely with water.
6. Bathe daily and change work clothes at least every other day.

PRECAUCION

Estas plantas han sido tratadas con un repelente contra animales que tiene la substancia **Thiram** (tetramethyl thiuram disulfide) que puede desaparecer en manoseo. La consuncion de bebidas alcoholicas o el uso de cremas o lociones con base de alcohol dentro de 12 horas antes de ser expuesto o hasta 7 dias despues de ser expuesto a **Thiram** puede resultar en sintomas de nausea, dolor de cabeza, vomito, faiga o rubor. Contacto con **Thiram** puede causar irritacion de los ojos, nariz, garganta o piel.

Thiram puede interferir o desv alidar en completa las medicinas de los epilepticos o personas con condiciones de la corazon con dificultades de coagulacion de la sangre. Estudios con animals en concentraciones muy altas (mnas que 250 mg-kg) indican que **Thiram** puede causar desformaciones fetales. Sin que cuando se sembra plantas de semillas grandes macaras estaran requerido a evitar contacto con la boca y la cara con plantas tratado con Thiram excepto cuando otros metodos igualmente efecaz estarah usados.

MEDIAS DE PRECAUTION

1. Guardar mojados las platas siempre.
2. El trabajador necesita usar ropa para reducir el contacto de Thiram con law piernas, brazos, y el torso.
3. Una mascara de fibre o garra (mascara) se puede usar a la discrecion del plantador.
4. Lavese bien los parten expuestos cuando trate los semillos antes de fumar, tomar, comer e ir al bano.
5. Se acaso el Thiram cae en sus ojos, inmediatamente labese los ojos libremente con agua.
6. Banese todos los dias y cambiese de ropa de trabajo por lo menos cada otro dia.

(C) Other containers or thiram handling areas shall be signed and labeled in accordance with OAR 437, Division 2/J, General Environmental Controls, 1910.144 and 1910.145.

(h) Training.

(A) Each worker engaged in operations where exposure to thiram may occur shall be provided training relating to the hazards of thiram and precautions for its safe use and handling.

(B) The training shall be approved by the Administrator.

(C) The training shall include instruction in:

(i) The nature of the health hazard(s) from chronic exposure to thiram including specifically the potential for birth defects, alcohol intolerance, and drug interaction.

(ii) The specific nature of operations which could result in exposure to thiram and the necessary protective steps;

(iii) The purpose for, proper use, and limitations of protective devices including respirators and clothing;

(iv) The acute toxicity and skin irritation effects of thiram, and the necessary protective steps;

(v) The necessity for and requirements of excellent personal hygiene;

(vi) A review of the thiram rules at the worker's first training and indoctrination, and annually thereafter.

(D) A copy of these thiram rules shall be provided to each worker who may be exposed to thiram.

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

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCB 13-1977(Temp), f. & ef. 11-7-77; WCD 2-1978, f. & ef. 3-6-78; OSHA 12-1993, f. 8-20-93, cert. ef. 11-1-93; OSHA 1-2012, f. & cert. ef. 4-10-12

437-003-0001

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, in the Federal Register:

(1) Subdivision A – GENERAL

(a) 29 CFR 1926.1 Purpose and Scope, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.2 Variances from safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.3 Inspections – right of entry, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.6 Incorporation by reference, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(2) Subdivision B – GENERAL INTERPRETATIONS

(a) 29 CFR 1926.10 Scope of subpart, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 4/6/79, FR vol. 44, p. 20940.

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- (g) 29 CFR 1926.16 Rules of construction, published 4/6/79, FR vol. 44, p. 20940.
- (3) Subdivision C – GENERAL SAFETY AND HEALTH PROVISIONS
- (a) 29 CFR 1926.20 General safety and health provisions, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (b) 29 CFR 1926.21 Safety training and education, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved)
- (d) 29 CFR 1926.23 First aid and medical attention, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.24 Fire protection and prevention, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.25 Housekeeping, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.26 Illumination, published 4/6/79, FR vol. 44, p. 20940.
- (h) 29 CFR 1926.27 Sanitation, published 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.28 Personal protective equipment, published 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.29 Acceptable certifications, published 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 3/7/96, FR vol. 61, no. 46, p. 9249.
- (l) 29 CFR 1926.31 (Reserved).
- (m) 29 CFR 1926.32 Definitions, published 6/30/93, FR vol. 58, no. 124, p. 35078.
- (n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.
- (o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.
- (4) Subdivision D – OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS
- (a) 29 CFR 1926.50 Medical services and first aid, published 12/27/11, FR vol. 76, no. 248, p. 80735.
- (b) 29 CFR 1926.51 Sanitation, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (c) 29 CFR 1926.52 Occupational noise exposure, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.53 Ionizing radiation, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.54 Nonionizing radiation, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 1/10/97, FR vol. 62, no. 7, p. 1619.
- (g) 29 CFR 1926.56 Illumination, published 4/6/79, FR vol. 44, p. 20940.
- (h) 29 CFR 1926.57 Ventilation, published 1/8/98, FR vol. 63, no. 5, p. 1295.
- (i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).
- (j) 29 CFR 1926.59 Hazard Communication, published 6/20/96, FR vol. 61, p. 31427.
- (k) 29 CFR 1926.60 Methylenedianiline (MDA), published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.
- (l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 6/20/96, FR vol. 61, p. 31427.
- (m) 29 CFR 1926.62 Lead, published 6/8/11, Federal Register, no. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; 12/27/11, FR vol. 76, no. 248, p. 80735; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.
- NOTE:** Cadmium has been redesignated as §1926.1127.
- (n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response
- NOTE:** Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.
- (5) Subdivision E – PERSONAL PROTECTIVE AND LIFE SAVING EQUIPMENT
- (a) 29 CFR 1926.95 Criteria for personal protective equipment, published 11/15/07, FR vol. 72, no. 220, p. 64342.
- (b) 29 CFR 1926.100 Head protection, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.101 Hearing protection, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.102 Eye and face protection, published 6/30/93, FR vol. 58, no. 124, p. 35160.
- (e) 29 CFR 1926.103 Respiratory protection, published 1/8/98, FR vol. 63, no. 5, p. 1297.
- NOTE:** 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.
- (f) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.
- (g) 29 CFR 1926.106 Working over or near water, published 4/6/79, FR vol. 44, p. 20940.
- (h) 29 CFR 1926.107 Definitions applicable to this subpart, published 8/9/94, FR vol. 59, no. 152, p. 40729.
- (6) Subdivision F – FIRE PROTECTION AND PREVENTION
- (a) 29 CFR 1926.150 Fire protection, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.151 Fire prevention, published 7/11/86, FR vol. 51, p. 25318.
- (c) 29 CFR 1926.152 Flammable and combustible liquids, published 6/30/93, FR vol. 58, no. 124, p. 35162.
- (d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 6/30/93, FR vol. 58, no. 124, p. 35170.
- (e) 29 CFR 1926.154 Temporary heating devices, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.155 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (7) Subdivision G – SIGNS, SIGNALS, AND BARRICADES
- (a) 29 CFR 1926.200 Accident prevention signs and tags, published 6/30/93, FR vol. 58, no. 124, p. 35173; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (b) 29 CFR 1926.201 Signaling, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (c) 29 CFR 1926.202 Barricades, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (d) 29 CFR 1926.203 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.
- (8) Subdivision H – MATERIALS HANDLING, STORAGE, USE AND DISPOSAL
- (a) 29 CFR 1926.250 General requirements for storage, published 6/30/93, FR vol. 58, no. 124, p. 35173.
- (b) 29 CFR 1926.251 Rigging equipment for material handling, published 6/8/11, Federal Register, vol. 74, no. 110, p. 33590.
- (c) 29 CFR 1926.252 Disposal of waste materials, published 4/6/79, FR vol. 44, p. 20940.
- (9) Subdivision I – TOOLS – HAND AND POWER
- (a) 29 CFR 1926.300 General requirements, published 3/7/96, FR vol. 61, no. 46, p. 9250.
- (b) 29 CFR 1926.301 Hand tools, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.302 Power operated hand tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.
- (d) 29 CFR 1926.303 Abrasive wheels and tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.
- (e) 29 CFR 1926.304 Woodworking tools, published 3/7/96, FR vol. 61, no. 46, p. 9251.
- (f) 29 CFR 1926.305 Jacks – lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.
- (10) Subdivision J – WELDING AND CUTTING
- (a) 29 CFR 1926.350 Gas welding and cutting, published 6/30/93, FR vol. 58, no. 124, p. 35179.
- (b) 29 CFR 1926.351 Arc welding and cutting, published 7/11/86, FR vol. 51, p. 25318.
- (c) 29 CFR 1926.352 Fire prevention, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 6/30/93, FR vol. 58, no. 124, p. 35179.
- (e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 4/6/79, FR vol. 44, p. 20940.
- (11) Subdivision K – ELECTRICAL
- (a) 29 CFR 1926.400 Introduction, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (b) 29 CFR 1926.401 (Reserved)
- (c) 29 CFR 1926.402 Applicability, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

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- (d) 29 CFR 1926.403 General requirements, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (e) 29 CFR 1926.404 Wiring design and protection, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.
- (f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (g) 29 CFR 1926.406 Specific purpose equipment and installations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (h) 29 CFR 1926.407 Hazardous (classified) locations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (i) 29 CFR 1926.408 Special systems, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (j) 29 CFR 1926.409 (Reserved)
- (k) 29 CFR 1926.415 (Reserved)
- (l) 29 CFR 1926.416 General requirements, published 8/12/96, FR vol. 61, no. 156, p. 41738.
- (m) 29 CFR 1926.417 Lockout and tagging of circuits, published 8/12/96, FR vol. 61, no. 156, p. 41739.
- (n) 29 CFR 1926.418 (Reserved)
- (o) 29 CFR 1926.430 (Reserved)
- (p) 29 CFR 1926.431 Maintenance of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (q) 29 CFR 1926.432 Environmental deterioration of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (r) 29 CFR 1926.433 - 29 CFR 1926.440 (Reserved)
- (s) 29 CFR 1926.441 Battery locations and battery charging, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (t) 29 CFR 1926.442 - 29 CFR 1926.448 (Reserved)
- (u) 29 CFR 1926.449 Definitions applicable to this subpart, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.
- (12) Subdivision L – SCAFFOLDING
- (a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.451 General requirements, published 11/25/96, FR vol. 61, no. 228, p. 59831.
- (c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.
- (d) 29 CFR 1926.453 Aerial lifts, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (f) Appendix A to Subpart L Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.
- (g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.
- (j) Appendix E to Subpart L Drawing and illustrations, published 11/25/96, FR vol. 61, no. 228, p. 59832.
- (13) Subdivision M – FALL PROTECTION
- (a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.501 Duty to have fall protection, published 8/9/94, FR vol. 59, no. 152, p. 40732-40733; amended with AO 6-2002, f. and ef. 7/19/02.
- (c) 29 CFR 1926.502 Fall protection systems criteria and practices, published 8/9/94, FR vol. 59, no. 152, p. 40733-40738; amended with AO 6-2002, f. and ef. 7/19/02.
- (d) 29 CFR 1926.503 Training requirements. REPEALED with AO 6-2002, f. and ef. 7/19/02, replaced with OI.
- (e) Appendix A to Subpart M Determining Roof Widths, published 8/9/94, FR vol. 59, no. 152, p. 40738-40742.
- (f) Appendix B to Subpart M Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.
- (g) Appendix C to Subpart M Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743-40746.
- (h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.
- (14) Subdivision N – HELICOPTERS, HOISTS, ELEVATORS, AND CONVEYORS
- (a) 29 CFR 1926.550 (Reserved).
- (b) 29 CFR 1926.551 Helicopters, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.553 Base-mounted drum hoist, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.554 Overhead hoists, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.555 Conveyors, published 4/6/79, FR vol. 44, p. 20940.
- (15) Subdivision O – MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS
- (a) 29 CFR 1926.600 Equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.601 Motor vehicles, REPEALED by OR-OSHA Admin. Order 6-2007, f. 9/26/07, ef. 9/26/07.
- (c) 29 CFR 1926.602 Material handling equipment, published 12/1/98, FR vol. 63, no. 230, p. 66274; amended by AO 7-2003, f. 12/5/03, ef. 12/5/03.
- (d) 29 CFR 1926.603 Pile driving equipment, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.604 Site clearing, published 7/22/77, FR vol. 42, p. 37674.
- (f) 29 CFR 1926.605 Marine operations and equipment, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.606 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (16) Subdivision P – EXCAVATIONS
- (a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 10/31/89, FR vol. 54, no. 209, pp. 45959-45961.
- (b) 29 CFR 1926.651 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.652 Requirements for protective systems, published 10/31/89, FR vol. 54, no. 209, pp. 45961-45962.
- (d) Appendices A-F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962-45991.
- (17) Subdivision Q – CONCRETE AND MASONRY CONSTRUCTION
- (a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (b) 29 CFR 1926.701 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.702 Requirements for equipment and tools, published 6/16/88, FR vol. 53, p. 22612.
- (d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.
- (e) 29 CFR 1926.704 Requirements for precast concrete, published 10/5/89, FR vol. 54, no. 192, p. 41088.
- (f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.
- (h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.
- (18) Subdivision R – STEEL ERECTION
- (a) 29 CFR 1926.750 Scope, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (b) 29 CFR 1926.751 Definitions, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (d) 29 CFR 1926.753 Hoisting and rigging, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (e) 29 CFR 1926.754 Structural steel assembly, published 4/3/06, FR vol. 71, no. 63, p. 16669.
- (f) 29 CFR 1926.755 Column anchorage, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (g) 29 CFR 1926.756 Beams and columns, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (h) 29 CFR 1926.757 Open web steel joists, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (i) 29 CFR 1926.758 Systems-engineered metal buildings, published 7/17/01, FR vol. 66, no. 137, p. 37137.

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- (j) 29 CFR 1926.759 Falling object protection, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (k) 29 CFR 1926.760 Fall protection, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (l) 29 CFR 1926.761 Training, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.
- (m) Appendix A to Subpart R Guidelines for establishing the components of a site-specific erection plan: Nonmandatory Guidelines for Complying with §1926.752(e), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (n) Appendix B to Subpart R Reserved.
- (o) Appendix C to Subpart R Illustrations of bridging terminus points: Nonmandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (p) Appendix D to Subpart R Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Nonmandatory Guidelines for Complying with §1926.760(c)(3), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (q) Appendix E to Subpart R Training: Nonmandatory Guidelines for Complying with §1926.761, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (r) Appendix F to Subpart R Perimeter columns: Nonmandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (s) Appendix G to Subpart R Fall protection systems criteria and practices from §1926.502: Nonmandatory Guidelines for Complying with Complying with §1926.760(d), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.
- (t) Appendix H to Subpart R Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 7/17/01, FR vol. 66, no. 137, p. 37137.
- (19) Subdivision S – UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR
- (a) 29 CFR 1926.800 Tunnels and shafts, published 8/9/10, FR vol. 75, no. 152, pp.47906-48177.
- (b) 29 CFR 1926.801 Caissons, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.802 Cofferdams, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.803 Compressed air, published 7/11/86, FR vol. 51, p. 25318.
- (e) 29 CFR 1926.804 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (f) Appendix A to Subpart S Decompression Tables, published 4/6/79, FR vol. 44, p. 20940.
- (20) Subdivision T – DEMOLITION
- (a) 29 CFR 1926.850 Preparatory operations, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.852 Chutes, published 4/6/79, FR vol. 44, p. 20940.
- (d) 29 CFR 1926.853 Removal of materials through floor openings, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.855 Manual removal of floors, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (h) 29 CFR 1926.857 Storage, published 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.858 Removal of steel construction, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (j) 29 CFR 1926.859 Mechanical demolition, published 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.860 Selective demolition by explosives, published 4/6/79, FR vol. 44, p. 20940.
- (21) Subdivision U – BLASTING AND USE OF EXPLOSIVES
- (a) 29 CFR 1926.900 General provisions, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.901 Blaster qualifications, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.902 Surface transportation of explosives, published 6/30/93, FR vol. 58, no. 124, p. 35311.
- (d) 29 CFR 1926.903 Underground transportation of explosives, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35311.
- (f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35184.
- (g) 29 CFR 1926.906 Initiation of explosive charges – electric blasting, published 6/18/98, FR vol. 63, no. 117, p. 33469.
- (h) 29 CFR 1926.907 Use of safety fuse, published 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.908 Use of detonating cord, published 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.909 Firing the blast, published 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.910 Inspection after blasting, published 4/6/79, FR vol. 44, p. 20940.
- (l) 29 CFR 1926.911 Misfires, published 4/6/79, FR vol. 44, p. 20940.
- (m) 29 CFR 1926.912 Underwater blasting, published 4/6/79, FR vol. 44, p. 20940.
- (n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 4/6/79, FR vol. 44, p. 20940.
- (o) 29 CFR 1926.914 Definitions applicable to this subpart, published 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.
- (22) Subdivision V – POWER TRANSMISSION AND DISTRIBUTION
- (a) 29 CFR 1926.950 General requirements, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.951 Tools and protective equipment, published 8/9/94, FR vol. 59, no. 152, p. 40730.
- (c) 29 CFR 1926.952 Mechanical equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (d) 29 CFR 1926.953 Material handling, published 4/6/79, FR vol. 44, p. 20940.
- (e) 29 CFR 1926.954 Grounding for protection of employees, published 4/6/79, FR vol. 44, p. 20940.
- (f) 29 CFR 1926.955 Overhead lines, published 4/6/79, FR vol. 44, p. 20940.
- (g) 29 CFR 1926.956 Underground lines, published 4/6/79, FR vol. 44, p. 20940.
- (h) 29 CFR 1926.957 Construction in energized substations, published 4/6/79, FR vol. 44, p. 20940.
- (i) 29 CFR 1926.958 External load helicopters, published 4/6/79, FR vol. 44, p. 20940.
- (j) 29 CFR 1926.959 Lineman’s body belts, safety straps, and lanyards, published 4/6/79, FR vol. 44, p. 20940.
- (k) 29 CFR 1926.960 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.
- (23) Subdivision W – ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION
- (a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 4/6/79, FR vol. 44, p. 20940.
- (b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 4/6/79, FR vol. 44, p. 20940.
- (c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 7/20/06, FR vol. 71, no. 139, p. 41127..
- (d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/28/06, FR vol. 71, no. 39, p. 9909.
- (24) Subdivision X – STAIRWAYS AND LADDERS
- (a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.
- (b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.
- (c) 29 CFR 1926.1052 Stairways, published 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.
- (d) 29 CFR 1926.1053 Ladders, published 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.
- (e) 29 CFR 1926.1054 (Reserved)
- (f) 29 CFR 1926.1055 (Reserved)
- (g) 29 CFR 1926.1056 (Reserved)
- (h) 29 CFR 1926.1057 (Reserved)
- (i) 29 CFR 1926.1058 (Reserved)
- (j) 29 CFR 1926.1059 (Reserved)

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(k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.

(25) Subdivision Z – TOXIC AND HAZARDOUS SUBSTANCES

(a) 29 CFR 1926.1101 Asbestos, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12.

(b) 29 CFR 1926.1126 Chromium (VI), published; 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.

(c) 29 CFR 1926.1127 Cadmium, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590; amended with OR-OSHA Admin. Order 5-2011, f. 12/8/11, ef. 7/1/12; amended with OR-OSHA Admin. Order 1-2012, f. and ef. 4/10/12.

(d) 29 CFR 1926.1152 Methylene Chloride, published 12/18/97, FR vol. 62, no. 243, p. 66275.

(26) Subdivision AA – (Reserved)

(27) Subdivision BB – (Reserved)

(28) Subdivision CC – Cranes and Derricks in Construction

(a) 29 CFR 1926.1400 Scope, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(b) 29 CFR 1926.1401 Definitions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(c) 29 CFR 1926.1402 Ground conditions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(d) 29 CFR 1926.1403 Assembly/Disassembly – selection of manufacturer or employer procedures, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(e) 29 CFR 1926.1404 Assembly/Disassembly – general requirements (applies to all assembly and disassembly operations), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(f) 29 CFR 1926.1405 Disassembly – additional requirements for dismantling of booms and jibs (applies to both the use of manufacturer procedures and employer procedures), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(g) 29 CFR 1926.1406 Assembly/Disassembly – employer procedures – general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(h) 29 CFR 1926.1407 Power line safety (up to 350 kV) – assembly and disassembly, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(i) 29 CFR 1926.1408 Power line safety (up to 350 kV) – equipment operations, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(j) 29 CFR 1926.1409 Power line safety (over 35 kV), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(k) 29 CFR 1926.1410 Power line safety (all voltages) – equipment operations closer than the Table A zone, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(l) 29 CFR 1926.1411 Power line safety – while traveling, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(m) 29 CFR 1926.1412 Inspections, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(n) 29 CFR 1926.1413 Wire rope – inspection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(o) 29 CFR 1926.1414 Wire rope – selection and installation criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(p) 29 CFR 1926.1415 Safety devices, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(q) 29 CFR 1926.1416 Operational aids, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(r) 29 CFR 1926.1417 Operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(s) 29 CFR 1926.1418 Authority to stop operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(t) 29 CFR 1926.1419 Signals – general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(u) 29 CFR 1926.1420 Signals – radio, telephone or other electronic transmission of signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(v) 29 CFR 1926.1421 Signals – voice signals – additional requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(w) 29 CFR 1926.1422 Signals – hand signal chart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(x) 29 CFR 1926.1423 Fall protection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(y) 29 CFR 1926.1424 Work area control, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(z) 29 CFR 1926.1425 Keeping clear of the load, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(aa) 29 CFR 1926.1426 Free fall and controlled load lowering, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(bb) 29 CFR 1926.1427 Operator qualification and certification, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(cc) 29 CFR 1926.1428 Signal person qualifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(dd) 29 CFR 1926.1429 Qualifications of maintenance & repair employees, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ee) 29 CFR 1926.1430 Training, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ff) 29 CFR 1926.1431 Hoisting personnel, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(gg) 29 CFR 1926.1432 Multiple-crane/derrick lifts – supplemental requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(hh) 29 CFR 1926.1433 Design, construction and testing, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ii) 29 CFR 1926.1434 Equipment modifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(jj) 29 CFR 1926.1435 Tower cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(kk) 29 CFR 1926.1436 Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ll) 29 CFR 1926.1437 Floating cranes/derricks and land cranes/derricks on barges, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(mm) 29 CFR 1926.1438 Overhead & gantry cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(nn) 29 CFR 1926.1439 Dedicated pile drivers, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(oo) 29 CFR 1926.1440 Sideboom cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(pp) 29 CFR 1926.1441 Equipment with a rated hoisting/lifting capacity of 2,000 pounds or less, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(qq) 29 CFR 1926.1442 Severability, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(rr) Appendix A to Subdivision CC of 1926 – Standard Hand Signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ss) Appendix B to Subdivision CC of 1926 – Assembly/Disassembly – Sample Procedures for Minimizing the Risk of Unintended Dangerous Boom Movement, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(tt) Appendix C to Subdivision CC of 1926 – Operator Certification – Written Examination – Technical Knowledge Criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(29) Subdivision DD – Cranes and Derricks Used in Demolition and Underground Construction, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(a) 29 CFR 1926.1500 Scope, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(b) 29 CFR 1926.1501 Cranes and Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4).
Stats. Implemented: ORS 654.001 - 654.295.

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 8-2003, f. 12-30-03 cert. ef. 1-1-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 2-2006, f. & cert. ef. 4-28-06; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 5-2006, f. 8-7-06, cert. ef. 1-1-07; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 6-2007, f. & cert. ef. 9-26-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 1-2011, f.

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& cert. ef. 2-9-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2011, f. 12-8-11, cert. ef. 7-1-12; OSHA 1-2012, f. & cert. ef. 4-10-12

437-003-0875

Additional Rules

Life lines and lanyards shall comply with the requirements of OAR 437-002-0134(5) in Division 2/I, Personal Protective Equipment.

Stat. Auth.: ORS 654.025(2) & 656.726(4).
Stats. Implemented: ORS 654.001 - 654.295
Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; OSHA 1-2012, f. & cert. ef. 4-10-12

437-005-0001

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1915, in the Federal Register:

(1) Subdivision A

(a) 29 CFR 1915.1. Purpose and authority, published 4/20/82, Federal Register (FR) vol. 47, p. 16984.

(b) 29 CFR 1915.2. Scope and application, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.3. Responsibility, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.4. Definitions, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.5. Incorporation by reference, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(f) 29 CFR 1915.6. Commercial diving operations, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.7. Competent person, published 7/25/94, FR vol. 59, p. 37856.

(h) 29 CFR 1915.9. Compliance duties owed to each employee, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(2) Subdivision B

(a) 29 CFR 1915.11. Scope, application and definitions applicable to this Subpart, published 7/25/94, FR vol. 59, p. 37857.

(b) 29 CFR 1915.12. Precautions before entering confined and enclosed spaces and other dangerous atmospheres, published 3/16/95, FR vol. 60, no. 51, p. 14218.

(c) 29 CFR 1915.13. Cleaning and other cold work, published 7/25/94, FR vol. 59, p. 37859.

(d) 29 CFR 1915.14. Hot work, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.15. Maintenance of safe conditions, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.16. Warning signs and labels, published 7/25/94, FR vol. 59, p. 37861.

Appendix A to Subpart B published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

Appendix B to Subpart B published 7/25/94, FR vol. 59, p. 37816.

(3) Subdivision C

(a) 29 CFR 1915.31. Scope & application of subdivision, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.32. Toxic cleaning solvents, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(c) 29 CFR 1915.33. Chemical paint & preservative remover, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(d) 29 CFR 1915.34. Mechanical paint removers, published 5/24/96, FR vol. 61, no. 102, p. 26351.

(e) 29 CFR 1915.35. Painting, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.36. Flammable liquids, published 4/20/82, FR vol. 47, p. 16984.

(4) Subdivision D

(a) 29 CFR 1915.51. Ventilation & protection in welding, cutting and heating, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.52. Fire prevention. REMOVED 9/15/04, FR vol. 69, p. 55667.

(c) 29 CFR 1915.53. Welding, cutting and heating of hollow metal containers & structure not covered by 1915.12, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.55. Gas welding & cutting, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.56. Arc welding and cutting, published 4/20/82, FR vol. 47, p. 16984.

(f) 29 CFR 1915.57. Uses of fissionable material in ship repairing and shipbuilding, published 4/20/82, FR vol. 47, p. 16984.

(5) Subdivision E

(a) 29 CFR 1915.71. Scaffolds or staging, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.72. Ladders, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(c) 29 CFR 1915.73. Guarding of deck openings and edges, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(d) 29 CFR 1915.74. Access to vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(e) 29 CFR 1915.75. Access to and guarding of dry docks and marine railways, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.76. Access to cargo spaces and confined spaces, published 4/20/82, FR vol. 47, p. 16984.

(g) 29 CFR 1915.77. Working surfaces, published amended 7/3/02, FR vol. 67, no. 128, p. 44541.

(6) Subdivision F

(a) 29 CFR 1915.80. Scope, application, definitions and effective dates, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(b) 29 CFR 1915.81. Housekeeping, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(c) 29 CFR 1915.82. Lighting, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(d) 29 CFR 1915.83. Utilities, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(e) 29 CFR 1915.84. Working alone, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(f) 29 CFR 1915.85. Vessel radar and communication systems, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(g) 29 CFR 1915.86. Lifeboats, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(h) 29 CFR 1915.87. Medical services and first aid, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(i) 29 CFR 1915.88. Sanitation, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(j) 29 CFR 1915.89. Control of hazardous energy (lockout/tagout), published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(k) 29 CFR 1915.90. Safety color code for marking physical hazards, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(l) 29 CFR 1915.91. Accident prevention signs and tags, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(m) 29 CFR 1915.92. Retention of DOT markings, placards, and labels, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(n) 29 CFR 1915.93. Motor vehicle safety equipment, operation, and maintenance, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(o) 29 CFR 1915.94. Servicing of multi-piece and single-piece rim wheels, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.

(7) Subdivision G

(a) 29 CFR 1915.111. Inspection, published 4/20/82, FR vol. 47, p. 16984.

(b) 29 CFR 1915.112. Ropes, chains and slings, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

(c) 29 CFR 1915.113. Shackles and hooks, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.

(d) 29 CFR 1915.114. Chain falls and pull lifts, published 4/20/82, FR vol. 47, p. 16984.

(e) 29 CFR 1915.115. Hoisting and hauling equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(f) 29 CFR 1915.116. Use of gear, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(g) 29 CFR 1915.117. Qualifications of operators, published 4/20/82, FR vol. 47, p. 16984.

(h) 29 CFR 1915.118. Tables, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(8) Subdivision H

(a) 29 CFR 1915.131. General precautions, published 7/3/02, FR vol. 67, no. 128, p. 44541.

(b) 29 CFR 1915.132. Portable electric tools, published 4/20/82, FR vol. 47, p. 16984.

(c) 29 CFR 1915.133. Hand tools, published 4/20/82, FR vol. 47, p. 16984.

(d) 29 CFR 1915.134. Abrasive wheels, published 7/3/02, FR vol. 67, no. 128, p. 44541.

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- (e) 29 CFR 1915.135. Powder actuated fastening tools, published 5/24/96, FR vol. 61, no. 102, p. 26351.
- (f) 29 CFR 1915.136. Internal combustion engines other than ship's equipment, published 4/20/82, FR vol. 47, p. 16984.
- (9) Subdivision I
- (a) 29 CFR 1915.151. Scope, application and definitions, published 5/24/96, FR vol. 61, no. 102, p. 26352.
- (b) 29 CFR 1915.152. General requirements, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- (c) 29 CFR 1915.153. Eye and face protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (d) 29 CFR 1915.154. Respiratory protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (e) 29 CFR 1915.155. Head protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (f) 29 CFR 1915.156. Foot protection, published 9/9/09, FR vol. 74, no. 173, pp. 46350-46361.
- (g) 29 CFR 1915.157. Hand and body protection, published 5/24/96, FR vol. 61, no. 102, p. 26354.
- (h) 29 CFR 1915.158. Lifesaving equipment, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (i) 29 CFR 1915.159. Personal fall arrest systems (PFAS), published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (j) 29 CFR 1915.160. Positioning device systems, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix A to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- Appendix B to Subpart I, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (10) Subdivision J
- (a) 29 CFR 1915.161. Scope and application of subdivision, published 4/20/82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.162. Ship's boilers, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (c) 29 CFR 1915.163. Ship's piping systems, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (d) 29 CFR 1915.164. Ship's propulsion machinery, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (e) 29 CFR 1915.165. Ship's decking machinery, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (11) Subdivision K
- (a) 29 CFR 1915.171. Scope and application of subdivision, published 4/20/82, FR vol. 47, p. 16984.
- (b) 29 CFR 1915.172. Portable air receiver and other unfired pressure vessels, published 7/3/02, FR vol. 67, no. 128, p. 44541.
- (c) 29 CFR 1915.173. Drums and containers, published 4/20/82, FR vol. 47, p. 16984.
- (12) Subdivision L
- (a) 29 CFR 1915.181. Electrical circuits and distribution boards, published 5/2/11, Federal Register vol. 76, no. 84, p. 24576.
- (13) Subdivisions M O (Reserved)
- (14) Subdivision P
- (a) 29 CFR 1915.501. General provisions, published 9/15/04, FR vol. 69, p. 55667.
- (b) 29 CFR 1915.502. Fire safety plan, published 9/15/04, FR vol. 69, p. 55667.
- (c) 29 CFR 1915.503. Precautions for hot work, published 9/15/04, FR vol. 69, p. 55667.
- (d) 29 CFR 1915.504. Fire watches, published 9/15/04, FR vol. 69, p. 55667.
- (e) 29 CFR 1915.505. Fire response, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (f) 29 CFR 1915.506. Hazards of fixed extinguishing systems on board vessels and vessel sections, published 9/15/04, FR vol. 69, p. 55667.
- (g) 29 CFR 1915.507. Land-side fire protection systems, published 10/17/06, FR vol. 71, no. 200, p. 60843.
- (h) 29 CFR 1915.508. Training, published 9/15/04, FR vol. 69, p. 55667.
- (i) 29 CFR 1915.509. Definitions applicable to this subpart, published 9/15/04, FR vol. 69, p. 55667.
- Appendix A to Subpart P, published 9/15/04, FR vol. 69, p. 55667.
- (15) Subdivision Q-Y (Reserved)
- (16) Subdivision Z
- (a) 29 CFR 1915.1000. Air Contaminants, published 12/27/11, FR vol. 76, no. 248, p. 80735.
- (b) 29 CFR 1915.1001. Asbestos, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- Appendix A to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix B to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix C to 1915.1001, published 6/8/11, Federal Register, vol. 76, no. 110, p. 33590.
- Appendix D to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix E to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix F to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix G to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix H to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix I to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix J to 1915.1001, published 8/10/94, FR vol. 59, p. 40964.
- Appendix K to 1915.1001, published 6/29/95, FR vol. 60, p. 33972.
- Appendix L to 1915.1001, published 8/23/96, FR vol. 61, p. 43454.
- (c) 29 CFR 1915.1002. Coal tar pitch volatiles; interpretation of term, published 6/20/96, FR vol. 61, p. 31427.
- (d) 29 CFR 1915.1003. 13 Carcinogens (4 Nitrophenyl, etc.), published 6/20/96, FR vol. 61, p. 31427.
- (e) 29 CFR 1915.1004. alpha Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.
- (f) 29 CFR 1915.1005. (Reserved)
- (g) 29 CFR 1915.1006. Methyl chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.
- (h) 29 CFR 1915.1007. 3,3'-Dichlorobenzidene (and its salts), published 6/20/96, FR vol. 61, p. 31427.
- (i) 29 CFR 1915.1008. bis Chloromethyl ether, published 6/20/96, FR vol. 61, p. 31427.
- (j) 29 CFR 1915.1009. beta Naphthylamine, published 6/20/96, FR vol. 61, p. 31427.
- (k) 29 CFR 1915.1010. Benzidine, published 6/20/96, FR vol. 61, p. 31427.
- (l) 29 CFR 1915.1011. 4 Aminodiphenyl, published 6/20/96, FR vol. 61, p. 31427.
- (m) 29 CFR 1915.1012. Ethyleneimine, published 6/20/96, FR vol. 61, p. 31427.
- (n) 29 CFR 1915.1013. beta Propiolactone, published 6/20/96, FR vol. 61, p. 31427.
- (o) 29 CFR 1915.1014. 2 Acetylaminofluorene, published 6/20/96, FR vol. 61, p. 31427.
- (p) 29 CFR 1915.1015. 4 Dimethylaminoazobenzene, published 6/20/96, FR vol. 61, p. 31427.
- (q) 29 CFR 1915.1016. N Nitrosodimethylamine, published 6/20/96, FR vol. 61, p. 31427.
- (r) 29 CFR 1915.1017. Vinyl chloride, published 6/20/96, FR vol. 61, p. 31427.
- (s) 29 CFR 1915.1018. Inorganic arsenic, published 6/20/96, FR vol. 61, p. 31427.
- (t) 29 CFR 1915.1020. Access to employee exposure and medical records, published 6/20/96, FR vol. 61, p. 31427.
- (u) 29 CFR 1915.1025. Lead, published 6/20/96, FR vol. 61, p. 31427.
- (v) 29 CFR 1915.1026. Chromium (VI), published 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.
- (w) 29 CFR 1915.1027. Cadmium, published 6/20/96, FR vol. 61, p. 31427.
- (x) 29 CFR 1915.1028. Benzene, published 6/20/96, FR vol. 61, p. 31427.
- (y) 29 CFR 1915.1030. Bloodborne pathogens, published 6/20/96, FR vol. 61, p. 31427.
- (z) 29 CFR 1915.1044. 1,2 dibromo 3 chloropropane, published 6/20/96, FR vol. 61, p. 31427.
- (aa) 29 CFR 1915.1045. Acrylonitrile, published 6/20/96, FR vol. 61, p. 31427.
- (bb) 29 CFR 1915.1047. Ethylene oxide, published 6/20/96, FR vol. 61, p. 31427.
- (cc) 29 CFR 1915.1048. Formaldehyde, published 6/20/96, FR vol. 61, p. 31427.
- (dd) 29 CFR 1915.1050. Methylenedianiline, published 6/20/96, FR vol. 61, p. 31427.
- (ee) 29 CFR 1915.1052. Methylene Chloride, published 1/10/97, Federal Register, vol. 62, no. 7, p. 1619.
- (ff) 29 CFR 1915.1120. Access to employee exposure and medical records has been redesignated to §1915.1020.
- NOTE:** 29 CFR 1915.99, Hazard Communication was redesignated as 1915.1200 on 7/1/93, FR vol. 58, no. 125, p. 35514.
- (gg) 29 CFR 1915.1200. Hazard communication, published 6/20/96, FR vol. 61, p. 31427.
- (hh) 29 CFR 1915.1450. Occupational exposure to hazardous chemicals in laboratories, published 6/20/96, FR vol. 61, p. 31427.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295

ADMINISTRATIVE RULES

Hist.: OSHA 10-1992, f. 9-24-92, cert. ef. 11-1-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 19-1993, f. & cert. ef. 12-29-93; OSHA 4-1994 f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 2-1995, f. & cert. ef. 1-25-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 3-1997, f. & cert. ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 4-2001, f. & cert. ef. 2-5-01; OSHA 4-2003, f. & cert. ef. 5-6-03; OSHA 8-2004, f. & cert. ef. 12-30-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 1-2007, f. 1-9-07 cert. ef. 1-16-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 3-2011, f. & cert. ef. 11-1-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 1-2012, f. & cert. ef. 4-10-12

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

Rule Caption: Payment for certain hearing services and rentals of durable medical equipment, prosthetics, and orthotics.

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

Filed with Sec. of State: 4-13-2012

Certified to be Effective: 4-23-12 thru 10-19-12

Notice Publication Date:

Rules Amended: 436-009-0080, 436-009-0260

Subject: These temporary rules:

• Require payment for hearing services billed with HCPCS codes V5000 through V5999 at the provider's usual rate, unless otherwise provided by a contract. This reverses the Jan. 1, 2012 changes to OAR 436-009-0080, that limited payment for these services to 80% of the provider's usual fee.

• Specify maximum monthly rental rates for certain codes used to bill for durable medical equipment, prosthetics, and orthotics, and explain how to determine daily rates. The current fee schedule for these services, Appendix E, does not identify which of these codes are appropriate for daily versus monthly rental, and Appendix E will be used only to determine the maximum allowable purchase prices for these codes while the temporary rule is in effect.

Rules Coordinator: Fred Bruyns — (503) 947-7717

436-009-0080

Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)

(1) Durable medical equipment (DME) is equipment that is primarily and customarily used to serve a medical purpose, can withstand repeated use, could normally be rented and used by successive patients, is appropriate for use in the home, and not generally useful to a person in the absence of an illness or injury. For example: Transcutaneous Electrical Nerve Stimulation (TENS), MicroCurrent Electrical Nerve Stimulation (MENS), home traction devices, heating pads, reusable hot/cold packs, etc.

(2) A prosthetic is an artificial substitute for a missing body part or any device aiding performance of a natural function. For example: hearing aids, eye glasses, crutches, wheelchairs, scooters, artificial limbs, etc.

(3) An orthosis is an orthopedic appliance or apparatus used to support, align, prevent or correct deformities, or to improve the function of a moveable body part. For example: brace, splint, shoe insert or modification, etc.

(4) Supplies are materials that may be reused multiple times by the same person, but a single supply is not intended to be used by more than one person, including, but not limited to incontinent pads, catheters, bandages, elastic stockings, irrigating kits, sheets, and bags.

(5) When billing for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS), providers must use the following modifiers, when applicable:

- (a) -NU for purchased, new equipment;
- (b) -UE for purchased, used equipment; and
- (c) -RR for rented equipment

(6) Unless otherwise provided by contract or sections (7) or (10), insurers must pay for DMEPOS according to the following table: [Table not included. See ED. NOTE.]

(7) Notwithstanding appendix E and section (6) of this rule, the table below lists maximum monthly rental rates for the codes listed: [Table not included. See ED. NOTE.]

(8) For items rented, unless otherwise provided by contract:

(a) When an item is rented on a daily basis, the maximum daily rental rate is one thirtieth (1/30) of the monthly rate established in sections (6) and (7) of this rule.

(b) After a rental period of 13 months, the item is considered purchased, if the insurer so chooses.

(c) The insurer may purchase a rental item anytime within the 13 month rental period, with a credit of 75 percent of the rental paid going towards the purchase.

(9) For items purchased, unless otherwise provided by contract:

(a) The provider is entitled to payment for any labor and reasonable expenses directly related to any subsequent modifications other than those performed at the time of purchase or repairs. The insurer must pay for labor at the provider's usual rate; or

(b) The provider may offer a service agreement at an additional cost.

(10)(a) Testing for prescribed hearing aids must be done by a licensed audiologist or an otolaryngologist.

(b) Based on current technology, the preferred types of hearing aids for most workers are programmable behind the ear (BTE), in the ear (ITE), and completely in the canal (CIC) multi channel. Any other types of hearing aids needed for medical conditions will be considered based on justification from the attending physician or authorized nurse practitioner.

(c) Unless otherwise provided by contract, insurers must pay the provider's usual fee for hearing services billed with HCPCS codes V5000 through V5999. However, without approval from the insurer or director, the payment for hearing aids may not exceed \$5000 for a pair of hearing aids, or \$2500 for a single hearing aid.

(11) The worker may select the service provider, except for claims enrolled in a managed care organization (MCO) when service providers are specified by the MCO contract.

(12) Except as provided in subsection (10)(c) of this rule, this rule does not apply to a worker's direct purchase of DME and supplies, and does not limit a worker's right to reimbursement for actual out-of-pocket expenses under OAR 436-009-0025.

(13) DME, prosthetics, orthotics, and supplies dispensed by a hospital (inpatient or outpatient) must be billed and paid according to OAR 436-009-0020.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 4-2011(Temp) f. 6-30-11, cert. ef. 7-5-11 thru 12-31-11; WCD 5-2011, f. 11-18-11, cert. ef. 1-1-12; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12; WCD 2-2012(Temp), f. 4-13-12, cert. ef. 4-23-12 thru 10-19-12

436-009-0260

What are the Payment Amounts for Services Provided by an ASC?

(1) Insurers must pay ASCs for services, equipment, and supplies according to this rule, unless otherwise provided by contract.

(2) Insurers must pay for surgical procedures (i.e., ASC facility fee) and ancillary services at the lesser amount of:

(a) The maximum allowable payment amount for the HCPCS code found in Appendix C for surgical procedures, and in Appendix D, for ancillary services integral to a surgical procedure; or

(b) The ASC's usual fee for surgical procedures and ancillary services.

(3) When more than one procedure is performed in a single operative session, the insurer must pay the principal procedure at 100 percent of the maximum allowable fee, the secondary and all subsequent procedures at 50 percent of the maximum allowable fee. A diagnostic arthroscopic procedure performed preliminary to an open operation, is considered a secondary procedure and paid accordingly. The multiple surgery discount described in this subsection does not apply to codes listed in Appendix C with an "N" in the "Subject to Multiple Procedure Discounting" column.

(4) The insurer must pay implants at 110 percent of the ASC's actual cost documented on a receipt of sale when the implant's cost to the ASC is more than \$100.

(5) Except as provided in section (6), the insurer must pay for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) according to the following table: [Table not included. See ED. NOTE.]

(6) Notwithstanding appendix E and section (5) of this rule, the table below lists maximum monthly rental rates for the codes listed: [Table not included. See ED. NOTE.]

(7) For items rented:

ADMINISTRATIVE RULES

(a) When an item is rented on a daily basis, the maximum daily rental rate is one thirtieth (1/30) of the monthly rate established in sections (5) and (6) of this rule.

(b) After a rental period of 13 months, the item is considered purchased, if the insurer so chooses.

(c) The insurer may purchase a rental item anytime within the 13-month rental period, with a credit of 75 percent of the rental paid going towards the purchase.

(8) For items purchased:

(a) The ASC is entitled to payment for any labor and reasonable expenses directly related to any subsequent modifications other than those performed at the time of purchase or repairs (the insurer must pay for labor at the provider's usual rate); or

(b) The ASC may offer a service agreement at an additional cost.

(9) When the insurer requests copies of medical records from the ASC, the insurer must pay \$10.00 for the first page and \$0.50 for each page thereafter.

[ED. NOTE: Tables & Appendices referenced are available from the agency.]
Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.245, 656.248 & 656.252
Hist.: WCD 2-2011, f. 3-1-11, cert. ef. 4-1-12; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12; WCD 2-2012(Temp), f. 4-13-12, cert. ef. 4-23-12 thru 10-19-12

Department of Fish and Wildlife Chapter 635

Rule Caption: Amend Wildlife Control Operator Rules.

Adm. Order No.: DFW 25-2012

Filed with Sec. of State: 3-16-2012

Certified to be Effective: 3-16-12

Notice Publication Date: 2-1-2012

Rules Amended: 635-435-0000, 635-435-0005, 635-435-0010, 635-435-0015, 635-435-0025, 635-435-0030, 635-435-0035, 635-435-0040, 635-435-0060

Subject: Review, update and amend rules relating to wildlife control operators. Specific rule changes include but are not limited to: definitions, criteria for reinstatement after revocation and amendments that will make the rules consistent with the Wildlife Rehabilitation Rules which were adopted by the Commission on June 2, 2011.

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

635-435-0000

Purpose

(1) The purpose of these rules is to:

(a) Streamline compliance requirements in ORS 498.012 while promoting sound wildlife management.

(b) Provide means for an agent to act on the behalf of a landowner or occupier to rid their home, business or land of wildlife which is causing damage, is a public nuisance or is posing a health risk, as defined in ORS 498.012.

(2) Any individual or business owner charging a fee to control wildlife which is causing damage, is a public nuisance or is posing a health risk must first obtain a Wildlife Control Operator Permit and must comply with all state Wildlife Control Operator regulations.

Stat. Auth.: ORS Ch. 496.012, 496.138, 496.146, 496.162 & 498.012
Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146, 496.162 & 498.012
Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 25-2012, f. & cert. ef. 3-16-12

635-435-0005

Definitions

For the purposes of these rules the following definitions apply:

(1) "Euthanasia" means to humanely kill an animal as per the "2006 American Association of Zoo Veterinarians Guidelines for Euthanasia of Nondomestic Animals."

(2) "Nongame wildlife nonprotected" means any species that does not meet any of the following definitions: "game mammals" as defined in ORS 635-045-0002, "game birds" as defined in 635-045-0002, "furbearers" as defined in 635-045-0002, "threatened and endangered species" as listed in 635-100-0125, or "nongame wildlife protected" as defined in 635-044-0130 or is not otherwise protected by statute or law.

(3) "Nuisance" means the same as "Public Nuisance" as defined in ORS 498.012.

(4) "Possession" means to have physical possession or to otherwise exercise dominion over any wildlife or wildlife parts, and possession begins once the trap has been checked by the permittee or subpermittee.

(5) "Predatory animals" means coyotes, rabbits, rodents, and feral swine which are or may be destructive to agricultural crops, products and activities. This definition is applicable where wildlife is taken under the authority of one who owns leases, occupies, possesses or has charge or dominion over the land. On public land this typically includes one who has a grazing lease.

(6) "Prohibited Species" means wildlife that the commission has placed on the Prohibited list in its Wildlife Integrity Rules (OAR Chapter 635 Division 56).

(7) "Protected wildlife" means any species that meets any of the following definitions: "game mammals" as defined in OAR 635-045-0002, "game birds" as defined in 635-045-0002, "furbearers" as defined in 635-045-0002, "threatened and endangered species" as listed in 635-100-0125, or "nongame wildlife protected" as defined in 635-044-0130 or is otherwise protected by statute or law.

(8) "Wildlife Control Operator" means an individual or business charging a fee and acting as an agent for a property owner, legal occupant, local jurisdiction or agency to take wildlife for the purpose of controlling damage, alleviating nuisance problems, or resolving public health risk concerns.

Stat. Auth.: ORS Ch. 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162
Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 25-2012, f. & cert. ef. 3-16-12

635-435-0010

Permit Required to Capture, Hold, Transport, or Relocate Wildlife

(1) A Wildlife Control Operator Permit from the Department is required prior to capturing, holding, transporting or relocating such wildlife. A permit is not required to capture, humanely euthanize or release on-site nongame wildlife nonprotected or species taken under authority of the predatory animal statute (ORS 610.105).

(2) A permit allows the permittee:

(a) Capture, hold, transport, or relocate furbearers (except raccoons).

(b) Capture, hold, transport, or relocate predatory animals, western gray squirrels, and nongame wildlife nonprotected.

(c) Humanely euthanize or release on-site raccoons. A permit does not allow the permittee to relocate raccoons to other sites unless directed by the Department.

(d) These activities must be in compliance with conditions specified by these rules, the permit, and authorized by the Department.

(3) A permit does not authorize the permittee to intentionally capture, hold, transport or relocate:

(a) Game mammals, game birds or nongame wildlife protected. Game mammals, game birds or nongame wildlife protected caught incidentally must be released on-site.

EXCEPTION: Western gray squirrels.

(b) Species protected by other state or federal law. Species protected by other state or federal law caught incidentally must be released on site.

Stat. Auth.: ORS Ch. 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162
Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 25-2012, f. & cert. ef. 3-16-12

635-435-0015

Passing a Test Required to Obtain Wildlife Control Operator Permit

(1) To obtain a Wildlife Control Operator permit, an individual or business owner must complete and submit an application form provided by the Department. An applicant must also pass a test administered by the Department with a score of 80% or greater. The test shall be based on a wildlife control training manual provided by the Department. If a permit has lapsed for more than two years or has been revoked, the individual or business owner must pass a test administered by the Department with a score of 80% or greater before the permit can be reinstated.

(2) A Wildlife Control Operator applicant (or sub-permittee) must be approved by the local Department district wildlife biologist or other local Department representative as meeting a need for wildlife control operator services in the area.

(3) A business owner may designate subpermittees on his or her permit. Subpermittees must be employed by the permitted business owner and must sign a form provided by the Department that indicates that the subpermittee has read and understands the training manual. Subpermittees are not required to pass a test. The permittee is responsible for any violations by a subpermittee of these rules. Subpermittees are subject to all requirements of these rules applicable to permittees. Permittee may add or remove a subpermittee at any time, and at his or her discretion, but must inform the Department of such changes in writing within 21 days.

ADMINISTRATIVE RULES

(4) A subpermittee may be denied being added to a business permit if the subpermittee does not meet the conditions in OAR 635-435-0015(2).

(5) Permits are free of charge and are issued for the calendar year.

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

Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 25-2012, f. & cert. ef. 3-16-12

635-435-0025

Ownership and Holding of Wildlife Held Under Wildlife Control Operator Permits

(1) All wildlife captured, held, transported or relocated under a Wildlife Control Operator Permit remains the property of the State of Oregon and cannot be sold, traded, bartered, or exchanged except as allowed by OAR chapter 635 division 200. Wildlife captured, held, transported or relocated under a permit cannot be intentionally displayed for public exhibit.

(2) Traps must be checked within the time periods specified in OAR chapter 635 division 50.

(3) Within 24 hours after coming into possession of wildlife as part of wildlife control activity, the permittee must release, relocate, or humanely euthanize the wildlife, or transport it to a person holding a Wildlife Rehabilitation Holding Permit who is willing to accept such wildlife. Lactating female wildlife or dependent infant(s) may be kept in possession up to 72 hours if necessary to keep the captured dependent infants or take other action to keep the family unit intact. Lactating female wildlife or dependent infant(s) may only be held longer than 72 hours if authorized by the Department

(4) If the permittee captures lactating female wildlife, the permittee must make reasonable efforts to verify the presence or absence of infants and to capture dependent infants.

(5) Once wildlife has been in possession 4 hours, the permittee must provide clean drinking water and replenish it at reasonable intervals.

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

Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 25-2012, f. & cert. ef. 3-16-12

635-435-0030

Humane Euthanasia and Discarding of Wildlife Carcasses

(1) If any wildlife shows obvious symptoms of disease, the permittee must humanely euthanize or dispose of the wildlife as authorized by the Department

(2) A permittee may humanely euthanize wildlife without the assistance of a veterinarian. A permittee's methods of humanely euthanizing live-captured or free-ranging wildlife must be consistent with the "2006 American Association of Zoo Veterinarians Guidelines for Euthanasia of Nondomestic Animals".

(3) No permit is needed to humanely euthanize wildlife in accordance with ORS 498.016.

(4) When discarding wildlife carcasses, a permittee must follow Department directions. Disposal of wildlife parts must be done in a manner consistent with OAR chapter 635 division 200.

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

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

Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 25-2012, f. & cert. ef. 3-16-12

635-435-0035

Relocation of Nuisance Wildlife

(1) A permittee must humanely euthanize prohibited species as identified in the Wildlife Integrity Rules (OAR 635-056-0050). Prohibited species cannot be relocated off site except to humanely euthanize them.

(2) A permittee must release raccoons on site or humanely euthanize them unless otherwise authorized by the local Department district biologist.

(3) Predatory animals, furbearers except raccoons and nongame wildlife nonprotected may be released on site, humanely euthanized or (as authorized by the Department) relocated into suitable habitat.

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

Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 80-2011(Temp), f. 6-29-11, cert. ef. 7-1-11 thru 12-28-11; DFW 25-2012, f. & cert. ef. 3-16-12

635-435-0040

Transportation of Wildlife

(1) Permittees are authorized to transport permitted live wildlife for:

(a) Relocation into suitable habitat as specified by these rules and the permit, or

(b) Transport to a person holding a Rehabilitation Holding permit, or

(c) Humane euthanization of the animal.

(2) Permittees are authorized to transport permitted wildlife carcasses for disposal of the carcass as directed by the Department or for use of wildlife parts in compliance with OAR chapter 635, division 200.

(3) Permittees must provide all live wildlife with humane care during transport. When transporting live wildlife in a vehicle:

(a) The vehicles must be equipped to provide fresh air without injurious exhaust fumes, and with adequate protection from extreme weather that could cause morbidity or mortality.

(b) Wildlife must be protected from extremes in temperature that could cause morbidity or mortality.

(c) The cage or enclosure must be of sufficient strength to hold wildlife securely during transportation and to prevent escape.

(d) The interior of the cage must be free of defects including sharp points, objects or edges resulting from alterations, breakage or age of the trap and that could injure wildlife placed inside.

(e) With the exception of skunks, the cage must be of a size that assures the safety of the wildlife control operator and be large enough to ensure that each specimen has sufficient space to turn, stand, and lay naturally.

(f) More than one specimen must not be transported in the same cage or enclosure unless they are of the same species and were captured together in the same trap or capture device.

(g) A visual barrier must be placed between aggressive individuals.

(h) Wildlife must be of sufficient distance apart or shall have a divider placed between them to prevent any physical contact between specimens.

(i) Wildlife must not be placed in a cage or enclosure over other wildlife unless each cage is fitted with a floor or barrier which prevents excretions or body parts from entering lower cages or enclosures.

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

Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 25-2012, f. & cert. ef. 3-16-12

635-435-0060

Cancellation or Non-Renewal of Permit

(1) Failure to comply with the record keeping, reporting, or other requirements of the Wildlife Control Operator Permit are grounds for cancellation or denial of renewal of the permit.

(2) The Department reserves the right to deny issuance of a Wildlife Control Operator Permit, to deny subpermittee(s), and to impose special permit conditions if the applicant or subpermittee is convicted of, or admits to, a violation of a wildlife law, or rule, or permit issued under the wildlife laws within the last five years.

(3) A permittee may appeal cancellation or non-renewal of a permit through a contested case hearing. The request for a contested case hearing on a proposed cancellation must be received by the Department within 21 days after service of notice (90 days for emergency cancellations). The request for hearing on a proposed non-renewal must be received by the Department within 60 days of notice. Final Orders in contested case hearings shall be issued by the Director.

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

Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 117-2006, f. & cert. ef. 10-16-06; DFW 25-2012, f. & cert. ef. 3-16-12

Rule Caption: Additional Commercial Gillnet Fishing Period for Youngs Bay Select Area of Columbia River.

Adm. Order No.: DFW 26-2012(Temp)

Filed with Sec. of State: 3-20-2012

Certified to be Effective: 3-21-12 thru 7-31-12

Notice Publication Date:

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: Rule amendments modify the start time and fishing period length in the previously authorized commercial gillnet fishery for the Youngs Bay Select Area of the Columbia River on March 25. Further amendments authorize an additional 4 hour fishing period from 5:00 p.m. until 9:00 p.m. on Wednesday March 21, 2012. Modifications are consistent with the action taken March 20, 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.

ADMINISTRATIVE RULES

(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) and 8:00 a.m. until noon Sunday March 25 (4 hours).

(B) Spring Season: Entire Youngs Bay: 6:00 p.m. to midnight Thursday, April 19 (6 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 March 25 and from April 19 through July 27, the fishing area is identified as the waters of Youngs Bay from the Highway 101 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. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-

2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 7-31-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-31-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12

Rule Caption: Additional Commercial Gillnet Fishing Period for Youngs Bay Select Area Authorized.

Adm. Order No.: DFW 27-2012(Temp)

Filed with Sec. of State: 3-27-2012

Certified to be Effective: 3-29-12 thru 7-31-12

Notice Publication Date:

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: Rule amendments authorize an additional 4-hour fishing period in the ongoing commercial gillnet fishery for the Youngs Bay Select Area of the Columbia River on March 29. This additional 4 hour fishing period will begin at 10:00 a.m. and end at 2:00 p.m. Thursday, March 29, 2012. Modifications are consistent with the action taken March 27, 2012 by the State of Oregon.

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

635-042-0145

Youngs Bay Salmon Season

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(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

ADMINISTRATIVE RULES

hours); 8:00 a.m. until noon Sunday March 25 (4 hours); and 10:00 a.m. until 2:00 p.m. Thursday March 29, (4 hours).

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Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef.

5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12

Rule Caption: Commercial Gillnet Fishing Period In Youngs Bay Select Area Authorized for April 1st.

Adm. Order No.: DFW 28-2012(Temp)

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-1-12 thru 7-31-12

Notice Publication Date:

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: Rule amendments authorize an additional 4-hour fishing period for the ongoing commercial gillnet fishery in the Youngs Bay Select Area of the Columbia River on April 1. This additional 4 hour fishing period will begin at 1:00 p.m. and end at 5:00 p.m. Sunday, April 1, 2012. Modifications are consistent with the action taken March 30, 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 Friday 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); and 1:00 p.m. until 5:00 p.m. Sunday April 1 (4 hours).

(B) Spring Season: Entire Youngs Bay: 6:00 p.m. to midnight Thursday, April 19 (6 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

ADMINISTRATIVE RULES

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 1 and from April 19 through July 27, the fishing area is identified as the waters of Youngs Bay from the Highway 101 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. 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. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; 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; FWC 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12

Rule Caption: 2012 Commercial Spring Chinook Fishery in the Mainstem Columbia River.

Adm. Order No.: DFW 29-2012(Temp)

Filed with Sec. of State: 4-2-2012

Certified to be Effective: 4-3-12 thru 4-30-12

Notice Publication Date:

Rules Amended: 635-042-0022

Subject: This amended rule allows a non-Indian commercial spring Chinook fishery in the mainstem Columbia River to commence on April 3, 2012 from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). The authorized drift gillnet fishing period is from 7:00 a.m. thru 7:00 p.m. (12 hours). Modifications are consistent with joint state action taken April 2, 2012 by the Columbia River Compact agencies of Oregon and Washington.

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

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon, white sturgeon and shad may be taken by drift tangle net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1-5) during the period: Tuesday, April 3, 2012 from 7:00 a.m. to 7:00 p.m. (12 hours).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large mesh fisheries.

(b) A maximum of six (6) White sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The weekly white sturgeon sales limit applies to the mainstem Columbia River only. Select Area fisheries remain under a two white sturgeon weekly retention limit.

(c) Retention of green sturgeon is prohibited.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook gillnet fishery:

(a) It is *unlawful* to use a gillnet having a mesh size less than 8 inches or more than 9 3/4 inches.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(4) During the spring Chinook tangle net fishery:

ADMINISTRATIVE RULES

(a) It is unlawful to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is *unlawful* for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is unlawful to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(15) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(16) As authorized by OAR 635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokom-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. & cert. ef. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. & cert. ef. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. & cert. ef. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. & cert. ef. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. & cert. ef. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. & cert. ef. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. & cert. ef. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. & cert. ef. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. & cert. ef. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. & cert. ef. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. & cert. ef. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. & cert. ef. 4-3-12 thru 4-30-12

Rule Caption: Commercial Gillnet Fishing Period In Youngs Bay Select Area Authorized for April 5th.

Adm. Order No.: DFW 30-2012(Temp)

Filed with Sec. of State: 4-4-2012

Certified to be Effective: 4-5-12 thru 7-31-12

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: Rule amendments authorize an additional 4-hour fishing period for the ongoing commercial gillnet fishery in the Youngs Bay Select Area of the Columbia River on April 5. This additional 4 hour fishing period will begin at 4:00 p.m. and end at 8:00 p.m. Thursday, April 5, 2012. Modifications are consistent with the action taken April 4, 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: 6:00 p.m. to midnight Thursday, April 19 (6 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 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 headline 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. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-

16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. & cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DFW 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DFW 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12

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Rule Caption: 2012 Recreational Spring Chinook Season Extended in the Columbia River.

Adm. Order No.: DFW 31-2012(Temp)

Filed with Sec. of State: 4-5-2012

Certified to be Effective: 4-6-12 thru 6-15-12

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: These rule modifications extend, by one week, the 2012 Columbia River recreational spring Chinook season for harvest of

ADMINISTRATIVE RULES

adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead. Revisions are consistent with action taken April 5, 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) The Columbia River is open March 1 through April 13 except closed March 20; March 27; April 3; and April 10 (Tuesdays) in the area from Buoy 10 upstream to Beacon Rock (boat and bank angling); plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline. Legal boundary for Beacon Rock is defined as: "A deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock."

(a) Catch limits of two adult adipose fin-clipped salmonids per day, of which only one may be a Chinook.

(b) 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) From the upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) angling for all species is closed from January 1 through April 30.

(5)(a) The Columbia River is open March 16 through May 2 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.

(b) 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 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

Rule Caption: Additional 6-hour Commercial Spring Chinook Fishery in the Mainstem Columbia River.

Adm. Order No.: DFW 32-2012(Temp)

Filed with Sec. of State: 4-9-2012

Certified to be Effective: 4-10-12 thru 4-30-12

Notice Publication Date:

Rules Amended: 635-042-0022

Rules Suspended: 635-042-0022(T)

Subject: This amended rule allows an additional non-Indian commercial spring Chinook fishery in the mainstem Columbia River on April 10, 2012 in the area from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). The authorized drift gillnet fishing period is from 12:30 p.m. thru 6:30 p.m. (6 hours). Modifications are consistent with joint state action taken April 9, 2012 by the Columbia River Compact agencies of Oregon and Washington.

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

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon, white sturgeon and shad may be taken by drift tangle net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1-5) during the period: Tuesday, April 10, 2012 from 12:30 p.m. to 6:30 p.m. (6 hours).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large mesh fisheries.

(b) A maximum of six (6) White sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The weekly white sturgeon sales limit applies to the mainstem Columbia River only. Select Area fisheries remain under a two white sturgeon weekly retention limit.

(c) Retention of green sturgeon is prohibited.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook gillnet fishery:

(a) It is *unlawful* to use a gillnet having a mesh size less than 8 inches or more than 9-3/4 inches.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(4) During the spring Chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh

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size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the headline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is *unlawful* for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is *unlawful* to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington

Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(15) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(16) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. 4-2-12, cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. 4-9-12, cert. ef. 4-10-12 thru 4-30-12

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Rule Caption: 2012 Recreational Spring Chinook Season in the Columbia River Extended.

Adm. Order No.: DFW 33-2012(Temp)

Filed with Sec. of State: 4-12-2012

Certified to be Effective: 4-14-12 thru 6-15-12

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: These rule modifications extend, by 8 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 12, 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**.

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(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) The Columbia River is open March 1 through April 22 except closed March 20; March 27; April 3; April 10; and April 17 (Tuesdays) in the area from Buoy 10 upstream to Beacon Rock (boat and bank angling); plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline. Legal boundary for Beacon Rock is defined as: "A deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock."

(a) Catch limits of two adult adipose fin-clipped salmonids per day, of which only one may be a Chinook.

(b) 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) From the upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) angling for all species is closed from January 1 through April 30.

(5)(a) The Columbia River is open March 16 through May 2 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.

(b) 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 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 88-2012(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

Rule Caption: 2012 Spring Chinook Seasons on the Lower Deschutes and Hood Rivers.

Adm. Order No.: DFW 34-2012(Temp)

Filed with Sec. of State: 4-13-2012

Certified to be Effective: 4-15-12 thru 7-31-12

Notice Publication Date:

Rules Amended: 635-018-0090

Rules Suspended: 635-018-0090(T)

Subject: Amended rule allows the sport harvest of adipose fin-clipped spring Chinook salmon in the Lower Deschutes River from April 15 through July 31, 2012 and in the mainstem of the Hood River from April 15 through June 30, 2012. The Deschutes River open area extends from Sherars Falls downstream to the mouth of the river. The Hood River open area extends from the mouth to mainstem confluence with the East Fork; and the West Fork from the confluence with the mainstem, upstream to the angling deadline 200 feet downstream of Punchbowl Falls. The daily bag limit is 2 adult adipose fin-clipped Chinook salmon per day; and 5 adipose fin-clipped jack salmon per day. All unmarked Chinook salmon must be released unharmed and it is unlawful to angle from Sherars Falls downstream to the upper railroad trestle after taking a daily bag limit of 2 adult Chinook salmon.

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

635-018-0090

Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations**.

(2) Hood River Basin (Hood River Co.) mainstem and tributaries not listed:

(a) **NOTE:** Chinook salmon angling closed entire river except as shown in subsections (2)(a)(A) and (2)(a)(B) below. Emergency regulations opening Chinook angling may be adopted after the printing of the 2012 Oregon Sport Fishing Regulations. Up-to-date changes can be obtained by calling 1-503-947-6000 or at our internet site: http://www.dfw.state.or.us/resources/fishing/reg_changes/central.asp.

(A) From the mouth to mainstem confluence with the East Fork, and the West Fork from the confluence with the mainstem upstream to the angling deadline 200 feet downstream of Punchbowl Falls is open to angling for adipose fin-clipped Chinook salmon from April 15 through June 30, 2012.

(B) Catch limit is two (2) adult adipose fin-clipped Chinook salmon per day, and five adipose fin-clipped jack salmon per day. All salmon that have not been adipose fin-clipped must be released unharmed.

(b) Open for adipose fin-clipped *coho salmon* and adipose fin-clipped *steelhead* entire year, from mouth to mainstem confluence with the East Fork and the West Fork from the confluence with the mainstem upstream to the angling deadline 200 feet downstream of Punchbowl Falls.

(c) Catch and release only for *trout*, May 26–Oct. 31.

(d) Restricted to artificial flies and lures when angling for *trout* in all tributaries and in mainstem Hood River upstream from the confluence with the West Fork.

(e) Use of bait allowed for *salmon* and *steelhead*.

(f) All other catch limits and restrictions remain unchanged from those listed for Hood River in the 2012 Oregon Sport Fishing Regulations.

(3) The Deschutes River from the mouth at the I-84 Bridge upstream to Sherars Falls is open to angling for trout, steelhead and adipose fin-clipped Chinook salmon from April 15 through July 31, 2012.

(a) The catch limit is two (2) adult adipose fin-clipped Chinook salmon per day, and five adipose fin-clipped jack salmon per day. All non adipose fin-clipped Chinook salmon must be released unharmed.

(b) It is unlawful to continue to angle in the area from Sherars Falls downstream to the upper railroad trestle after taking a daily bag limit of two (2) adult Chinook salmon.

(c) All other catch limits and restrictions remain unchanged from those listed for Deschutes River in the 2012 Oregon Sport Fishing Regulations.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95,

ADMINISTRATIVE RULES

cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96, FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04, Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 5-1-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09; DFW 61-2009(Temp), f. 6-1-09, cert. ef. 8-1-09 thru 10-31-09; DFW 104-2009(Temp), f. 8-28-09, cert. ef. 9-1-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 7-2010(Temp), f. 1-25-10, cert. ef. 4-1-10 thru 7-31-10; DFW 27-2010(Temp), f. 3-8-10, cert. ef. 4-15-10 thru 7-31-10; DFW 66-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 10-31-10; DFW 86-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 10-31-10; DFW 106-2010(Temp), f. 7-26-10, cert. ef. 8-1-10 thru 12-31-10; DFW 164-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 16-2011(Temp), f. 2-16-11, cert. ef. 4-15-11 thru 7-31-11; DFW 17-2011(Temp), f. 2-17-11, cert. ef. 4-15-11 thru 7-31-11; DFW 42-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 93-2011(Temp), f. 7-13-11, cert. ef. 8-1-11 thru 10-31-11; DFW 123-2011(Temp), f. 9-2-11, cert. ef. 9-3-11 thru 12-31-11; DFW 160-2011(Temp), f. 12-20-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 34-2012(Temp), f. 4-13-12, cert. ef. 4-15-12 thru 7-31-12

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

Rule Caption: Implementation of 2012 HB 4084 Related to Clarification of Homecare Worker Background Rechecks.

Adm. Order No.: DHSD 3-2012(Temp)

Filed with Sec. of State: 4-13-2012

Certified to be Effective: 4-13-12 thru 8-24-12

Notice Publication Date:

Rules Adopted: 407-007-0277

Rules Amended: 407-007-0220, 407-007-0275

Rules Suspended: 407-007-0220(T), 407-007-0275(T)

Subject: On March 27, 2012, HB 4084 from the 2012 Legislative session was signed into law. OAR 407-007-0275 and OAR 407-007-0277 are being temporarily amended and adopted to address the changes to ORS 443.004 which take effect immediately: certain crimes lead to ineligibility for only five years if clients under care are 65 or older; individuals subject to ORS 443.004 no longer require a weighing test of factors in making a final determination; and individuals found ineligible due to ORS 443.004 no longer have hearing rights for the determination. In order to align the recheck process currently in place for rechecks of homecare workers, OAR 407-007-0220 is also temporarily amended. Immediate adoption and amendment is needed to prevent inconsistencies between Oregon statutes, program rules, and criminal records check rules and to avoid jeopardizing the integrity of the criminal records check process, who is required to be checked, and when checks are required.

Temporary rules are available on the DHSIOHA Shared Services website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>. For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-007-0220

Background Check Required

(1) The Department or a Department authorized QE shall conduct criminal records checks on all SIs through LEDS maintained by OSP in accordance with ORS Chapter 181 and the rules adopted thereto (see OAR chapter 257, division 15).

(2) If a national criminal records check of an SI is necessary, OSP shall provide the Department the results of national criminal records checks conducted pursuant to ORS 181.534, including fingerprint identification, through the FBI.

(3) The Department shall conduct abuse checks on all SIs using available abuse investigation reports and associated documents.

(4) An SI is required to have a background check in the following circumstances:

(a) An individual who becomes an SI on or after the effective date of these rules.

(b) The SI changes employers to a different QE.

(c) Except as provided in section (5) of this rule, the individual, whether previously considered an SI or not, changes positions under the same QE, and the new position requires a background check.

(d) The individual, whether previously considered an SI or not, changes Department-issued licenses, certifications, or registrations, and the license, certification, or registration requires a background check under these rules.

(e) For a student enrolled in a long term care facility nursing assistant training program for employment at the facility, a new background check is required when the student becomes an employee at the facility. A new background check is not required by the Department or the Authority at graduation from the training program or at the granting of certification by the Board of Nursing unless the Department or the AD have reason to believe that a background check is justified.

(f) A background check is required by federal or state laws or regulations, other Department administrative rules, or by contract with the Department.

(g) When the Department or AD has reason to believe that a background check is justified. Examples include but are not limited to any indication of possible criminal or abusive behavior by an SI or quality assurance monitoring of a previously conducted criminal records check or abuse check.

(5) If QEs or Department program rules require an SI to report any new arrests, charges, or convictions, the QE or Department may determine if a personnel action is required, including whether a new background check is needed.

(6) A background check is not required under the following circumstances:

(a) A homecare worker, as defined in ORS 410.600, has a Department background check notice of final fitness determination dated within the recheck period according to Department program rules showing that the homecare worker has been approved or approved with restrictions, and listing a worksite of "various," "various clients," or "statewide."

(b) A personal support worker, personal care services provider, Lifespan Respite or other respite care provider, or an independent provider paid with Department funds who changes or adds clients within the same QE or Department district, and the prior, documented criminal records check or abuse check conducted within the previous 24 months through the Department has been approved without restrictions.

(c) The SI is a child care provider as described in OAR 461-165-0180 who has been approved without restrictions and who changes or adds clients.

(d) The SI remains with a QE in the same position listed on the background check request while the QE merges with another QE, is sold to another QE, or changes names. The changes may be noted in documentation attached to the notice of fitness determination but does not warrant a background check.

(7) An AD must document in writing the reason why a new background check was not completed.

(8) Background checks are completed on SIs who otherwise meet the qualifications of the position listed on the background check request. A background check may not be used to screen applicants for a position.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0220, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-

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11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 3-2012(Temp), f. & cert. ef. 4-13-12 thru 8-24-12

407-007-0275

Disqualifying Convictions under ORS 443.004

(1) Section (2) of this rule applies to an SI who works exclusively with clients who are 65 years old or older and is:

(a) Any individual who is paid directly or indirectly with public funds who has or will have contact with recipients of:

(A) Services within an adult foster home as defined in ORS 443.705; or

(B) Services within a residential facility as defined in ORS 443.400.

(b) Any direct care staff secured by any residential care facility or assisted living facility through the services of a personnel services or staffing agency who works in the facility.

(c) A homecare worker as defined in ORS 410.600, a personal support worker as defined in 410.600, a personal care services provider, or an independent provider employed by a Department client who provides care to the client if the Department helps pay for the services.

(d) An employee providing care to Department Aging and People with Disabilities (APD) clients who works for an in-home care agency as defined by ORS 443.305 which has a contract with APD programs.

(e) Specified as being an SI in relevant Oregon statutes or Oregon administrative rules.

(2) Public funds may not be used to support, in whole or in part, the employment of an SI identified in section (1) in any capacity who has been convicted:

(a) Within five years of the date of hire noted in the background check request, of any of the following crimes:

(A) ORS 163.465, Public indecency.

(B) ORS 163.467, Private indecency.

(C) ORS 163.700, Invasion of personal privacy.

(D) ORS 164.055, Theft I.

(E) ORS 164.125, Theft of services, if charged as a felony.

(F) ORS 164.377, Computer crime, if charged with a felony.

(b) Within ten years of the date the background check request was manually or electronically signed by the SI or the date BCU conducted a criminal records check due to imminent risk, a crime involving the delivery or manufacture of a controlled substance; or

(c) Of any of the following crimes:

(A) ORS 163.095, Aggravated murder.

(B) ORS 163.115, Murder.

(C) ORS 163.118, Manslaughter I.

(D) ORS 163.125, Manslaughter II.

(E) ORS 163.145, Criminally negligent homicide.

(F) ORS 163.149, Aggravated vehicular homicide.

(G) ORS 163.165, Assault III.

(H) ORS 163.175, Assault II.

(I) ORS 163.185, Assault I.

(J) ORS 163.187, Strangulation.

(K) ORS 163.200, Criminal mistreatment II.

(L) ORS 163.205, Criminal mistreatment I.

(M) ORS 163.225, Kidnapping II.

(N) ORS 163.235, Kidnapping I.

(O) ORS 163.263, Subjecting another person to involuntary servitude

II.

(P) ORS 163.264, Subjecting another person to involuntary servitude

I.

(Q) ORS 163.266, Trafficking in persons.

(R) ORS 163.275, Coercion.

(S) ORS 163.355, Rape III.

(T) ORS 163.365, Rape I.

(U) ORS 163.375, Rape I.

(V) ORS 163.385, Sodomy III.

(W) ORS 163.395, Sodomy II.

(X) ORS 163.405, Sodomy I.

(Y) ORS 163.408, Unlawful sexual penetration II.

(Z) ORS 163.411, Unlawful sexual penetration I.

(AA) ORS 163.415, Sexual abuse III.

(BB) ORS 163.425, Sexual abuse II.

(CC) ORS 163.427, Sexual abuse I.

(DD) ORS 163.432, Online sexual corruption of a child II, if the offender reasonably believed the child to be more than five years younger than the offender.

(EE) ORS 163.433, Online sexual corruption of a child I, if the offender reasonably believed the child to be more than five years younger than the offender.

(FF) ORS 163.435, Contributing to the sexual delinquency of a minor.

(GG) ORS 163.445, Sexual misconduct, if the offender is at least 18 years of age.

(HH) ORS 163.525, Incest with a child victim.

(II) ORS 163.535, Abandonment of a child.

(JJ) ORS 163.537, Buying or selling a person under 18 years of age.

(KK) ORS 163.547, ORS 163.547, Child neglect I.

(LL) ORS 163.670, Using a child in display of sexually explicit conduct.

(MM) ORS 163.680, Paying for viewing a child's sexually explicit conduct.

(NN) ORS 163.684, Encouraging child sexual abuse I.

(OO) ORS 163.686, Encouraging child sexual abuse II.

(PP) ORS 163.687, Encouraging child sexual abuse III.

(QQ) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I.

(RR) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II.

(SS) ORS 164.057, Aggravated theft I.

(TT) ORS 164.098, Organized retail theft.

(UU) ORS 164.215, Burglary II.

(VV) ORS 164.225, Burglary I.

(WW) ORS 164.325, Arson I.

(XX) ORS 164.405, Robbery II.

(YY) ORS 164.415, Robbery I.

(ZZ) ORS 165.013, Forgery I.

(AAA) ORS 165.022, Criminal possession of a forged instrument I.

(BBB) ORS 165.032, Criminal possession of a forgery device.

(CCC) ORS 165.800, Identity theft.

(DDD) ORS 165.803, Aggravated identity theft.

(EEE) ORS 167.012, Promoting prostitution.

(FFF) ORS 167.017, Compelling prostitution.

(GGG) ORS 167.057, Luring a minor.

(HHH) ORS 167.320, Animal abuse I.

(III) ORS 167.322, Aggravated animal abuse I.

(JJJ) ORS 181.594, Sex crimes, including transporting child pornography into the state.

(d) Of an attempt, conspiracy, or solicitation to commit a crime described in section (2)(c) of this rule; or

(e) Of a crime in another jurisdiction that is substantially equivalent to a crime described in section (2)(a) to (2)(d) of this rule.

(3) Individuals identified in section (1) of this rule employed and hired prior to July 28, 2009 are exempt from section (2) of this rule if the employee remains in the same position working for the same employer after July 28, 2009. This exemption is not applicable to licensees.

(4) Section (6) of this rule applies to an SI who works with clients who are receiving services through Department developmental disabilities programs who are under the age of 65 years old.

(5) Section (6) of this rule applies to an SI I who works with clients with physical disabilities under the age of 65 years old and is:

(a) Any individual who is paid directly or indirectly with public funds who has or will have contact with recipients of:

(A) Services within an adult foster home as defined in ORS 443.705; or

(B) Services within a residential facility as defined in ORS 443.400.

(b) Any direct care staff secured by any residential care facility or assisted living facility through the services of a personnel services or staffing agency who works in the facility.

(c) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a personal care services provider, or an independent provider employed by a Department client who provides care to the client if the Department helps pay for the services.

(d) An employee providing care to Department Aging and People with Disabilities (APD) clients who works for an in-home care agency as defined by ORS 443.305 which has a contract with the APD programs.

(e) Specified as being an SI in relevant Oregon statutes or Oregon administrative rules.

(6) Public funds may not be used to support, in whole or in part, the employment of an SI identified in section (4) or section (5) of this rule in any capacity who has been convicted:

(a) In the last 10 years of a crime involving the delivery or manufacture of a controlled substance; or

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- (b) Of any of the following crimes:
 - (A) ORS 163.095, Aggravated murder.
 - (B) ORS 163.115, Murder.
 - (C) ORS 163.118, Manslaughter I.
 - (D) ORS 163.125, Manslaughter II.
 - (E) ORS 163.145, Criminally negligent homicide.
 - (F) ORS 163.149, Aggravated vehicular homicide.
 - (G) ORS 163.165, Assault III.
 - (H) ORS 163.175, Assault II.
 - (I) ORS 163.185, Assault I.
 - (J) ORS 163.187, Strangulation.
 - (K) ORS 163.200, Criminal mistreatment II.
 - (L) ORS 163.205, Criminal mistreatment I.
 - (M) ORS 163.225, Kidnapping II.
 - (N) ORS 163.235, Kidnapping I.
 - (O) ORS 163.263, Subjecting another person to involuntary servitude
- II.
- I.
 - (P) ORS 163.264, Subjecting another person to involuntary servitude
 - (Q) ORS 163.266, Trafficking in persons.
 - (R) ORS 163.275, Coercion.
 - (S) ORS 163.355, Rape III.
 - (T) ORS 163.365, Rape II.
 - (U) ORS 163.375, Rape I.
 - (V) ORS 163.385, Sodomy III.
 - (W) ORS 163.395, Sodomy II.
 - (X) ORS 163.405, Sodomy I.
 - (Y) ORS 163.408, Unlawful sexual penetration II.
 - (Z) ORS 163.411, Unlawful sexual penetration I.
 - (AA) ORS 163.415, Sexual abuse III.
 - (BB) ORS 163.425, Sexual abuse II.
 - (CC) ORS 163.427, Sexual abuse I.
 - (DD) ORS 163.432, Online sexual corruption of a child II, if the offender reasonably believed the child to be more than five years younger than the offender.
 - (EE) ORS 163.433, Online sexual corruption of a child I, if the offender reasonably believed the child to be more than five years younger than the offender.
 - (FF) ORS 163.435, Contributing to the sexual delinquency of a minor.
 - (GG) ORS 163.445, Sexual misconduct, if the offender is at least 18 years of age.
 - (HH) ORS 163.465, Public indecency.
 - (II) ORS 163.467, Private indecency.
 - (JJ) ORS 163.525, Incest with a child victim.
 - (KK) ORS 163.535, Abandonment of a child.
 - (LL) ORS 163.537, Buying or selling a person under 18 years of age.
 - (MM) ORS 163.547, Child neglect I.
 - (NN) ORS 163.670, Using a child in display of sexually explicit conduct.
 - (OO) ORS 163.680, Paying for viewing a child's sexually explicit conduct.
 - (PP) ORS 163.684, Encouraging child sexual abuse I.
 - (QQ) ORS 163.686, Encouraging child sexual abuse II.
 - (RR) ORS 163.687, Encouraging child sexual abuse III.
 - (SS) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I.
 - (TT) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II.
 - (UU) ORS 163.700, Invasion of personal privacy.
 - (VV) ORS 164.055, Theft I.
 - (WW) ORS 164.057, Aggravated theft I.
 - (XX) ORS 164.098, Organized retail theft.
 - (YY) ORS 164.125, Theft of services, if charged as a felony.
 - (ZZ) ORS 164.215, Burglary II.
 - (AAA) ORS 164.225, Burglary I.
 - (BBB) ORS 164.325, Arson I.
 - (CCC) ORS 164.377, Computer crime, if charged with a felony.
 - (DDD) ORS 164.405, Robbery II.
 - (EEE) ORS 164.415, Robbery I.
 - (FFF) ORS 165.013, Forgery I.
 - (GGG) ORS 165.022, Criminal possession of a forged instrument I.
 - (HHH) ORS 165.032, Criminal possession of a forgery device.
 - (III) ORS 165.800, Identity theft.
 - (JJJ) ORS 165.803, Aggravated identity theft.
 - (KKK) ORS 167.012, Promoting prostitution.

- (LLL) ORS 167.017, Compelling prostitution.
- (MMM) ORS 167.057, Luring a minor.
- (NNN) ORS 167.320, Animal abuse I.
- (OOO) ORS 167.322, Aggravated animal abuse I.
- (PPP) ORS 181.594, Sex crimes, including transporting child pornography into the state.
- (c) Of an attempt, conspiracy, or solicitation to commit a crime described in section (6)(b) of this rule; or
- (d) Of a crime in another jurisdiction that is substantially equivalent to a crime described in section (6)(b) of this rule.
- (7) SIs identified in section (4) and section (5) of this rule employed and hired prior to July 28, 2009 are exempt from section (6) of this rule if the employee remains in the same position working for the same employer after July 28, 2009. This exemption is not applicable to licensees.
- (8) If BCU determines that an individual is subject to this rule and has a conviction listed in this rule, BCU shall make the determination of ineligible due to ORS 443.004. BCU may not conduct a fitness determination regardless of any other potentially disqualifying convictions and conditions the SI has.
- (9) A determination of ineligible due to ORS 443.004 is not subject to appeal rights under OAR 407-007-0330, 407-007-0335, or 943-007-0335.
Stat. Auth.: ORS 181.534 & 409.050
Stats. Implemented: ORS 181.534 & 443.004
Hist.: DHSD 3-2010(Temp), f. & cert. ef. 5-5-10 thru 10-31-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 3-2012(Temp), f. & cert. ef. 4-13-12 thru 8-24-12

407-007-0277 Disqualifying Convictions under ORS 443.004 for Mental Health or Alcohol and Drug Programs

- (1) This rule applies to SIs who are mental health or substance abuse treatment providers as defined under ORS 443.004(8). Public funds may not be used to support, in whole or in part, the employment of an individual in any capacity who has been convicted:
 - (a) Of any of the following crimes:
 - (A) ORS 163.095, Aggravated murder.
 - (B) ORS 163.115, Murder.
 - (C) ORS 163.375, Rape I.
 - (D) ORS 163.405, Sodomy I.
 - (E) ORS 163.411, Unlawful sexual penetration I.
 - (F) ORS 163.427, Sexual abuse I.
 - (b) Of an attempt, conspiracy, or solicitation to commit a crime described in section (1)(a) of this rule.
- (2) If BCU determines that an individual is subject to this rule and has a conviction listed in this rule, BCU shall make the determination of ineligible due to ORS 443.004. BCU may not conduct a fitness determination regardless of any other potentially disqualifying convictions and conditions the SI has.
- (3) A determination of ineligible due to ORS 443.004 is not subject to appeal rights under OAR 943-007-0335.
Stat. Auth.: ORS 181.534 & 409.050
Stats. Implemented: ORS 181.534 & 443.004
Hist.: DHSD 3-2012(Temp), f. & cert. ef. 4-13-12 thru 8-24-12

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

Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 2-2012
Filed with Sec. of State: 4-4-2012
Certified to be Effective: 4-4-12
Notice Publication Date: 2-1-2012
Rules Amended: 413-010-0700, 413-010-0705, 413-010-0710, 413-010-0714, 413-010-0715, 413-010-0716, 413-010-0717, 413-010-0718, 413-010-0720, 413-010-0721, 413-010-0722, 413-010-0723, 413-010-0732, 413-010-0735, 413-010-0738, 413-010-0740, 413-010-0743, 413-010-0745, 413-010-0746, 413-010-0748, 413-010-0750
Rules Repealed: 413-010-0712
Subject: The Department is amending these rules about notice and review of founded dispositions in child protective services to make permanent changes adopted as temporary rules on October 6, 2011, and change the founded disposition review process which currently

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exists at the local office level and central office level. These amendments do not change the rights of an individual to have a founded disposition reviewed nor do they change the process by which the individual requests the review. Under these amendments, the Local Office and Central Office CPS Founded Disposition Review Committees make a recommendation (no longer a decision); and the decision making authority that used to be with the committees is now with the Child Welfare program manager or designee at the local office level and the Child Protective Services Program Manager or designee at the central office level. These rules are also being amended to assure their accuracy, integrity, internal consistency, remove outdated language, and identify defined terms.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-010-0700

Purpose

(1) The purpose of these rules (OAR 413-010-0700 to 413-010-0750) is to establish procedures for ensuring the rights of individuals to receive notice and the opportunity to request a review when a Child Protective Services (CPS) assessment results in a CPS founded disposition.

(2) The Federal Child Abuse Prevention and Treatment Act (CAPTA) requires child protective service agencies to provide notice to individuals identified as responsible for child abuse or neglect and to provide individuals with an opportunity to request and have a review of the disposition.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0705

Definitions

For the purposes of OAR 413-010-0700 to 413-010-0750, the following terms have these meanings:

(1) “Central Office CPS Founded Disposition Review” means a process wherein a Central Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to the CPS Program Manager or designee, and the CPS Program Manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(2) “Central Office CPS Founded Disposition Review Committee” means a group of two child welfare employees who make a recommendation or recommendations to the Child Protective Services Program Manager or designee regarding the CPS founded disposition. No one may serve on the “Central Office CPS Founded Disposition Review Committee” who participated in or observed the Local Child Welfare Office CPS Founded Disposition Review or had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the “Central Office CPS Founded Disposition Review Committee” are found in OAR 413-010-0745 and 413-010-0746. The two child welfare staff on the committee must include any two of the following:

(a) Either the Program Manager for Child Protective Services or a designee;

(b) A CPS program coordinator;

(c) A CPS consultant; or

(d) A Department supervisor.

(3) “Child Protective Services (CPS)” means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(4) “CPS Disposition” means a determination that completes a CPS assessment. Dispositions are discussed in OAR 413-015-1000 and include founded, unfounded, and unable to determine.

(5) “Department” means the Department of Human Services, Child Welfare.

(6) “Juvenile” means a person younger than the age of 18 years who is identified as a perpetrator. OAR 413-010-0716 provides specific requirements regarding application of these rules to juveniles.

(7) “Legal finding” means a court or administrative finding, judgment, order, stipulation, plea, or verdict that determines who was responsible for the child abuse that is the subject of a CPS founded disposition.

(8) “Legal proceeding” means a court or administrative proceeding that may result in a legal finding.

(9) “Local Child Welfare Office CPS Founded Disposition Review” means a process wherein a Local Child Welfare Office CPS Founded Disposition Review Committee reviews a founded disposition, makes rec-

ommendations to a Child Welfare program manager or designee, and the Child Welfare program manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(10) “Local Child Welfare Office CPS Founded Disposition Review Committee” means a group of two child welfare employees who make a recommendation or recommendations to a Child Welfare Program Manager or designee regarding a CPS founded disposition. One of the members must be a manager and one must be staff trained in CPS assessment and dispositions. No one may serve on the “Local Child Welfare Office CPS Founded Disposition Review Committee” in the review of an assessment in which he or she had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the “Local Child Welfare Office CPS Founded Disposition Review Committee” are found in OAR 413-010-0735 and 413-010-0738.

(11) “Perpetrator” means the person the Department has reasonable cause to believe is responsible for child abuse in a CPS founded disposition.

(12) “Person Requesting Review” or “Requestor” means a perpetrator, his or her attorney, or, if a juvenile is identified as the perpetrator, the person who may request a review on behalf of the juvenile, who requests a review of the founded disposition because they believe the founded disposition is in error.

(13) “Request for a Central Office CPS Founded Disposition Review” means a written request for a Central Office CPS Founded Disposition Review from a requestor who has received a Local Child Welfare Office CPS Founded Disposition Review Decision (Form CF 314) to retain a founded disposition. The specific requirements for a request for review by Central Office are described in OAR 413-010-0740.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; SOSCF 9-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0710

Required Forms

Several Department forms are referred to by form number in these rules. The forms are available at the Department’s website. When use of a form is required by these rules, the current version of the form must be used.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0714

Department Employee – Application of Department Employee Policies

When the perpetrator is a Department employee, the Department will follow the Department employee policies (see Child Welfare Policy III-E.4.8.12, “Review of Founded CPS Disposition for Child Welfare Employees”).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0715

Providing Notice of a CPS Founded Disposition

(1) The local Child Welfare office must deliver a “Notice of a CPS Founded Disposition” (Form CF 313 or CF 319 as appropriate) to the person identified as the perpetrator in the CPS founded disposition, except as provided in section (2) of this rule. If the perpetrator is a juvenile, notice must be provided as required by OAR 413-010-0716. If the perpetrator is not a juvenile, the notice must be delivered as follows:

(a) By certified mail, restricted delivery, with a return receipt requested to the last known address of the perpetrator; or

(b) By hand delivery to the perpetrator. If hand delivered, the notice must be addressed to the perpetrator and a copy of the notice must be signed and dated by the perpetrator to acknowledge receipt, signed by the person delivering the notice, and filed in the child welfare case file.

(c) If subsection (2)(b) of this rule does not apply, the method or process for providing notice of a CPS founded disposition when domestic violence has been identified should maximize the safety of the child, the adult victim, and Department employees. The Department will not use the adult victim to deliver the notice.

(2) A “Notice of a CPS Founded Disposition” (Form CF 313) is not required if:

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(a) The CPS founded disposition was made prior to August 4, 2000. Notice will be given on CPS founded dispositions made prior to August 4, 2000 as provided in OAR 413 010-0717.

(b) Domestic violence has been identified and if providing the notice would increase the risk of harm to a child, adult victim, or Department employee. This exception may only be made with Department management approval based on documentation of risk.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0716

Providing Notice of a CPS Founded Disposition and Other Documents to a Juvenile

(1) The local Child Welfare office that determines a juvenile is the perpetrator must deliver the "Notice of CPS Founded Disposition" (Form CF 313) to one of the following persons who may act on behalf of the juvenile in submitting a request for review based on having legal custody of the juvenile:

(a) The juvenile's parent; or

(b) The juvenile's guardian.

(2) If the juvenile is in the legal custody of the Department or the Oregon Youth Authority, the notice must be sent to both of the following:

(a) The juvenile's attorney; and

(b) The juvenile's parent, unless there is cause to believe such communication will be detrimental to the juvenile (see OAR 413-020-0170(3)(c)).

(3) If the juvenile is in the legal custody of the Department and is unrepresented, the Department will ask the juvenile court to appoint an attorney for the juvenile.

(4) The "Notice of a CPS Founded Disposition" (Form CF 313) must be delivered by certified mail, restricted delivery, with a return receipt requested to the last known address of each mandatory recipient identified in sections (1) and (2) of this rule.

(5) Any other notices or documents that must be provided to perpetrators pursuant to these rules must be delivered to the appropriate persons as outlined in this rule if the perpetrator is a juvenile.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419.370

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0717

Inquiry about a Review When a CPS Founded Disposition was Made Prior to August 4, 2000

(1) The Department will not deliver a "Notice of Founded CPS Disposition" (Form CF 313) to a person identified as a perpetrator in a CPS founded disposition completed prior to August 4, 2000, unless a person makes an inquiry to the Department about an opportunity for review and qualifies for a review as described in section (2) of this rule.

(2) An individual identified as a perpetrator in a CPS founded disposition completed prior to August 4, 2000 may contact any Child Welfare office and inquire about a review of the disposition. If a complete record of the incident, including a complete copy of the CPS assessment and documentation collected during the CPS assessment, is still available, the Department proceeds in accordance with OAR 413-010-0718. If a complete record of the incident is no longer available, the Department will not conduct a review but will provide notice to the individual that a review will not be conducted and the reasons for that determination.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0718

Inquiry about a Review of a CPS Founded Disposition When a Person Believes They Have Not Received a Notice

If a person believes he or she is entitled under these rules (OAR 413-010-0700 to 413-010-0750) to a "Notice of CPS Founded Disposition" (Form CF 313) but has not received one, the person may contact any Child Welfare office to inquire about a review of the disposition.

(1) If the local Child Welfare office determines that the person making the inquiry has been identified as a perpetrator in a CPS founded dis-

position since August 4, 2000, staff must determine whether a "Notice of CPS Founded Disposition" (Form CF 313) was delivered to the perpetrator or the perpetrator refused the delivery of the notice, as evidenced by the returned receipt.

(2) If a notice was delivered to the perpetrator or the perpetrator refused delivery of the notice, as evidenced by a returned receipt, and the time for requesting review of the CPS founded disposition has expired, the local Child Welfare office must either prepare and deliver a "Notice of Waived Rights for Review" (Form CF 316) or inform the perpetrator by telephone of the information required in the "Notice of Waived Rights for Review" and document the telephone notification in the child welfare case file.

(3) If the perpetrator is a juvenile, the local Child Welfare office must prepare and deliver a "Notice of Waived Rights" to the appropriate persons identified in OAR 413 010-0716.

(4) If no returned receipt exists or if it appears that notice was not properly provided, the local Child Welfare office must deliver a "Notice of CPS Founded Disposition" as provided in OAR 413-010-0720 or, if the perpetrator is a juvenile, as provided in OAR 413-010-0716.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0720

Information Included in the "Notice of a CPS Founded Disposition" (Form CF 313)

The "Notice of a CPS Founded Disposition" (Form CF 313) must include all of the following:

(1) The case and sequence numbers assigned to the CPS assessment that resulted in the CPS founded disposition.

(2) The full name of the individual who has been identified as responsible for the child abuse as it is recorded in the case record.

(3) A statement that the CPS Disposition was recorded as "founded" including a description of the type of child abuse or neglect identified.

(4) A description of the CPS assessment that briefly explains how the CPS founded disposition was determined.

(5) A statement about the right of the individual to submit a request for review of the CPS founded disposition.

(6) Instructions for making a request for review, including the requirement that the requestor provide a full explanation why the requestor believes the CPS founded disposition is in error.

(7) A statement that the Department will not review a CPS founded disposition when a legal proceeding is pending and that the person requesting a review maintains the right to request a review for 30 days following resolution of the pending legal proceeding unless the proceeding results in a legal finding that is consistent with the CPS founded disposition.

(8) A statement that the person waives the right to request a review if the request for review is not received by the local Child Welfare office within 30 calendar days from the date of receipt of the "Notice of CPS Founded Disposition," as documented by a returned receipt.

(9) A statement that the local Child Welfare office will consider relevant documentary information contained in the Department's case file, including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information submitted with the request for review by the person requesting review.

(10) A statement that the review process will not include re-interviewing the victim; interviewing or meeting with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conducting a field assessment of the allegation of child abuse.

(11) A statement that the local Child Welfare office will send the requestor a "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) within 30 days of receiving a request for review.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

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413-010-0721

Making a Request for a Review of a CPS Founded Disposition

A person requesting a review must use information contained on the "Notice of CPS Founded Disposition" to prepare a written request for review. The written request for review must be delivered to the local Child Welfare office within 30 calendar days of the receipt of the Notice of CPS Founded Disposition and must include the following items:

- (1) Date the request for review is written;
- (2) Case number and sequence number found on the "Notice of CPS Founded Disposition;"
- (3) Full name of the person identified as responsible for abuse or neglect in the CPS founded disposition;
- (4) A full explanation, responsive to the information provided in the Department's notice, explaining why the person believes the CPS founded disposition is in error and providing any additional information and documents the person wants considered during the review;
- (5) The person's current name (if it has changed from the name noted in section (3) of this rule);

(6) The person's current street address and telephone number; and

(7) The person's signature.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0722

Determining When Legal Findings Preclude a Right to Request a Review and Providing Notice of Legal Proceeding (Form CF 317)

(1) The Department does not conduct a review when there is a legal finding consistent with the CPS founded disposition. In that case, a "Notice of Legal Finding" must be provided as provided in OAR 413-010-0723.

(2) If the Department is aware that a legal proceeding is pending, the local Child Welfare office will not review the CPS founded disposition until the legal proceeding is completed.

(3) If the Department is aware that a legal proceeding is pending, the local Child Welfare office must prepare and deliver a notice of legal proceedings (CF 317) within 30 days after receipt of a request for review. This informs the requestor that the Department will not review the disposition until the legal proceeding is completed and will take no further action on the request.

(4) The requestor may, at the conclusion of the legal proceeding, again submit a request for review within 30 days.

(5) The requestor retains the right to request a review for 30 days following resolution of the legal proceeding.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0723

Providing a Notice of Legal Finding (Form CF 318)

If a requestor inquires about a review of a CPS founded disposition and there is a legal finding consistent with the CPS founded disposition, the local Child Welfare office staff must prepare and deliver a "Notice of Legal Finding" (Form CF 318) that informs the requestor that the Department will not review the disposition.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0732

Local Child Welfare Office Responsibilities Related to Notices and Reviews

(1) If an individual asks to review Department records for the purpose of reviewing a CPS founded disposition, state and federal confidentiality law, including OAR 413-010-0000 to 413-010-0075 and OAR 413-350-0000 to 413-350-0090 govern the inspection and copying of records.

(2) The local Child Welfare office must maintain records to demonstrate the following, when applicable:

(a) Whether the Department delivered a "Notice of CPS Founded Disposition;"

(b) Whether or not the Notice of CPS Founded Disposition was received by the addressee, as evidenced by a returned receipt documenting

that the notice was received, refused, or not received within the 15-day period provided by the United States Postal Service;

(c) The date a Request for a Local Child Welfare Office CPS Founded Disposition Review was received by the local Child Welfare office;

(d) If a review is conducted by a local Child Welfare office, whether the "Notice of the Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) was received by the addressee as evidenced by a returned receipt documenting that the notice was received, refused, or not received within the 15-day period as provided by the United States Postal Service; and

(e) The date a request for review by Central Office was received by the Department.

(3) The Child Welfare supervisor in each local Child Welfare office or designee must maintain a comprehensive record of the reviews completed by the local Child Welfare office on CPS founded dispositions arising out of the local Child Welfare office to which the supervisor is assigned. The record must include the date, case number, sequence number, and the decision for each review completed by the local Child Welfare office.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0735

Local Child Welfare Office Review CPS Founded Dispositions

(1) The local Child Welfare office must conduct a review and issue a "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) to the requestor within 30 days from the date the local Child Welfare office receives a request for review of a CPS founded disposition.

(2) If the request for review was delayed because a legal proceeding was pending as provided in OAR 413-010-0720(6), or the proceeding has been completed without a legal finding that would preclude a review, the review must occur within 30 days from the date the local Child Welfare office receives a new request for review.

(3) The Local Child Welfare Office CPS Founded Disposition Review must occur as follows:

(a) The review may not include re-interviewing the victim; interviewing or meeting with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conducting a field assessment of the allegation of child abuse or neglect.

(b) The review must be based on current child welfare practice and definitions of child abuse. Procedural rules in place at the time the CPS assessment was completed also must be considered.

(c) The following must be considered by the Local Child Welfare Office CPS Founded Disposition Review Committee members and the Child Welfare Program Manager or designee:

(A) Relevant documentary information contained in the Department's child welfare case file including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information provided by the person requesting review;

(B) Whether there is reasonable cause to believe that child abuse occurred;

(C) Whether there is reasonable cause to believe that the person requesting review is responsible for the child abuse; and

(D) Whether there is reasonable cause to believe that the type of abuse for which the CPS assessment was founded is correctly identified in the assessment.

(d) The Local Child Welfare Office CPS Founded Disposition Review Committee must:

(A) Make recommendations as follows:

(i) Retain the founded disposition;

(ii) Change the disposition to unfounded or unable to determine;

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS Disposition was founded.

(B) At the conclusion of the Review Committee, each committee member must make his or her respective recommendations known to the Child Welfare Program Manager or designee.

(e) The Child Welfare Program Manager or designee must:

(A) Observe the Review Committee;

(B) Ask questions of the committee members as needed for clarification;

(C) Consider the committee's recommendation or recommendations and the basis for the recommendation or recommendations; and

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(D) Make one of the following decisions:

(i) Retain the founded disposition.

(ii) Change the disposition to unfounded disposition or unable to determine.

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS Disposition was founded.

(f) The decision and the basis for the decision must be documented.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0738

Notice of Local Child Welfare Office CPS Founded Disposition Review Decision

(1) The Child Welfare supervisor or designee must prepare a "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) as described in OAR 413-010-0738.

(2) The "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) must include the following:

(a) Whether there is reasonable cause to believe that child abuse occurred;

(b) Whether there is reasonable cause to believe the person requesting the review was responsible for the child abuse;

(c) The decision resulting from the Local Child Welfare Office CPS Founded Disposition Review;

(d) If the CPS founded disposition is changed, whether it will be changed to "unable to determine" or to "unfounded;"

(e) If the Local Child Welfare Office CPS Founded Disposition Review results in a decision that the CPS founded disposition should be retained but that the type of abuse for which the disposition was founded should be changed, the type of abuse that should be founded and the reason for this change;

(f) If the CPS founded disposition is retained but the type of abuse is changed, notice that the person requesting the review has the right to request a new Local Child Welfare Office CPS Founded Disposition Review of the change;

(g) A summary of the information and reasoning of the Local Child Welfare Office CPS Founded Disposition Review upon which the decisions were based;

(h) If a CPS founded disposition is determined to be "unable to determine" or "unfounded," notice that the change will be noted in the CPS assessment narrative;

(i) If the founded disposition is retained, a statement about how to request a review by Central Office, as described in OAR 413-010-0740.

(3) The local Child Welfare office must place the request for review and a copy of the "Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) in the child welfare case file. A change may not be made in the existing written child welfare case file except to add the determinations.

(4) The Department must send the "Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) by certified mail, restricted delivery, with a return receipt requested, to the person requesting review within 30 days of the request for review.

(5) When as a result of a Local Child Welfare Office CPS Founded Disposition Review, a decision is made to change a CPS founded disposition, the Child Welfare supervisor or designee must assure the revised disposition is reflected in the Department's information system. The Child Welfare supervisor or designee forwards the necessary information (Form CF 322) to the Department's Office of Information Services (OIS) Service Desk.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0740

Requesting a Central Office Review

(1) A person entitled to the notice described in OAR 413-010-0738 may, within 30 days of receipt of the notice, request a Central Office CPS Founded Disposition Review.

(2) A person requesting a Central Office CPS Founded Disposition Review may use a copy of the request for local Child Welfare office review

or prepare a new request for Central Office Review, following the requirements outlined in OAR 413-010-0721.

(3) A person requesting a Central Office CPS Founded Disposition Review must deliver the request to the local Child Welfare office within 30 days of the date the "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) was received by the requestor, as evidenced on a United States Postal Service return receipt.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0743

Local Office Responsibilities in a Request for Central Office CPS Founded Disposition Review

Within 10 calendar days after receiving a request for a Central Office CPS Founded Disposition Review, the local Child Welfare office must forward the following documents to the Department's Central Office CPS Program Unit:

(1) The request for review; and

(2) A copy of the child welfare case records pertinent to the CPS founded disposition, including the information reviewed as part of the Local Child Welfare Office CPS Founded Disposition Review.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0745

Central Office Review of CPS Founded Dispositions

(1) Central Office must conduct a review and issue a "Notice of Central Office CPS Founded Disposition Review Decision" (Form CF 315) within 60 days from the date Central Office receives a request for a review.

(2) The Central Office CPS Founded Disposition Review must occur as follows:

(a) The CPS program office schedules a review of the CPS founded disposition when a written request for review and case file information is received from the local Child Welfare office.

(b) The review may not include re-interviewing the victim; interviewing or meeting with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conducting a field assessment of the allegation of child abuse or neglect.

(c) The review must be based on current child welfare practice and definitions of child abuse and neglect. Procedural rules in place at the time the CPS assessment was completed also must be considered.

(d) The following must be considered by the Central Office CPS Founded Disposition Review Committee members and the CPS Program Manager or designee:

(A) Relevant documentary information contained in the Department's child welfare case file, including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information provided by the person requesting review.

(B) Whether there is reasonable cause to believe that child abuse or neglect occurred;

(C) Whether there is reasonable cause to believe that the person requesting review is responsible for the child abuse or neglect; and

(D) Whether there is reasonable cause to believe that the type of abuse is correctly identified in the assessment.

(e) The Central Office CPS Founded Disposition Review Committee must:

(A) Make recommendations as follows:

(i) Retain the founded disposition;

(ii) Change the disposition to unfounded or unable to determine;

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS Disposition was founded.

(B) At the conclusion of the Review Committee, each committee member makes his or her respective recommendation known to the CPS Program Manager or designee.

(f) The Central Office CPS Program Manager or designee must:

(A) Observe the Review Committee;

(B) Ask questions of the committee members as needed for clarification;

(C) Consider the committee's recommendation or recommendations and the basis for the recommendation or recommendations; and

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(D) Make one of the following decisions:

- (i) Retain the founded disposition.
- (ii) Change the disposition to unfounded or unable to determine.
- (iii) Change the type of abuse (see OAR 413-015-1000(3)) for a list of the types of abuse) for which the CPS Disposition was founded.

(g) The decision and the basis for the decision must be documented.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0746

Notice of Central Office CPS Founded Disposition Review Decision

(1) Within 60 calendar days of the date Central Office receives the request for review from the local Child Welfare office, a CPS Program Coordinator or designee prepares and sends to the requestor by certified mail, restricted delivery, with a return receipt requested, a "Notice of Central Office CPS Founded Disposition Review Decision" (Form CF 315) that includes the following information:

(a) Whether there is reasonable cause to believe that child abuse occurred;

(b) Whether there is reasonable cause to believe that the person requesting review was responsible for the child abuse;

(c) The decisions resulting from the Central Office CPS Founded Disposition Review;

(d) If the CPS founded disposition is changed, whether the change will be to "unable to determine" or to "unfounded disposition;"

(e) If the Central Office CPS Founded Disposition Review results in a decision that the CPS founded disposition should be retained but the type of abuse for which the disposition was founded should be changed, the new type of abuse and the reason for this change;

(f) If the CPS founded disposition is retained but the type of abuse or neglect is changed, notice that the person requesting the review has the right to request a new Central Office CPS Founded Disposition Review based on the change;

(g) A summary of the information used as part of the Central Office CPS Founded Disposition Review and the reasoning for reaching the decision; and

(h) If a CPS founded disposition is changed to "unable to determine" or "unfounded," notice that the change will be made to the CPS assessment narrative.

(2) A "Notice of Central Office CPS Founded Disposition Review Decision" (Form CF 315) is sent to the person requesting review, the local Child Welfare office for filing in the child welfare case record, the CPS worker, and the supervisor involved in the initial CPS assessment and determination of disposition.

(3) The CPS Program Office maintains a comprehensive record of the reviews of CPS founded dispositions conducted by Central Office. The record includes the date of the review, case number, sequence number, a copy of the materials used in the review and the decision that resulted from the review for each review conducted by Central Office.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0748

Review Initiated by the Department

The CPS Program Manager may direct that either the local Child Welfare office or Central Office review a founded disposition if there is good cause to do so, such as a determination that there is a legal finding that contradicts the CPS founded disposition.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 16-2004, f. & cert. ef. 10-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

413-010-0750

Revising Founded Child Abuse Dispositions in the Department's Electronic Information System

When as a result of a Central Office CPS Founded Disposition Review, a decision is made to change a CPS founded disposition, the CPS Program Coordinator or designee forwards the necessary information (Form CF 322) to the Department's Office of Information Services (OIS)

Service Desk or other appropriate organizational unit to make changes in the Department's Electronic Information System.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12

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 9-2012

Filed with Sec. of State: 3-29-2012

Certified to be Effective: 4-1-12

Notice Publication Date: 2-1-2012

Rules Amended: 461-101-0010, 461-115-0705, 461-120-0010, 461-120-0030, 461-120-0050, 461-120-0110, 461-120-0125, 461-120-0130, 461-120-0210, 461-120-0315, 461-120-0330, 461-120-0340, 461-120-0350, 461-120-0510, 461-120-0630, 461-135-0075, 461-135-1100, 461-145-0080, 461-145-0410, 461-155-0030, 461-155-0500, 461-180-0130

Rules Repealed: 461-115-0705(T), 461-120-0120, 461-120-0340(T), 461-120-0530, 461-135-0075(T), 461-135-1100(T), 461-135-1110, 461-135-1210, 461-145-0080(T), 461-145-0410(T), 461-180-0130(T)

Subject: OAR 461-101-0010 about program acronyms and overview is being amended to add JPI as the acronym for the Job Participation Incentive program, an additional \$10 food benefit to help increase the ability of single parents with small children – who meet federal TANF participation requirements – to provide for the nutritional needs of their families.

OAR 461-115-0705 is being amended to make permanent a temporary rule change effective January 1, 2012 and reflect the elimination of OHP-OPU Student Status eligibility criteria. The rule as amended no longer refers to the higher education student requirements provided in OAR 461-135-1110, which is being repealed.

OAR 461-120-0010 about residency requirements is being amended to include exceptions that have been set out in other rules.

OAR 461-120-0030 about the state of residence for an individual in a medical facility is being amended to indicate that the rule only applies to medical programs and to follow federal regulations that apply individuals placed in a medical facility in Oregon by a state agency in another state to indicate that they are still considered residents of the placing state.

OAR 461-120-0050 setting out which individuals are considered incapable for forming an intent to reside is being amended to indicate that the rule applies to the Healthy Kids Connect (HKC) program and state in the rule how the Department interprets some of its policies.

OAR 461-120-0110 about residency requirements is being amended to clarify the rule by citing exceptions to its policies that are set out in other rules and by using standard terminology.

OAR 461-120-0120 about the alien status requirements for the Refugee Assistance (REF) and Refugee Assistance Medical (REFM) programs is being repealed and its policy will be set out in OAR 461-120-0125.

OAR 461-120-0125 about the alien status requirements for programs other than the Refugee Assistance (REF) and Refugee Assistance Medical (REFM) programs is being amended to include REF and REFM. This rule is also being amended to clarify how it applies to the Temporary Assistance for Domestic Violence Survivors (TA-DVS) program and to update its terminology.

OAR 461-120-0130 about declaring citizenship or alien status is being amended to align policy for all programs. The rule change will allow one adult member of the filing group or an authorized repre-

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sentative to sign the statement attesting to citizenship for everyone in the filing group.

OAR 461-120-0210 about the requirement to provide Social Security Numbers (SSN) is being amended to clarify the programs covered some of the requirements of the rule. No changes in policy are being made.

OAR 461-120-0315 about medical assignment is being amended to clarify in various medical programs to whom the requirement applies to turn over to the Department reimbursements for medical costs.

OAR 461-120-0330 about the requirement to pursue assets is being amended to clarify the rule by updating terminology, adding cross-references, and specifying programs more precisely.

OAR 461-120-0340 about the requirement to obtain child support from a non- custodial parent is being amended to state that a caretaker relative is excused from the requirement to pursue support if the filing group is a two-parent family for whom deprivation is based on the unemployment or underemployment of the primary wage earner. This rule is also being amended to make permanent the temporary rule changes adopted October 5, 2011.

OAR 461-120-0350 about clients excused for good cause from compliance with the requirements to pursue child support, medical support, and health care coverage is being amended to clarify the rule by making its title more descriptive, adding cross-references, and removing inapplicable cross-references.

OAR 461-120-0510 about age requirements for clients to receive benefits is being amended and OAR 461-120-0530 about regular school attendance is being repealed to include the policy about regular school attendance (for 18-year olds to be eligible for certain programs) within OAR 461-120-0510.

OAR 461-120-0630 about the requirement to live with a caretaker or a caretaker relative is being amended to clarify how it applies to the Temporary Assistance for Domestic Violence Survivors (TA-DVS) program, update its terminology and to remove an exemption that applied to the Refugee Assistance Medical (REFM) program for eligible children in the custody of a public or private agency.

OAR 461-135-0075 about the limitation on the eligibility period for Temporary Assistance for Needy Families (TANF) is being amended to state that months beginning October 1, 2011 in which a filing group is a two-parent family eligible for cash assistance based on the unemployment or underemployment of the primary wage earner do not count towards the 60-month limitation on the TANF eligibility period. This rule is also being amended to make permanent temporary rule changes adopted on November 1, 2011.

OAR 461-135-1100 is being amended to make permanent temporary rule changes effective January 1, 2012 and reflect the elimination of OHP-OPU Student Status eligibility criteria and no longer refer to the higher education student requirements that were in OAR 461-135-1110, which is being repealed. OAR 461-135-1100 is also being amended to align it with revisions of OAR 410-120-1960, 461-135-0990 and 461-155-0360 that centralize the Health Insurance Premium Payment (HIP) program. This amendment clarifies what constitutes major medical insurance by eliminating the \$10,000 coverage minimum and stating what types of benefits an insurance policy must have to be considered major medical.

OAR 461-135-1110 about eligible and ineligible students in the Oregon Health Plan OPU program (coverage for adults who qualify under an income standard based on 100 percent of the federal poverty level) is being repealed to make permanent the suspension of this rule that was effective January 1, 2010. Applicants and recipients will no longer be required to meet the income requirements for a Pell grant (having an estimated family contribution of \$0), or be a

student in a program serving displaced workers under section 236 of the Trade Act of 1974 (19 USC 2296).

OAR 461-135-1210 which aligns TA-DVS definitions with TANF definitions is being repealed. The rule is not used because OAR 461-135-1225 already aligns TA-DVS policy with TANF.

OAR 461-145-0080 about the treatment of child support and cash medical support in the Department's public assistance, medical, and SNAP programs is being amended to state that, for on-going eligibility and benefit determination for TANF clients for whom deprivation is based on the unemployment or underemployment of the primary wage earner (PWE) in a two-parent household, except for the amount disregarded, child support is considered countable unearned income. This rule is also being amended to make permanent the temporary rule changes adopted October 5, 2011.

OAR 461-145-0410 about how program benefits are treated in the eligibility process is being amended to provide specifics regarding description of the Job Participation Incentive (JPI) benefits and how those benefits will be treated when determining eligibility for other programs. This rule is also being adopted to make permanent the temporary rule adopted on October 1, 2011.

OAR 461-155-0030 about income and payment standards is being amended to change how the rule describes income limits for benefits in the JOBS and TANF programs. This amendment cross-references another rule that displays income limits representing 185 percent of the federal poverty level instead of duplicating the tables.

OAR 461-155-0500 sets out the general eligibility requirements for specific special needs addressed in other rules (OAR 461-155-0510 to 461-155-0710). OAR 461-155-0500 is being amended to remove an obsolete reference to a repealed rule (OAR 461-155-0693), and to add a reference to a current special needs rule (OAR 461-155-0575). This amendment does not change any of the eligibility requirements for specific special needs.

OAR 461-180-0130 is being amended to make permanent temporary changes initially adopted on October 1, 2011 that limit the restoration of benefits period for the Job Participation Incentive (JPI) to four months.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-101-0010

Program Acronyms and Overview

(1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program (for instance, OHP) and acronyms for each subprogram (for instance, OHP-CHP, OHP-OPC, OHP-OPP, OHP-OPU, and OHP-OP6).

(2) When no program acronym appears in a rule in Chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.

(3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code (for instance, OHP means OHP-CHP, OHP-OPC, OHP-OPP, OHP-OPU, and OHP-OP6).

(4) BCCM; Breast and Cervical Cancer Medical program.

(5) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for clients who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements.

(6) CEC; Continuous Eligibility for OHP-CHP pregnant women. Title XXI medical assistance for a pregnant non-CAWEM child found eligible for the OHP-CHP program who, for a reason other than moving out of state or becoming a recipient of private major medical health insurance, otherwise would lose her eligibility. The pregnant individual is deemed eligible for OHP-CHP through the last day of the month in which the pregnancy ends.

(7) CEM; Continuous Eligibility for Medicaid. Title XIX medical assistance for a non-CAWEM child found eligible for Medicaid who loses his or her eligibility for a reason other than turning 19 years of age or moving out of state. The child is deemed eligible for Medicaid for the remainder of the 12 month eligibility period.

(8) DSNAP; Disaster Supplemental Nutrition Assistance Program. Following a presidential declaration of a major disaster in Oregon, DSNAP provides emergency DSNAP program benefits to victims. OAR 461-135-0491 to 461-135-0497 cover DSNAP eligibility and benefits.

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(9) EA; Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.

(10) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.

(11) EXT; Extended Medical Assistance. The Extended Medical Assistance program provides medical assistance for a period of time after a family loses its eligibility for the MAA, MAF, or Pre-TANF program due to an increase in their child support or earned income.

(12) GA; General Assistance. Cash assistance to low-income individuals with disabilities who do not have dependent children.

(13) GAM; General Assistance Medical. Medical assistance to clients who are eligible for the GA program but have not been found eligible for OSIPM benefits.

(14) HKC; Healthy KidsConnect. A program administered by the Office of Private Health Partnerships (OPHP) providing access to health care for children not eligible for any of the Department's other medical assistance programs. The Department determines eligibility and OPHP manages enrollment.

(15) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.

(16) JOBS; Job Opportunity and Basic Skills. An employment program for REF, REFM, and TANF clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.

(17) JOBS Plus. Provides subsidized jobs rather than SNAP or TANF benefits. For TANF clients, JOBS Plus is a component of the JOBS Program; for SNAP clients and noncustodial parents of children receiving TANF, it is a separate employment program. Eligibility for TANF clients, SNAP clients, and noncustodial parents of children receiving TANF is determined by the Department. Eligibility for UI recipients is determined by the Oregon State Employment Department. When used alone, JOBS Plus includes only clients whose JOBS Plus program participation is through the Department of Human Services. JOBS Plus administered through the Oregon State Employment Department is known in chapter 461 of the Oregon Administrative Rules as Oregon Employment Department UI JOBS Plus. The following acronyms are used for specific categories:

(a) TANF-PLS; Clients eligible for JOBS Plus based on TANF.

(b) SNAP-PLS; Clients eligible for JOBS Plus based on SNAP.

(c) NCP-PLS; Noncustodial parents of children receiving TANF.

(18) JPI; Job Participation Incentive. An additional \$10 food benefit to help increase the ability of single parents with small children, that meet federal TANF participation rate, to meet the nutritional needs of their families.

(19) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare clients who are eligible for extra help meeting their Medicare Part D prescription drug costs.

(20) MAA; Medical Assistance Assumed. The Medical Assistance Assumed program provides medical assistance to people who are eligible for the Pre-TANF program or ongoing TANF benefits.

(21) MAF; Medical Assistance to Families. The Medical Assistance to Families program provides medical assistance to people who are ineligible for MAA but are eligible for Medicaid using ADC program standards and methodologies that were in effect as of July 16, 1996.

(22) OFSET. The Oregon Food Stamp Employment Transition Program, which helps SNAP program benefit recipients find employment. This program is mandatory for some SNAP program benefit recipients.

(23) OHP; Oregon Health Plan. The Oregon Health Plan Program provides medical assistance to many low-income individuals and families. The program includes five categories of people who may qualify for benefits. The acronyms for these categories are:

(a) OHP-CHP; Persons Under 19. OHP coverage for persons under 19 years of age who qualify under the 201 percent income standard.

(b) OHP-OPC; Children. OHP coverage for children who qualify under the 100 percent income standard.

(c) OHP-OPP; Pregnant Females and their newborn children. OHP coverage for pregnant females who qualify under the 185 percent income standard and their newborn children.

(d) OHP-OPU; Adults. OHP coverage for adults who qualify under the 100 percent income standard. A person eligible under OHP-OPU is referred to as a health plan new/noncategorical (HPN) client.

(e) OHP-OP6; Children Under 6. OHP coverage for children under age 6 who qualify under the 133 percent income standard.

(24) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to persons who are blind, disabled, or 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:

(a) OSIP-AB; Oregon Supplemental Income Program – Aid to the Blind.

(b) OSIP-AD; Oregon Supplemental Income Program – Aid to the Disabled.

(c) OSIP-EPD; Oregon Supplemental Income Program – Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIP-OAA; Oregon Supplemental Income Program – Old Age Assistance.

(25) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:

(a) OSIPM-AB; Oregon Supplemental Income Program Medical – Aid to the Blind.

(b) OSIPM-AD; Oregon Supplemental Income Program Medical – Aid to the Disabled.

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical – Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIPM-OAA; Oregon Supplemental Income Program Medical – Old Age Assistance.

(e) OSIPM-IC; Oregon Supplemental Income Program Medical – Independent Choices

(26) The Post-TANF program provides a monthly transitional payment to employed clients who are no longer eligible for the Pre-TANF or TANF programs due to earnings, and meet the other eligibility requirements.

(27) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.

(28) QMB; Qualified Medicare Beneficiaries. Programs providing payment of Medicare premiums and one program also providing additional medical coverage for Medicare recipients. Each of these programs also is considered to be a Medicare Savings Program (MSP). When used alone in a rule, QMB refers to all MSP. The following codes are used for QMB subprograms:

(a) QMB-BAS; Qualified Medicare Beneficiaries - Basic. The basic QMB program.

(b) QMB-DW; Qualified Medicare Beneficiaries - Disabled Worker. Payment of the Medicare Part A premium for people under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.

(c) QMB-SMB; Qualified Medicare Beneficiaries - Specified Limited Medicare Beneficiary. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.

(d) QMB-SMF; Qualified Medicare Beneficiaries - Qualified Individuals. Payment of the Medicare Part B premium only. There are no medical benefits available through QMB-SMF. This program has a 100-percent federal match, but also has an allocation that, if reached, results in the closure of the program.

(29) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples without children.

(30) REFM; Refugee Assistance Medical. Medical coverage for low-income refugees.

(31) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.

(32) SAC; Medical Coverage for Children in Substitute or Adoptive Care.

(33) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low income seniors. Funded by a grant from the United States Department of Agriculture.

(34) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment

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(see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

(35) SNAP; Supplemental Nutrition Assistance Program. Helps low-income households maintain proper nutrition by giving them the means to purchase food. SNAP used to be known as FS or Food Stamps, any reference to SNAP also includes FS and Food Stamps.

(36) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of clients threatened by domestic violence.

(37) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839

Stats. Implemented: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; 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 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 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 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-115-0705

Required Verification; BCCM, HKC, MAA, MAF, OHP, SAC

(1) This rule establishes verification requirements for the BCCM, EXT, HKC, MAA, MAF, OHP, and SAC programs in addition to the requirements of OAR 461-115-0610.

(2) Except as provided in section (3) of this rule, each client declaring U.S. citizenship must provide acceptable documentation of citizenship and identity. For purposes of this rule, acceptable documentation consists of any of the documents permitted under section 1903(x) of the Social Security Act (42 U.S.C. 1396b).

(a) A new applicant must provide acceptable documentation as a condition of eligibility (see OAR 461-001-0000). Except for an applicant whose medical benefits previously were closed after March 31, 2009 for not providing acceptable documentation, an applicant's medical assistance may not be delayed for citizenship documentation while the eligibility decision is pending if all other medical assistance eligibility requirements have been met.

(b) A current recipient who has not already provided acceptable documentation must provide acceptable documentation as a condition of eligibility when requested by the Department.

(c) A client who already has provided acceptable documentation is not required to provide additional evidence during a subsequent application for benefits or redetermination of eligibility.

(3) Each of the following clients is exempt from the requirements of section (2) of this rule, a client who is:

- (a) Assumed eligible under OAR 461-135-0010(5);
- (b) Eligible for or receiving Medicare;
- (c) Presumptively eligible for the BCCM program;
- (d) Receiving Social Security Disability Income (SSDI); or
- (e) Receiving Title IV-E benefits.

(4) At initial application and at any other time it affects the client, the following must be verified:

(a) The requirement in OAR 461-120-0210 to have or apply for a social security number.

(b) Alien status for an applicant who indicates he or she is not a U.S. citizen, and for a client who meets the alien status requirement under OAR 461-120-0125(4)(b) the client's alien status must be verified at each certification.

(5) When the pregnancy of a client is first reported, it must be verified by a medical practitioner, health department, clinic, or crisis pregnancy center or similar facility.

(6) In the HKC, MAA, MAF, OHP, and SAC programs, at initial application, recertification, and at any other time it affects the client, the

Department must verify the client's statement of income. If no verification is available, the Department accepts the client's statement.

(7) In the OHP-OPU program, to allow a premium exemption, the Department must verify that a client is:

- (a) A member of a federally recognized Indian tribe, band, or group;
- (b) An Eskimo, Aleut, or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act; or
- (c) An individual eligible for benefits through an Indian Health Program.

(8) In the EXT, MAA, MAF, OHP-OPC, and OHP-OP6 programs, the amount of the premium for cost-effective employer-sponsored health insurance must be verified.

(9) A client must provide verification for any eligibility requirement in sections (4) to (8) of this rule questioned by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 414.231, 414.428, 414.826, 414.831, 414.839

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.400, 411.404, 414.025, 414.231, 414.428, 414.826, 414.831, 414.839
Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; Suspend by SSP 13-2006(Temp), f. & cert. ef. 9-25-06 thru 12-31-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 10-2009(Temp), f. & cert. ef. 5-6-09 thru 9-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 17-2010(Temp), f. & cert. ef. 5-28-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 19-2010(Temp), f. & cert. ef. 7-1-10 thru 11-24-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2010(Temp), f. & cert. ef. 11-1-10 thru 4-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 36-2011(Temp), f. 12-27-11, cert. ef. 1-1-12 thru 6-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0010

Residency Requirements

(1) To be eligible for benefits, an individual must be a resident of Oregon.

(2) Except as provided otherwise in OAR 461-120-0030 and this rule, an individual is a resident of Oregon if the individual lives in Oregon.

(3) There is no minimum amount of time an individual must live in Oregon to be a resident. However, the individual must intend to remain in Oregon except in the following situations:

(a) EA may be issued to help a client return to a former state of residence.

(b) In the EXT, HKC, MAA, MAF, OHP, OSIPM, QMB, REFM, and SAC programs, when an individual is presumed incapable of forming an intent to reside under OAR 461-120-0050.

(c) In the HKC, MAA, MAF, OHP, SAC, and TANF programs, an individual is considered a resident if the individual entered Oregon with a job commitment or looking for work, and is not receiving benefits from another state.

(d) In the SAC program, Oregon is the state of residence for a child who is living in Oregon and receiving Title IV-E substitute care, even though all or part of his or her maintenance costs are paid by a public agency in another state.

(e) SNAP does not require intent to remain to establish residency.

(f) In the TA-DVS program, to the extent permitted under OAR 461-135-1200.

(4) An individual is not a resident if the individual is in Oregon solely for a vacation.

(5) An individual continues to be a resident of Oregon during a temporary period of absence if he or she intends to return when the purpose of the absence is completed.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 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 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; 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 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0030

State of Residence for an Individual in a Medical Facility

In the BCCM, CAWEM, CEC, CEM, EXT, GAM, HKC, MAA, MAF, OHP, OSIPM, QMB, REFM, and SAC programs, the residency of an individual living in a state or private medical facility such as a hospital, mental hospital, nursing home, or convalescent center is determined as follows:

(1) An individual 21 years of age or older who is capable of indicating intent to reside is considered to be:

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(a) A resident of the state where the individual is living with the intention to remain permanently or for an indefinite period, except when subsection (b) of this section indicates otherwise.

(b) When a state agency of another state places the individual (other than a child funded under Title IV-E), the individual is considered to be a resident of the state that makes the placement.

(2) An individual 21 years of age or older who became incapable of indicating intent to reside after attaining 21 years of age is considered to be a resident of the state where the facility is located unless the individual was placed in the facility by a state agency of another state. When a state agency of another state places an individual, the individual is considered to be a resident of the state that makes the placement.

(3) For an individual less than 21 years of age who is incapable of forming an intent to reside, or an individual of any age who became incapable of forming that intent before attaining 21 years of age (see OAR 461-120-0050), the state of residence is one of the following:

(a) The state of residence of the individual's parent or legal guardian at the time of application.

(b) The state of residence of the party who applies for benefits on the individual's behalf if there is no living parent or the location of the parent is unknown, and there is no legal guardian.

(c) Oregon, if the individual has been receiving medical assistance in Oregon continuously since November 1, 1981, or is from a state with which Oregon has an interstate agreement that waives the residency requirement.

(d) When a state agency of another state places the individual, the individual is considered to be a resident of the state that makes the placement.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0050

Incapable of Stating Intent to Reside; EXT, MAA, MAF, OHP, OSIPM, QMB, REFM, and SAC

In the EXT, HKC, MAA, MAF, OHP, OSIPM, QMB, REFM, and SAC programs, an individual is presumed to be incapable of forming an intent to reside if the individual meets the requirements of one or more of the following sections:

(1) The individual is assessed with an IQ of 49 or less, based on a test acceptable to the Department.

(2) The individual has a mental age of seven years or less, based on tests acceptable to the Department.

(3) The individual is judged legally incompetent by a court of competent jurisdiction.

(4) The individual is found incapable of indicating intent to reside based on documentation provided by a physician, psychologist or other professional licensed by the state of Oregon in the field of intellectual disabilities.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 414.231
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0110

Citizenship and Alien Status Requirements

(1) Except as provided in section (5) of this rule, in all programs except the CAWEM, ERDC, REF, and REFM programs, to be a member of a benefit group (see OAR 461-110-0750) an individual must meet the requirements of at least one of the following subsections:

(a) Be a citizen of the United States;

(b) Meet the alien status requirements in OAR 461-120-0125;

(c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; or

(d) Be a national from American Samoa or Swains Islands.

(2) In the CAWEM program, to be a member of the benefit group an individual must meet the eligibility requirements of OAR 461-135-1070.

(3) In the ERDC program, the need group (see OAR 461-110-0630) and benefit group must include a child who meets the requirements of section (1) of this rule.

(4) In the REF and REFM programs, to be a member of the need group and the benefit group an individual must meet the alien status requirements of OAR 461-120-0125.

(5) In the TA-DVS and TANF programs, a victim of domestic violence (see OAR 461-001-0000) is not subject to section (1) of this rule when OAR 461-135-1200 applies.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; Administrative correction 10-22-09; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0125

Alien Status

(1) For purposes of this chapter of rules, an individual is a "qualified non-citizen" if the individual is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).

(e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.

(f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.

(g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

(h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA.

(i) In all programs except the SNAP program – a battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.

(j) In the SNAP program – a non-citizen who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent's family residing in the same household as the non-citizen at the time of the abuse; a non-citizen whose child has been battered or subjected to battery or cruelty; or a non-citizen child whose parent has been battered.

(2) In all programs except the REF and REFM programs, an individual meets the alien status requirements if the individual is one of the following:

(a) An American Indian born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.

(b) A member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).

(3) In the ERDC, TA-DVS, and TANF programs, an individual meets the alien status requirements if the individual is one of the following:

(a) An individual who is a qualified non-citizen.

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(c) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(d) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(4) In the BCCM, CEC, CEM, EXT, HKC, MAA, MAF, OHP, OSIPM, QMB, and SAC programs:

(a) A qualified non-citizen meets the alien status requirements if the individual satisfies one of the following situations:

(A) Effective October 1, 2009, is an individual under 19 years of age.

(B) Was a qualified non-citizen before August 22, 1996.

(C) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date qualified non-citizen status was obtained.

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(D) Is an individual granted any of the following alien statuses:

- (i) Refugee – under section 207 of the INA.
- (ii) Asylum – under section 208 of the INA.
- (iii) Deportation being withheld under section 243(h) of the INA.
- (iv) Cubans and Haitians who are either public interest or humanitarian parolees.

(v) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(vi) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(vii) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(viii) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(E) Meets the alien status requirements in section (2), (6), or (7) of this rule.

(F) In the OSIPM program, is receiving SSI benefits.

(G) In the QMB program, is receiving SSI and Medicare Part A benefits.

(b) A non-citizen meets the alien status requirements if the individual is under the age of 19 and is one of the following:

(A) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.

(B) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens permitted to remain in the United States because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:

(i) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);

(ii) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);

(iii) Cuban-Haitian entrants, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended;

(iv) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended;

(v) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;

(vi) An alien currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or

(vii) An alien who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.

(C) An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including those individuals as specified in section 101(a)(15) of the INA (8 USC 1101).

(5) In the GA and GAM programs, an individual meets the alien status requirement if the individual is one of the following:

(a) An individual who is blind or has a disability was lawfully residing in the United States on August 22, 1996, and is now a qualified non-citizen.

(b) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) Refugee – under section 207 of the INA.

(B) Asylum – under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(c) An individual who meets one of the alien status requirements in section (2) or (6) of this rule.

(d) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(6) In all programs except the ERDC, REF, REFM, and TANF programs, a qualified non-citizen meets the alien status requirement if the individual is:

(a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d).

(b) A member of the United States Armed Forces on active duty (other than active duty for training).

(c) The spouse or a dependent child of an individual described in subsection (a) or (b) of this section.

(d) In the SNAP program, a qualified non-citizen who meets the requirement in section (10) of this rule.

(7) Except as provided in section (2), subsection (4)(a), and sections (5) and (6) of this rule, a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996:

(a) Is ineligible for the BCCM, MAA, MAF, OHP, OSIPM, QMB, and SAC programs for five years beginning on the date the non-citizen received his or her qualified non-citizen status.

(b) Meets the alien status requirement following the five-year period.

(8) In the REF and REFM programs, an individual meets the alien status requirements if the individual is admitted lawfully under any of the following provisions of law:

(a) An individual admitted as a refugee under section 207 of the INA (8 USC 1157).

(b) An individual granted asylum under section 208 of the INA (8 USC 1158).

(c) Cuban and Haitian entrants, in accordance with requirements in 45 CFR part 401.

(d) An individual paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) (8 USC 1182(d)(5)). For purposes of this section, “Lautenberg” parolees, humanitarian interest parolees, and other public interest parolees do not qualify.

(e) An Amerasian from Vietnam who is admitted to the U.S. as an immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461 as amended)).

(f) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(g) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(h) Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act.

(9) In the SNAP program, an individual meets the alien status requirement if the individual meets the requirements of one or more of the following subsections:

(a) An individual granted any of the following alien statuses:

(A) Refugee – under section 207 of the INA.

(B) Asylum – under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112).

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112).

(H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(b) A qualified non-citizen under 18 years of age.

(c) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.

ADMINISTRATIVE RULES

(d) A non-citizen who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101).

(e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (d) of this section.

(f) A qualified non-citizen who has a disability, as defined in OAR 461-001-0015.

(10) A client who is lawfully admitted to the United States for permanent residence under the INA and has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the SNAP program, subject to the following provisions:

(a) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means tested benefits include SNAP, TANF, and Medicaid (except emergency medical).

(b) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.

(c) A lawful permanent resident who would meet the alien status requirement, except for a determination by the Social Security Administration (SSA) that the individual has fewer than 40 quarters of coverage, may be provisionally certified for SNAP program benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for SNAP program benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

Stat. Auth.: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2004(Temp), f. & cert. ef. 4-9-04 thru 6-30-04; SSP 14-2004(Temp), f. & cert. ef. 5-11-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0130

Declaration of Citizenship or Alien Status

An individual required to meet the citizenship and alien status requirements of OAR 461-120-0110 must report the individual's citizenship and alien status to the Department. An adult member of the filing group or an *authorized representative* (see OAR 461-115-0090 and 461-115-0140) must sign a statement under penalty of perjury attesting to this status for each member of the filing group.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 22-1990(Temp), f. 9-28-90, cert. ef. 10-1-90; AFS 30-1991, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0210

Requirement to Provide Social Security Number (SSN)

(1) In the CAWEM, ERDC, REF, and REFM programs, a member of a need group (see OAR 461-110-0630) or a benefit group (see OAR 461-110-0750) is not required to provide or apply for a social security number (SSN). In these programs, the Department may request that a member of the filing group or need group provide an SSN on a voluntary basis.

(2) In the EA and TA-DVS programs, an individual must provide his or her SSN if the individual can.

(3) Except as provided in section (5) of this rule, in the BCCM, CEC, CEM, EXT, HKC, MAA, MAF, OHP, OSIPM, QMB, and SAC programs, to be included in the benefit group, an individual must:

(a) Provide a valid SSN for the individual; or

(b) Apply for a number if the individual does not have a valid one and provide the SSN when it is received.

(4) Except as provided in sections (5) to (7) of this rule, in the SNAP and TANF programs, to be included in the need group, an individual (other than an unborn) must:

(a) Provide a valid SSN for the individual; or

(b) Apply for a number if the individual does not have one and provide the SSN when it is received.

(5) In the BCCM, CEC, CEM, EXT, GA, GAM, HKC, MAA, MAF, OHP, OSIPM, QMB, SAC, and SNAP programs, an individual is not required to apply for or provide an SSN if the individual is:

(a) A member of a religious sect or division of a religious sect that has continuously existed since December 31, 1950; and

(b) Adheres to its tenets or teachings that prohibit applying for or using an SSN.

(6) The requirement to apply for or provide the SSN is delayed as follows:

(a) In the BCCM, CEC, CEM, EXT, MAA, MAF, OHP, and SAC programs, a newborn who is assumed eligible based on the eligibility of the mother of the newborn may receive benefits until one year of age without meeting the SSN requirements of section (4) of this rule.

(b) In the SNAP program:

(A) An applicant eligible for expedited services may receive his or her first full month's allotment without meeting the SSN requirement but must meet the requirement before receiving a second full month's allotment.

(B) Before applying for or providing an SSN, a newborn may be added to an existing benefit group (see OAR 461-110-0750) for six months following the date the child is born or until the group's next recertification, whichever is later.

(c) In the TANF program, without meeting the SSN requirements of section (4) of this rule, a newborn child born in Oregon may be added to the benefit group for six months following the child's date of birth or until the next redetermination of eligibility of the filing group (see OAR 461-110-0330), whichever is sooner.

(7) In the SNAP program:

(a) An individual who refuses or fails without good cause to provide or apply for an SSN when required by this rule is ineligible to participate. This period of ineligibility continues until the individual provides the SSN to the Department.

(b) An individual may participate in SNAP for one month in addition to the month of application, if the individual can show good cause why the application for an SSN has not been completed. To continue to participate, the individual must continue to show good cause each month until the application for an SSN is complete with Social Security Administration.

(c) An individual meets the good cause requirement in subsections (a) and (b) of this section if the individual provides evidence or collateral information that the individual applied for or made every effort to supply the Social Security Administration with the necessary information to complete the application process. Delays due to illness not associated with a disability (see OAR 461-001-0015), lack of transportation, or temporary absence do not qualify as good cause under this rule.

(8) This rule authorizes or requires the collection of an SSN for each of the following purposes.

(a) The determination of eligibility for benefits. The SSN is used to verify income and other assets, and match with other state and federal records such as the Internal Revenue Service (IRS), Medicaid, child support, Social Security benefits, and unemployment benefits.

(b) The preparation of aggregate information and reports requested by funding sources for the program providing benefits.

(c) The operation of the program applied for or providing benefits.

(d) Conducting quality assessment and improvement activities.

ADMINISTRATIVE RULES

(e) Verifying the correct amount of payments, recovering overpaid benefits, and identifying any individual receiving benefits in more than one household.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 412.049, 414.025, 414.826, 414.831, 414.839
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.826, 414.831, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 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 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0315

Medical Assignment

In the CEC, CEM, EXT, GAM, MAA, MAF, OHP, OSIPM, QMB, REFM, and SAC programs:

(1) By signing the application for assistance, a client agrees to turn over the rights of each member of the benefit group (see OAR 461-110-0750) to reimbursement for medical care costs to the Department.

(a) If a client or the client's authorized representative (see OAR 461-115-0090) refuses to assign the rights to reimbursement for medical care costs to the Department, the filing group is ineligible until the client complies with this requirement. This includes a client eligible for long term care (see OAR 461-001-0000) insurance payments who fails to comply as described in subsection (b) of this section.

(b) When a client has long term care insurance, the client complies with the requirements of this rule by reducing the Department's share of the long term care service costs by taking the following actions for the entire period of time that the client is eligible for Department-covered long term care services:

(A) For a client in a nursing facility:

(i) Submitting the necessary paperwork to receive the long term care insurance payments and designating the long term care facility as the payee for the long term care insurance benefits; or

(ii) When the insurance company will not pay the long term care insurance benefits directly to the long term care facility, submitting the necessary paperwork to receive insurance payments and then promptly turning over the long term care insurance payments to the long term care facility upon receipt.

(B) For a client in community based care (see OAR 461-001-0000):

(i) Submitting the necessary paperwork to receive the long term care insurance payments and designating the Department as the payee for the long term care insurance benefits; or

(ii) When the insurance company will not pay the long term care insurance benefits directly to the Department, submitting the necessary paperwork to receive the insurance payments and then promptly turning over the long term care insurance payments to the Department upon receipt.

(2) The Department may refuse to pay medical expenses for anyone in the benefit group when another party or resource should pay first.

(3) The amount the Department may collect in reimbursement is limited to the amount of medical services paid by the Department on the client's behalf.

(4) The Department establishes an overpayment if it is discovered after-the-fact that during any period of time a client or another individual submitting a long term care insurance claim on the client's behalf received a long term care insurance payment that was not turned over to the long term care facility or Department as required by subsection (1)(b) of this rule.

Stat. Auth.: ORS 411.060, 411.404, 411.706, 414.231
Stats. Implemented: ORS 411.060, 411.404, 411.706, 414.231
Hist.: AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0330

Requirement to Pursue Assets

(1) In all programs, except the ERDC and SNAP programs, an individual must make a good faith effort to obtain any asset (other than support and medical coverage, which are covered in OAR 461-120-0340 and 461-120-0345, respectively) to which the individual has a legal right or claim, except as follows:

(a) A parent (see OAR 461-001-0000) or caretaker relative (see OAR 461-001-0000) who is exempt from participation in the JOBS program (except a primary wage earner (see OAR 461-125-0150) who is exempt due

to remoteness as provided by OAR 461-130-0310(1)) is not required to apply for unemployment insurance benefits.

(b) Except as specified by law, an individual applying for or receiving any program benefits from the Department is not required to apply for other programs it administers or for supplemental security income (SSI).

(c) An individual applying for the EA program is required to pursue, obtain, and use an asset only if the asset can be made available in time to meet the emergent need.

(d) An individual is not required to borrow money.

(e) An individual is not required to make a good faith effort to obtain any asset if the individual can show good cause for not doing so. Good cause means a circumstance beyond the ability of the individual to control.

(2) In all programs except the ERDC, SNAP, and medical assistance programs:

(a) The effect of failing to comply with this rule is that everyone in the filing group is ineligible. In addition, when a REF, SFPSS, or TANF program payment ends due to the penalty described in this subsection, eligibility for and the level of SNAP benefits are determined as if the individual were receiving benefits without the effects of this rule.

(b) The penalty provided by subsection (2)(a) of this rule is effective until all members of the filing group comply with the requirements of section (1) of this rule.

(3) In the medical assistance programs:

(a) An individual is ineligible for benefits if he or she fails to comply with the requirements of this rule.

(b) The penalty provided by section (3)(a) of this rule is effective until the individual complies with the requirements of section (1) of this rule.

Stat. Auth.: ORS 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.087, 411.404, 411.706, 411.816, 412.006, 412.014, 412.024, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 30-1996, f. & cert. ef. 9-23-96; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0340

Client Required To Help Department Obtain Support From Noncustodial Parent; TANF

In the TANF program:

(1) To be eligible for program benefits, except as permitted in section (2) of this rule, a caretaker relative (see OAR 461-001-0000) must make a good faith effort to help the Department:

(a) Establish paternity of each needy child; and

(b) Locate and obtain support payments from the noncustodial parent of each needy child.

(2) A caretaker relative is excused from the requirements of section (1) of this rule:

(a) For good cause under OAR 461-120-0350;

(b) If the caretaker relative is a participant in the Post-TANF or SFPSS programs; or

(c) If the filing group (see OAR 461-110-0330) is a two-parent family for which deprivation is based on unemployment or underemployment of the primary wage earner (PWE).

(3) A good faith effort includes taking such actions as:

(a) Supplying sufficient information for the Division of Child Support (DCS) to proceed with appropriate actions to establish paternity of a dependent child, to locate noncustodial parents, or to establish a support order with respect to the child. Sufficient information includes, but is not limited to, the time and place of each child's conception (if paternity is not established) and the following information, if known to the caretaker relative, regarding any noncustodial parent of a needy child:

(A) Full legal name and nicknames.

(B) Social Security Number.

(C) Current or last known address.

(D) Current or last known employer, including name and address.

(E) If a student, current or last known school.

(F) Criminal record, including where and when incarcerated.

(G) Date of birth, or age.

(H) Race.

(I) Any known group or organizational affiliations.

(J) Names and addresses of close friends or relatives.

(K) Any other information the Department or DCS requests to help locate or identify an absent parent of any children in the benefit group.

ADMINISTRATIVE RULES

(b) Supplying documentation or an explanation of the client's efforts to obtain information requested by the Department or DCS (if unable to provide any necessary information listed in subsection (a) of this section).

(c) Keeping appointments with the Department and DCS related to establishing paternity.

(d) Returning telephone calls and responding to correspondence when requested to do so by the Department or DCS.

(4) If a client who has not been excused under section (2) of this rule has the opportunity to make a good faith effort to help the Department establish paternity of a needy child or locate or obtain support payments from the noncustodial parent of a needy child (and is unable to show he or she has good cause under OAR 461-120-0350), the Department applies penalties for failure to comply with requirements of section (1) of this rule in the following manner until the client meets the requirements of this rule:

(a) For a benefit group (see OAR 461-110-0750) not currently receiving TANF, if the failure to comply occurs while an application for TANF is pending the filing group (see OAR 461-110-0330) is ineligible.

(b) For a benefit group receiving TANF benefits, if a failure to comply occurs, the net monthly TANF benefit, after reductions for the client's failure to comply with requirements of the JOBS program are made, is reduced by:

(A) 25 percent for the first month following the month in which failure to comply is determined.

(B) 50 percent for the second month following the month in which failure to comply is determined.

(C) 75 percent for the third month following the month in which failure to comply is determined.

(D) 100 percent (total ineligibility for the benefit group) for the fourth and subsequent months following the month in which failure to comply is determined.

(c) Once a penalized client complies with the requirements and benefits are no longer reduced under this rule, a subsequent penalty is imposed without regard to any prior penalty.

(d) If the TANF payment is affected by the penalty imposed under this rule, eligibility for and the level of SNAP benefits are determined as if the client were receiving cash benefits without reduction due to the penalty.

(5) The penalty provided by this rule ends when the client meets the requirements of section (1) of this rule.

Stat. Auth: ORS 411.060, 411.070, 412.024, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.024, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2011(Temp), f. & cert. ef. 10-5-11 thru 4-2-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0350

Clients Excused for Good Cause from Compliance with Requirements to Pursue Child Support, Health Care Coverage, and Medical Support

(1) A client is excused from the requirements of OAR 461-120-0340(1) and 461-120-0345(1)(a) if:

(a) The client's compliance would result in emotional or physical harm to the dependent child (see OAR 461-001-0000) or to the caretaker relative (see OAR 461-001-0000). The statement of the caretaker relative alone is prima facie evidence that harm would result;

(b) The child was conceived as a result of incest or rape and efforts to obtain support would be detrimental to the dependent child. The statement of the caretaker relative alone is prima facie evidence on the issues of conception and detrimental effect to the dependent child;

(c) Legal proceedings are pending for adoption of the needy child; or

(d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.

(2) In the EXT, GAM, MAA, MAF, OHP, REFM, and SAC programs, a pregnant client is excused from the requirements of OAR 461-120-0345.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 412.124, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 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 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0510

Age Requirements for Clients to Receive Benefits

(1) If the year of an individual's birth is known but the month is unknown, the month of birth is presumed to be July. If the date of birth is unknown, the date of birth is presumed to be the first of the month.

(2) To be eligible for the BCCM program, a woman must be under 65 years of age.

(3) To be eligible for the CEC program, an individual must be under 20 years of age.

(4) To be eligible for the CEM program, an individual must be under 19 years of age.

(5) To be eligible for the EXT, MAA, MAF, or TANF programs:

(a) A dependent child (see OAR 461-001-0000) must be:

(A) Under 18 years of age; or

(B) Under 19 years of age and regularly attending school (see subsection (c) of this section) full time, as determined by the school.

(b) A caretaker relative (see OAR 461-001-0000) may be any age.

(c) "Regularly attending school" means enrolled in and attending any of the following:

(A) A school in grade 12 or below, including home schooling approved by the local school district.

(B) GED classes in lieu of high school.

(C) A course of vocational or technical training, including Job Corps, in lieu of high school.

(D) The Oregon School for the Deaf.

(d) The student's full-time status is defined by the school.

(e) Regular attendance continues when a student misses school because of an illness, family emergency, or vacation, as long as the student intends to return to school. Students are considered to be in attendance for the full month in which they complete or discontinue school or training.

(6) To be eligible for payment of child care costs for the ERDC or TANF program, a child must be:

(a) Under 12 years of age for the ERDC program or under 13 years of age for the TANF program; or

(b) Under 18 years of age and:

(A) Physically or mentally incapable of selfcare;

(B) Under court supervision;

(C) Receiving foster care;

(D) Eligible for the special need rate for child care in OAR 461-155-0150; or

(E) Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available.

(7) To be eligible for the OSIP-AB, OSIPM-AB, QMB-BAS, QMB-SMB, REFM, or SNAP programs, a client may be any age.

(8) To be eligible for the GA and GAM programs, a client must be:

(a) Eighteen years of age or older and less than 65 years of age; or

(b) Sixty-five years of age or older and must be a non-citizen who meets the requirements of OAR 461-120-0125.

(9) To be eligible for the OHP program, a client must meet the age requirements in OAR 461-135-1100.

(10) To be eligible for the OSIP-AD (except OSIP-EPD), OSIPM-AD (except OSIPM-EPD), and QMB-DW programs, a client must be under 65 years of age.

(11) To be eligible for the OSIP-EPD and OSIPM-EPD programs, the client must be 18 years of age or older or be legally emancipated.

(12) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.

(13) To be eligible for the REF program, a client must be:

(a) 18 years of age or older;

(b) A legally emancipated minor; or

(c) Part of a TANF filing group (see OAR 461-110-0310) that is ineligible for the TANF program.

(14) To be eligible for the SAC program, an individual must be under 21 years of age.

Stat. Auth: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 18-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-

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04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-120-0630

Requirement to Live with a Caretaker or Caretaker Relative

(1) Except as provided otherwise for the TANF program in OAR 461-135-1200, to be eligible for the EXT, MAA, MAF, and TANF programs, a dependent child (see OAR 461-001-0000) must live with a *caretaker relative* (see OAR 461-001-0000). Documentary evidence is required to show that an individual is the father of a dependent child.

(2) To be eligible for the EA program, a child must either live with a *caretaker relative* or have lived with a caretaker relative within the last six months.

(3) To be eligible for the ERDC program, a child must live with a caretaker (see OAR 461-001-0000).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 412.049

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 28-1992, f. & cert. ef. 10-1-92; AFS 30-1992(Temp), f. & cert. ef. 10-14-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

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 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 Oregon JOBS Plus, Pre-TANF, Post-TANF, or SFPSS programs.

(e) Months between October 1, 2007 and June 30, 2009 and months beginning October 1, 2011 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.

(f) 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.

(g) 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.

(h) 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 OAR 461-190-0199.

(i) 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.

(j) Months beginning July 1, 2008 in which the individual does not qualify for any other TANF time-limit exemption under this rule, and 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) when Oregon's statewide average unemployment rate as published by the Oregon Employment Department is equal to or greater than seven percent. For purposes of this rule, this determination is calculated based on a six-month period as follows:

(A) The time period during July 1, 2008 through June 30, 2009 is 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.

(B) In each six-month period, starting July 1, 2009:

(i) The time period during January 1 through June 30 is 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 is 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.

(3) Months that do not count toward the time limit based on a condition described in paragraphs (2)(i)(B) to (2)(i)(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.

(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, 412.079

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; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-135-1100

Specific Requirements; OHP

In addition to eligibility requirements applicable to the OHP program in other rules in chapter 461 of the Oregon Administrative Rules, this rule sets out specific eligibility requirements for the OHP program.

(1) For purposes of this rule, OAR 461-135-1101, and 461-135-1149, the term private major medical health insurance refers to a comprehensive major medical insurance plan that at a minimum provides physician services; hospitalization (inpatient and outpatient); outpatient lab, x-ray, immunizations; and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(2) To be eligible for the OHP program, an individual cannot:

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- (a) Be receiving, or deemed to be receiving, SSI benefits;
- (b) Be eligible for Medicare, except that this requirement does not apply to the OHP OPP program;
- (c) Be receiving Medicaid through another program; or
- (d) Be enrolled in a health insurance plan subsidized by the Family Health Insurance Assistance program (FHIAP, see ORS 735.720 to 735.740).

(3) To be eligible for the OHP-OPU program, an individual must be 19 years of age or older and may not be pregnant. An individual eligible for the OHP-OPU program is referred to as a health plan new/noncategorical (HPN) client. In addition to all other OHP program eligibility requirements, an HPN client:

(a) May not be covered by private major medical health insurance and may not have been covered by private major medical health insurance during the six months preceding the effective date for starting medical benefits. The six-month waiting period is waived if:

(A) The individual has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;

(B) The individual's private health insurance premium was reimbursed under the provisions of OAR 461-135-0990;

(C) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(D) A member of the individual's filing group was a victim of domestic violence.

(b) Must meet the following eligibility requirements:

(A) The resource limit provided in OAR 461-160-0015;

(B) Payment of premiums determined in accordance with OAR 461-155-0235 and paid in accordance with OAR 461-135-1120; and

(C) The requirements in OAR 461-120-0345 related to obtaining medical coverage for members of the benefit group through the Family Health Insurance Assistance Program (FHIAP), if applicable.

(4) To be eligible for the OHP-OPC program, an individual must be less than 19 years of age.

(5) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(6) To be eligible for the OHP-OPP program, an individual must be pregnant or must be a newborn assumed eligible under OAR 461-135-0010(4).

(7) To be eligible for the OHP-CHP program, an individual must be under 19 years of age and must:

(a) Not be eligible for the OHP-OPC, OHP-OPP, or OHP-OP6 programs;

(b) Meet budgeting requirements of OAR 461-160-0700;

(c) For eligibility decisions prior to August 16, 2010, select a medical, dental and mental health managed health care plan (MHCP) or primary care case manager (PCCM) if available, unless the client is exempted by OAR 410-141-0060; and

(d) Not be covered by private major medical health insurance or by any private major medical health insurance during the preceding two months. The two-month waiting period is waived if:

(A) The individual has a condition that, without treatment, would be life threatening or cause permanent loss of function or disability;

(B) The loss of health insurance was due to the loss of or a change in employment;

(C) The individual's private health insurance premium was reimbursed under OAR 461 135 0990;

(D) The individual's private health insurance was subsidized through FHIAP or the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(E) A member of the individual's filing group was a victim of domestic violence.

(8) A child who becomes ineligible for the OHP program because of age while receiving in patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he or she is receiving in patient medical services on the last day of the month in which the age requirement is no longer met.

(9) In the HKC, OHP-CHP, and OHP-OPC programs, for the Department to enroll a child in the program based on a determination made by an ELA, the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature for the child to be enrolled in the program.

(10) The Department only may use ELE for a child in a filing group in which no member is already receiving benefits through the CEC, CEM,

EXT, HKC, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OP6, OSIPM, or SAC program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 414.115, 414.231
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.704, 411.706, 414.025, 414.115, 414.231, 414.826, 414.831, 414.839
Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 13-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 36-2009(Temp), f. & cert. ef. 12-1-09 thru 12-31-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 9-2010(Temp), f. & cert. ef. 4-21-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 21-2010(Temp), f. & cert. ef. 7-1-10 thru 10-18-10; SSP 24-2010(Temp), f. & cert. ef. 7-15-10 thru 10-18-10; SSP 27-2010(Temp), f. & cert. ef. 8-16-10 thru 10-18-10; SSP 30-2010(Temp), f. & cert. ef. 8-25-10 thru 10-18-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 35-2010(Temp), f. & cert. ef. 10-1-10 thru 3-30-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 36-2011(Temp), f. 12-27-11, cert. ef. 1-1-12 thru 6-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-145-0080

Child Support and Cash Medical Support

(1) Child support and cash medical support paid by a non-custodial parent for a dependent child or minor parent in the financial group (see OAR 461-110-0530) are considered income of the dependent child or minor parent, whether the support is paid voluntarily or in accordance with an order to pay child support.

(2) For the purposes of this rule:

(a) "Disregard" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is not counted as income of the client. Disregard includes current child support only.

(b) "Pass-through" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is sent to the client before any remaining amount of current child support is withheld by the State. Pass-through includes current child support only.

(3) In the ERDC program, child support is considered countable unearned income if it is received by the financial group or is countable under OAR 461-145-0280. Otherwise it is excluded.

(4) In the SNAP program, child support and cash medical support are treated as follows:

(a) Child support payments the group receives that must be assigned to the Department to maintain TANF eligibility are excluded, even if the group fails to turn the payments over to the Department.

(b) Child support payments received by a filing group (see OAR 461-110-0370) with at least one member working under a TANF JOBS Plus agreement are excluded, except:

(A) It is considered countable unearned income in the calculation of the wage supplement; and

(B) Any pass-through pursuant to section (2) of this rule is considered countable unearned income.

(c) All other child support, including any pass-through pursuant to section (2) of this rule, is considered countable unearned income.

(d) Cash medical support is considered countable unearned income except to the extent it is used to reimburse (see OAR 461-145-0440) an actual medical cost.

(e) Payments made by a non-custodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.

(5) Except as provided otherwise in section (9) of this rule for the TANF program, in the MAA, MAF, REF, REFM, SAC, and TANF programs:

(a) In determining initial eligibility, except for disregard pursuant to section (2) of this rule, child support received by the Oregon Department of Justice, Division of Child Support (DCS) is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.

(b) In determining on-going eligibility, except for clients working under a TANF JOBS Plus agreement and except for child support passed through to the client and disregarded pursuant to section (2) of this rule, child support received by the DCS is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.

(c) For clients working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

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(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

(d) All other child support payments:

(A) Paid directly to the financial group that are not turned over to the Department or to the DCS or that are paid to a third party on behalf of a member of the financial group are considered countable unearned income.

(B) Paid directly to the financial group that are turned over to the Department or to the DCS are considered countable unearned income except for any amount of pass-through and disregard pursuant to section (2) of this rule.

(e) Cash medical support is excluded in determining countable income.

(6) In the OHP program:

(a) Child support paid directly to the financial group or paid to a third party for the benefit of the financial group is considered countable unearned income.

(b) Cash medical support is excluded.

(7) In the OSIP, OSIPM, and QMB programs, all child support and cash medical support paid to the financial group are considered countable unearned income. Child support and cash medical support paid by the financial group are not deductible from income.

(8) In the SFPSS program, notwithstanding section (5) of this rule, for on-going eligibility and benefit determination:

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.

(9) For on-going eligibility and benefit determination for TANF clients for whom deprivation is based on the unemployment or underemployment of the primary wage earner (PWE) in a two-parent household, starting October 1, 2011:

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.

(d) For a filing group (see OAR 461-110-0330) with at least one member working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 7-2008(Temp), f. & cert. ef. 3-21-08 thru 9-17-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2011(Temp), f. & cert. ef. 10-5-11 thru 4-2-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-145-0410 Program Benefits

(1) EA and TA-DVS payments are treated as follows:

(a) In the ERDC and SNAP programs, a payment made directly to the client is counted as unearned income. Dual payee and provider-direct payments are excluded.

(b) In all programs except the ERDC and SNAP programs, these payments are excluded.

(2) Payments from ERDC and TANF child care are excluded unless the client is the provider.

(3) Payments from the EXT, GAM, MAA, MAF, OHP, OSIPM, QMB, REFM, and SAC programs are excluded.

(4) Payments from JPI (see OAR 461-135-1260) are issued as a food benefit and are excluded.

(5) SNAP payments are treated as follows:

(a) The value of a SNAP benefit is excluded in all programs except the EA program. In the EA program, the value is counted as a resource when determining the emergency food needs of the filing group (see OAR 461-110-0310).

(b) OFSET service payments are excluded.

(6) Benefits from the GA, OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, TANF, and tribal-TANF programs are treated as follows:

(a) In the EA program, these payments are counted as unearned income, except that these payments are excluded for a benefit group (see OAR 461-110-0750) whose emergent need is the result of domestic violence (see OAR 461-001-0000).

(b) In the ERDC program:

(A) Post-TANF payments are excluded.

(B) All other payments are counted as unearned income.

(c) In the SNAP program:

(A) These payments are treated as unearned income.

(B) An amount received as a late processing payment is treated as lump-sum income.

(C) Payments made to correct an underpayment are treated as lump-sum income.

(D) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.

(d) In the OHP program:

(A) GA payments are excluded from income for purposes of determining OHP eligibility.

(B) Benefits from the Post-TANF program are excluded.

(C) Benefits from the OSIP (except OSIP-IC), REF, SFPSS, and TANF programs are treated as follows:

(i) The payments are counted as unearned income if all the individuals included in the benefit group for the cash payment are also in the OHP financial group (see OAR 461-110-0530).

(ii) A prorated share is counted as unearned income if any of the individuals in the cash payment are not included in the OHP financial group. A prorated share is determined by dividing the total payment by the number of individuals in the TANF benefit group.

(iii) A payment made to correct an underpayment caused by the Department is excluded if the underpayment occurred prior to the budget period.

(e) In all programs except the EA, ERDC, OHP, and SNAP programs:

(A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.

(B) Payments made to correct an underpayment are excluded.

(f) In all programs:

(A) JOBS, REF, and TANF JOBS Plus support service payments are excluded.

(B) For the treatment of JOBS Plus income, see OAR 461-145-0130.

(C) REF and TANF client incentive payments are treated as follows:

(i) Except in the TANF program, the cooperation incentive payment (see OAR 461-135-0310) is counted as unearned income.

(ii) Progress and outcome incentive payments other than in-kind payments are counted as lump-sum income (see OAR 461-140-0120). All other incentives are excluded.

(7) Payments from OSIP-IC are treated as follows:

(a) In the SNAP program, these payments are counted as unearned income and assets held in a contingency fund (see OAR 411-030-0020) are counted as a resource.

(b) In all other programs, these payments and funds held in a contingency fund are excluded.

(8) Pre-TANF program payments are treated as follows:

(a) In the TANF program, a payment for basic living expenses, made directly to the client, is counted as unearned income. All other payments are excluded.

(b) In all programs except the SNAP program, these payments are excluded.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.700, 411.816, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 5-1991, f. & cert. ef. 2-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1992(Temp), f. 7-31-92, cert. ef. 8-1-92; AFS 32-1992, f. 10-30-92, cert. ef. 11-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert.

ADMINISTRATIVE RULES

ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 36-2011(Temp), f. 12-27-11, cert. ef. 1-1-12 thru 6-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-155-0030

Income and Payment Standards; MAA, MAF, REF, SAC, TANF

In the JOBS, MAA, MAF, REF, SAC, and TANF programs, the income standards are as follows:

(1) The Countable Income Limit Standard is the amount set as the maximum countable income limit.

(a) For each need group (see OAR 461-110-0630) in the REF and TANF programs containing an adult and for all need groups in the MAA, MAF, and SAC programs, the following table is used: [Table not included. See ED. NOTE.]

(b) In the TANF program, a caretaker relative (see OAR 461-001-0000) other than a parent (see OAR 461-001-0000) who chooses not to be included in the need group is subject to the "no-adult countable income limit standard" for the need group under subsection (c) of this section. The "non-needy countable income limit standard" for the filing group (see OAR 461-110-0330) is set at 185 percent of the federal poverty level (see OAR 461-155-0180).

(c) In the REF and TANF programs, when the need group contains no adults, the "no adult countable income limit standard" is calculated as follows:

(A) Refer to the Countable Income Limit Standard for need groups with adults. Use the standard for the number of individuals in the household group (see OAR 461-110-0210).

(B) Divide the standard in paragraph (A) of this subsection by the number of individuals in the household group. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of individuals in the need group. The result is the standard.

(d) In the JOBS program, for the filing group of a non-custodial parent who resides in Oregon and whose dependent child (see OAR 461-001-0000) is receiving TANF program benefits in Oregon to participate in an activity (see OAR 461-001-0025) of the JOBS program, the countable (see OAR 461-001-0000) income limit is set at 185 percent of the federal poverty level (see OAR 461-155-0180).

(2) The Adjusted Income/Payment Standard is used as the adjusted income limit and to calculate cash benefits for need groups with an adult.

(a) For need groups containing an adult in the REF and TANF programs and for all need groups in the MAA, MAF, and SAC programs, except as provided otherwise in subsection (b) of this section, the following table is used: [Table not included. See ED. NOTE.]

(b) To calculate cash benefits for a need group with an adult in the REF and TANF programs, the following table is used: [Table not included. See ED. NOTE.]

(c) In the REF and TANF programs, when the need group contains no adult, the No-Adult Adjusted Income/Payment Standard is calculated as follows:

(A) Refer to the Adjusted Income/Payment Standard for need groups with adults. Use the standard for the number of individuals in the household group.

(B) Divide the standard in paragraph (A) of this subsection by the number of individuals in the household group. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of individuals in the need group.

(D) Add \$12 to the figure calculated in paragraph (C) of this subsection.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.124

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.400, 412.006, 412.049, 412.124

Hist.: AFS 80-1989, f. & cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; 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 6-2007(Temp), f. 6-29-07, cert. ef. 7-1-07 thru 9-30-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 26-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 3-2012(Temp), f. & cert. ef. 1-26-12 thru 3-31-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-155-0500

Special Needs; Overview

(1) Ongoing special needs are needs that last several months at a consistent cost. Examples are special diets and accommodation allowances. OAR 461-155-0010 is used to determine how special needs are considered for each program.

(2) To be eligible for a special need item, a client may not have any other available resources in the community or natural support system to meet the need, excluding resources used in determining eligibility.

(3) To be eligible for a special need item, a client may not be eligible for the item through Medicare, Medicaid, or any other medical coverage.

(4) A client may be eligible for an ongoing special need item if providing the ongoing special need item is authorized in lieu of additional provider service hours pursuant to OAR 411-030-0002 to 411-030-0090 and is more cost-effective.

(5) The Department may authorize payment for one-time and ongoing special needs for the following, in accordance with OAR 461-155-0510 to 461-155-0710:

(a) One-time needs for the following:

(A) Community based facility room and board (see OAR 461-155-0630).

(B) Community transition services (see OAR 461-155-0526).

(C) Diversion and transition services (see OAR 461-155-0710).

(D) Home adaptations to accommodate a client's physical condition (see OAR 461-155-0551).

(E) Home repairs (see OAR 461-155-0600).

(F) Moving costs (see OAR 461-155-0610).

(G) Property taxes (see OAR 461-155-0620).

(b) Ongoing needs for the following:

(A) Accommodation allowances (see OAR 461-155-0660).

(B) Food for guide dogs and special assistance animals (see OAR 461-155-0530).

(C) In-home supplement (see OAR 461-155-0575).

(D) Laundry allowances (see OAR 461-155-0580).

(E) Personal incidentals and room and board allowance (see OAR 461-155-0700).

(F) Restaurant meals (see OAR 461-155-0640).

(G) Special diet allowances (see OAR 461-155-0670).

(H) Telephone allowances (see OAR 461-155-0680).

(I) Prescription drug co-pay coverage (see OAR 461-155-0688).

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 21-2008(Temp), f. & cert. ef. 10-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

461-180-0130

Effective Dates; Restored Benefits

(1) The effective date for restoring benefits that were underpaid (including erroneous collections of overpayments) or denied or closed in error is set as follows:

(a) Except as provided in subsections (b) and (c) of this section, in all programs except the SNAP program, for underpayments resulting from administrative error, the effective date is the date the error was made.

(b) In all programs except as provided in subsection (c) of this section, benefits may be restored only for the preceding 12 months.

(c) JPI benefits may be restored only for the preceding four months.

(d) In all programs except the SNAP program, for underpayments resulting from client error, the effective date is the earliest of the following:

(A) The month the benefit group (see OAR 461-110-0750) notifies the branch office (see OAR 461-001-0000) of the possible loss.

(B) The month the branch office discovers the loss.

(C) The date a hearing is requested.

(2) In the SNAP program, for underpayments resulting from administrative error, benefits are restored for not more than twelve months prior to whichever of the following occurs first:

(a) The date the benefit group notifies the branch office of the possible loss.

(b) The date the branch office discovers the loss.

(c) The date a hearing is requested.

(3) In the SNAP program, benefits are not restored for underpayments resulting from client error.

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(4) The effective date for restoring benefits that have been suspended is:

(a) For individuals whose medical assistance is suspended because they are incarcerated with an anticipated stay of a year or less, see OAR 461-135-0950(8).

(b) When subsection (a) of this section does not apply:

(A) The first of the month after the suspension, if suspension was for only one month; or

(B) The date the benefit group again becomes eligible, if benefits have been suspended for more than 30 days. The Department treats the month in which benefits are restored as an initial month (see OAR 461-001-0000).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 414.231
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.439, 411.816, 412.014, 412.049, 414.231
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2011(Temp), f. & cert. ef. 6-29-11 thru 12-26-11; SSP 28-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-26-11; SSP 32-2011, f. & cert. ef. 12-27-11; SSP 33-2011(Temp), f. & cert. ef. 12-27-11 thru 6-24-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12

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

Adm. Order No.: SSP 10-2012

Filed with Sec. of State: 3-29-2012

Certified to be Effective: 3-30-12

Notice Publication Date: 2-1-2012

Rules Adopted: 461-135-1260

Rules Amended: 461-170-0011

Subject: OAR 461-135-1260 is being adopted to set out the specific requirements of the Job Participation Incentive (JPI), which is part of the strategy to meet federal requirements related to TANF participation and help increase the ability of single parents with small children provide better nutrition to their families. This rule is also being adopted to make permanent the temporary rule adopted on October 1, 2011.

OAR 461-170-0011 is being amended to set out the reporting requirements for clients receiving the Job Participation Incentive (JPI), aligning these requirements with SNAP cases in SRS. This rule is also being adopted to make permanent the temporary rule adopted on October 1, 2011.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-1260

Specific Requirements: Job Participation Incentive

(1) This rule explains specific requirements of the Job Participation Incentive (JPI).

(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 equivalent to 20 weekly hours at Oregon State minimum wage;

(b) Provide the Department with employer-produced documents of paid, unsubsidized work hours covering a consecutive two-week period that has occurred within the last 60 days;

(c) Have reason to anticipate the same weekly employment hours will remain the same for the reporting period;

(d) Provide employer-produced documents of paid, unsubsidized work hours each time requested by the Department or no later than the last day of the sixth month following the date the client provides the verification of work hours in accordance with subsections (a) and (b) of this section;

(e) Meet citizenship requirements to be an adult in the SNAP benefit group (see OAR 461-110-0750);

(f) Be an eligible adult in a SNAP benefit group (see OAR 461-110-0750) and the sole parent of an eligible dependent child (see OAR 461-001-0000) under age six in the same SNAP benefit group; and

(g) Not be receiving Post-TANF, SFPSS, and TANF programs in the same month.

(4) To remain eligible for JPI, a client must:

(a) Meet all SNAP eligibility requirements and SRS reporting requirements (see OAR 461-170-0011); and

(b) Meet all requirements in section (3) of this rule at the time of the interim change report and at the time of the recertification of SNAP benefits.

(5) Household income in 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)(f) of this rule.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.049

Hist.: SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 10-2012, f. 3-29-12, cert. ef. 3-30-12

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.

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- (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 (see OAR 461-170-0010).
- (f) In the GA, GAM, OSIP, OSIPM, and QMB programs a client must report all changes that may affect eligibility within 10 days of occurrence, including any of the following changes:
- (A) A change in employment status.
 - (B) A change in health care coverage.
 - (C) A change in membership of the household group (see OAR 461-110-0210).
 - (D) A change in marital status.
 - (E) A change in residence.
 - (F) A change in resources.
 - (G) A change in source or amount of income.
- (g) In the MAA, MAF, REF, SAC, SFPSS, and TANF programs, clients assigned to CRS must report any of the following changes within 10 days of occurrence:
- (A) Acquisition or change in ownership of a non-excluded vehicle.
 - (B) A change in earned income more than \$100.
 - (C) A change in employment status.
 - (D) A change in membership of the household group (see OAR 461-110-0210).
 - (E) A change in mailing address or residence.
 - (F) A change in pregnancy status of any member of the filing group.
 - (G) A change in source of income.
 - (H) A change in unearned income more than \$50.
 - (I) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.
- (J) Sale or receipt of a resource that causes total resources to exceed program resource limits.
- (h) In the HKC and OHP programs, a client must report any of the following changes within 10 days of occurrence:
- (A) A change in availability of employer-sponsored health insurance.
 - (B) A change in health care coverage.
 - (C) A change in mailing address or residence.
 - (D) A change in name.
 - (E) A change in pregnancy status of any member of the filing group (see OAR 461-110-0400).
- (i) In the REFM program, clients must report the following changes within 10 days of occurrence:
- (A) A change in membership of the household group (see OAR 461-110-0210).
 - (B) A change in residence.
- Stat. Auth.: ORS 411.060, 411.070, 411.404, 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

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

Adm. Order No.: SSP 11-2012

Filed with Sec. of State: 4-6-2012

Certified to be Effective: 4-6-12

Notice Publication Date: 2-1-2012

Rules Amended: 461-190-0211

Rules Repealed: 461-190-0211(T)

Subject: OAR 461-190-0211 about case plan activities and standards for support service payments for the Department's Temporary Assistance for Needy Families Job Opportunity and Basic Skills (JOBS) program is being amended to make permanent temporary rule changes adopted November 1, 2011 that modify program restrictions implemented July 1, 2011 as a result of budget reductions from the 2011 legislative session. The changes include stating the policies that apply to the Pre-TANF program; allowing individuals exempt from JOBS participation because of a child under two to volunteer for the JOBS program as slots are available; extending the length of unpaid work-site agreements from 60 days to four months in order to increase the period of time individuals may participate in work experience and supported work (the extended period could increase the number of employers interested in offering work-site slots, expanding the variety of work experience opportunities available to participants); removing the monthly transportation support services limit of \$50 per month which will allow flexibility to address family needs within the monthly maximum support services limit; increasing the monthly maximum support services limit per family by \$50 which will offset the impact the removal of the \$50 monthly transportation limit will have against child care and other support services within the monthly maximum; allowing Department-approved support services exceptions to be implemented; and aligning changes to meet requirements in ORS 412.124 and clarifying that Post-TANF clients may have a case plan even if otherwise exempt from JOBS if they need additional participation hours to maintain eligibility.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-190-0211

Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, REF, SFPSS, TA-DVS, TANF

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in Chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) Participation in a case plan (see OAR 461-001-0025) activity (see OAR 461-001-0025) is limited as provided in each of the following subsections:

(a) An individual who is determined to be a work-eligible individual according to federal definition (45 CFR 261.2(n)(1)). Unless sections (10) or (11) of this rule apply, no other individual may participate in and access JOBS contract activities and support services (see OAR 461-001-0025).

(b) An individual who is an applicant in the Pre-TANF program or a recipient of TANF or Post-TANF program benefits.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6), and (7) of this rule, the following activities will be available and include support services payments:

(a) Job search (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and 461-101-0010) is limited to six months per individual.

(c) Work experience (see OAR 461-001-0025), alone or in combination with any other unpaid volunteer work, is limited to a four-month, work-site agreement per individual.

(d) Sheltered or supported work (see OAR 461-001-0025), alone or in combination with any other unpaid volunteer work, is limited to a four-month, work-site agreement per individual.

(e) High School or GED (see OAR 461-001-0025) limited to a teen parent (see OAR 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(3) The following activities will be available but will not include support services payments:

(a) Domestic Violence Intervention.

(b) Family Stability (see OAR 461-001-0000).

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- (c) Family Support & Connection.
 - (d) Post-TANF.
 - (e) Program entry (see OAR 461-001-0025).
 - (f) Self Initiated Training (see OAR 461-001-0025).
 - (g) SSI Application Process.
 - (h) Unsubsidized employment (work).
- (4) Participation in an activity is based on whether an individual is Job Ready, Near Job Ready, or Not Job Ready.
- (a) Job Ready means the individual has no barrier (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:
- (A) Prior stable work history, either paid or unpaid.
 - (B) Had not voluntarily quit or been dismissed from their most recent employment (see OAR 461-135-0070), without good cause (see OAR 461-135-0070).
 - (C) Reliable or available transportation.
 - (D) No outstanding legal issues that would impact or prevent employment.
 - (E) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.
- (b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:
- (A) Limited or no work history, either paid or unpaid.
 - (B) Reliable or available transportation.
 - (C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.
 - (D) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.
- (c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:
- (A) Lack of stable housing that is preventing participation in an activity or employment.
 - (B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.
 - (C) Medical issues that prevent participation in an activity or employment.
 - (D) Outstanding legal issues that would impact or prevent employment.
 - (E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.
- (5) In approving JOBS program support services payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.
- (6) Payments for support services are only provided when:
- (a) Necessary to participate in activities in a signed case plan;
 - (b) Authorized in advance; and
 - (c) All other provisions of this rule are met.
- (7) Payments for support services are subject to the following limitations:
- (a) Job Ready individuals may be eligible for child care, transportation, or other support services.
 - (b) Near Job Ready individuals may be eligible for child care, transportation, or other support services.
 - (c) Not Job Ready individuals are not eligible for support services.
 - (d) A teen parent (see OAR 461-001-0000) may be eligible for child care, transportation, or other support services, for participation in a basic education (see OAR 461-001-0025) component (see OAR 461-001-0025).
 - (e) Except as permitted in subsection (f) of this section, there is a:
 - (A) \$500 maximum per filing group, per month, for a filing group who resides in the District 2, 4, 5, 9, 10, 15, or 16 service area.
 - (B) \$425 maximum per filing group, per month, for a filing group who resides in the District 1, 3, 6, 7, or 8 service area.
 - (C) \$350 maximum per filing group, per month, for a filing group who resides in the District 11, 12, 13, or 14 service area.
 - (f) Within the limits of available funds and only with supervisory approval, support services may exceed the monthly limits in subsection (e) of this section for individuals:
 - (A) Who meet sections (1) and (4) of this rule;

(B) Who are determined to be highly likely to obtain employment based on demonstrated JOBS participation history or through agency assessment forms;

(C) Who could not otherwise obtain employment or participate in gaining work-site experience;

(D) When lower cost alternatives do not exist; and

(E) If the number of months the filing group receives support services in excess of the monthly limits in subsection (e) of this section is limited to four months per 12-month period.

(g) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable a single-parent Job Ready or Near Job Ready individual or single teen parent to participate in an approved JOBS program activity specified in the individual's case plan. If authorized, payment for child care will be made for the lesser of:

(A) The maximum monthly support services amount based on District service area under this section of the rule. Authorized child care is subject to and counted towards the maximum monthly support services amount per filing group.

(B) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by 461-155-0150, except that the cost of child care may be paid up to the monthly maximum when children are in care less than 158 hours per month and the individual is a teen parent using on-site care while attending education activities.

(C) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program activity.

(h) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or teen parent for transportation costs incurred in travel to and from an approved JOBS program activity. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

(A) Payment for transportation is subject to and counted towards the maximum monthly support services amount per family.

(B) Payment for public transportation is a priority over payment for a privately owned vehicle.

(C) Payment for fuel costs for a privately-owned vehicle is provided if the Job Ready or Near Job Ready individual, teen parent, or the individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the Job Ready or Near Job Ready individual or teen parent is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(i) Housing and Utilities. Payments for housing and utilities are not allowed.

(j) Other Payments. The Department may provide payments to individuals for costs directly related to obtaining unsubsidized employment which are subject to and counted towards the maximum monthly support services amount per filing group.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part an individual's request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her case plan.

(b) The purpose for the payment is not related to the individual's case plan.

(c) The individual disagrees with a support services payment offered or made by the Department as outlined in the individual's case plan.

(d) The individual is not determined to be a Job Ready or Near Job Ready individual or teen parent.

(10) An individual who is not a teen parent (see OAR 461-001-0000) and who is otherwise exempt from JOBS requirements as a one-parent household with a dependent child (see 461-001-0000) under two years of age may be a volunteer (see 461-130-0305) and participate, subject to the availability of services.

(11) An individual who has gone over-income for the TANF program due to earnings and needs to increase activity hours to meet Post-TANF

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federally required participation rates (see OAR 461-001-0025) may be a volunteer and participate.

Stat. Auth.: ORS 411.060, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL Ch. 604
Stats. Implemented: ORS 411.060, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL Ch. 604
Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 11-2012, f. & cert. ef. 4-6-12

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

Adm. Order No.: SSP 12-2012(Temp)

Filed with Sec. of State: 4-6-2012

Certified to be Effective: 4-6-12 thru 9-30-12

Notice Publication Date:

Rules Amended: 461-190-0211

Subject: OAR 461-190-0211 about case plan activities and standards for support service payments for the Department's Temporary Assistance for Needy Families Job Opportunity and Basic Skills (JOBS) program is being amended to modify program restrictions retroactive to March 14, 2012. The changes include: Work-site agreements for unpaid Support Work (SW) and Work Experience (WE) are no longer limited to four months for individuals to gain additional job skills and work history; District monthly family support services maximum amounts have been removed; and support services for limited family stability activities (services related to drug and alcohol, mental health, medical services, and rehabilitative activities) are allowed if needed.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-190-0211

Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, REF, SFPSS, TA-DVS, TANF

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in Chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) Participation in an *activity* (see OAR 461-001-0025) is limited as provided in each of the following subsections:

(a) An individual who is determined to be a work-eligible individual according to federal definition (45 CFR 261.2(n)(1)). Unless sections (10) or (11) of this rule apply, no other individual may participate in and access JOBS contract activities and *support services* (see OAR 461-001-0025).

(b) An individual who is an applicant in the Pre-TANF program or a recipient of TANF or Post-TANF program benefits.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6), and (7) of this rule, the following activities will be available, and include *support services* payments if needed:

(a) *Job search* (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and 461-101-0010) is limited to six months per individual.

(c) *Work experience* (see OAR 461-001-0025).

(d) *Sheltered or supported work* (see OAR 461-001-0025).

(e) High School or GED (see OAR 461-001-0025) limited to a *teen parent* (see OAR 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(g) Limited *family stability* (see OAR 461-001-0000).

(A) *Drug and alcohol services* (see OAR 461-001-0025).

(B) *Mental health services* (see OAR 461-001-0025).

(C) Attending medical appointments or services.

(D) *Rehabilitative activities* (see OAR 461-001-0025).

(3) The following activities will be available but will not include *support services* payments:

(a) Domestic Violence Intervention.

(b) Family Stability (see OAR 461-001-0000), unless subsection (2)(g) applies.

(c) Family Support & Connection.

(d) Post-TANF.

(e) *Program entry* (see OAR 461-001-0025).

(f) Self Initiated Training (see OAR 461-001-0025).

(g) SSI Application Process.

(h) Unsubsidized employment (work).

(4) Participation in an *activity* is based on whether an individual is Job Ready, Near Job Ready, or Not Job Ready.

(a) Job Ready means the individual has no *barrier* (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:

(A) Prior stable work history, either paid or unpaid.

(B) Had not voluntarily quit or been dismissed from their *most recent employment* (see OAR 461-135-0070), without *good cause* (see 461-135-0070).

(C) Reliable or available transportation.

(D) No outstanding legal issues that would impact or prevent employment.

(E) Access to reliable child care within *support services* limits, or does not need help to pay for child care, or does not need child care.

(b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:

(A) Limited or no work history, either paid or unpaid.

(B) Reliable or available transportation.

(C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.

(D) Access to reliable child care within *support services* limits, or does not need help to pay for child care, or does not need child care.

(c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:

(A) Lack of stable housing that is preventing participation in an activity or employment.

(B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.

(C) Medical issues that prevent participation in an activity or employment.

(D) Outstanding legal issues that would impact or prevent employment.

(E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.

(5) In approving JOBS program *support services* payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

(6) Payments for *support services* are only provided when:

(a) Necessary to participate in activities in a signed *case plan*;

(b) Authorized in advance; and

(c) All other provisions of this rule are met.

(7) Payments for *support services* are subject to the following limitations:

(a) Job Ready individuals may be eligible for child care, transportation, or other costs related to a job offer.

(b) Near Job Ready individuals may be eligible for child care, transportation, or other costs related to a job offer.

(c) Not Job Ready individuals are not eligible for *support services*, unless subsection (2)(g) of this rule applies.

(d) A *teen parent* (see OAR 461-001-0000) may be eligible for child care, transportation, or other *support services*, for participation in a *basic education* (see 461-001-0025) *component* (see 461-001-0025).

(e) *Child Care*. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable a single-parent Job Ready or Near Job Ready individual or single *teen parent* to participate in an approved JOBS program activity specified in the individual's *case plan*, or a Not Job Ready individual approved by the district to complete a *family stability activity*. If authorized, payment for child care will be:

(A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by 461-155-0150, except that the cost of child care may be paid up to the monthly maximum when chil-

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dren are in care less than 158 hours per month and the individual is a *teen parent* using on-site care while attending education activities.

(B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program *activity*.

(f) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or *teen parent* for transportation costs incurred in travel to and from an approved JOBS program *activity* or a Not Job Ready individual approved by the district to complete a *family stability activity*. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

(A) Payment for transportation is subject to and counted towards the maximum monthly *support services* amount per family.

(B) Payment for public transportation is a priority over payment for a privately owned vehicle.

(C) Payment for fuel costs for a privately-owned vehicle is only provided if the client or individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(g) Housing and Utilities. Payments for housing and utilities are not allowed.

(h) Other Payments. The Department may provide payments to individuals for costs directly related to obtaining unsubsidized employment which are subject to and counted towards the maximum monthly *support services* amount per filing group.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, *support services* prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part an individual's request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a *case plan*, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her *case plan*.

(b) The purpose for the payment is not related to the individual's *case plan*.

(c) The individual disagrees with a *support services* payment offered or made by the Department as outlined in the individual's *case plan*.

(d) The individual is not determined to be a Job Ready or Near Job Ready individual or *teen parent*.

(10) An individual who is not a *teen parent* (see OAR 461-001-0000) and who is otherwise exempt from JOBS requirements as a one-parent household with a *dependent child* (see 461-001-0000) under two years of age may be a *volunteer* (see 461-130-0305) and participate, subject to the availability of services.

(11) An individual who has gone over-income for the TANF program due to earnings and needs to increase *activity* hours to meet Post-TANF *federally required participation rates* (see OAR 461-001-0025) may be a *volunteer* and participate.

(12) The amendments to this rule adopted on April 6, 2012 are retroactive to March 14, 2012.

Stat. Auth.: ORS 411.060, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL Ch. 604
Stats. Implemented: ORS 411.060, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL Ch. 604

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 11-2012, f. & cert. ef. 4-6-12; SSP 12-2012(Temp), f. & cert. ef. 4-6-12 thru 9-30-12

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

Adm. Order No.: SSP 13-2012(Temp)

Filed with Sec. of State: 4-10-2012

Certified to be Effective: 4-10-12 thru 10-7-12

Notice Publication Date:

Rules Amended: 461-155-0150

Subject: OAR 461-155-0150 the child care eligibility standard, payment rates, and copayments rule is being amended to increase the minimum monthly copayment from \$25 to \$27 and to increase other copayments by 10 percent for families receiving Employment Related Day Care starting May 1, 2012. This increase addresses part of the Department's shortfall in the current biennium as part of the legislative and Department 2011-13 budget rebalance plan.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) **Infant:** For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 18 months.

(b) **Toddler:** For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 18 months to 3 years.

(c) **Preschool:** A child aged 3 years to 6 years.

(d) **School:** A child aged 6 years or older.

(e) **Special Needs:** A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, licensed or certified psychologist or clinical social worker.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

(a) The *Standard Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The *Enhanced Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The *Registered Family Rate* applies to child care provided in the provider's own home when the provider meets criteria established by the Child Care Division.

(d) The *Certified Family Rate* applies to child care provided in a residential dwelling that is certified by the Child Care Division as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The *Standard Center Rate* applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Child Care Division Certification rules (see OAR 414-300-0000).

(f) The *Enhanced Center Rate* applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in paragraph (2)(b) of this rule.

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (2)(b), (f), or (g) of this rule.

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(h) The *Certified Center Rate* applies to child care provided in a center that is certified by the Child Care Division.

(3) The following provisions apply to child care payments:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate (subject to the maximum full-time monthly rate) and is designated as the primary provider for the case.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care;

(B) The absent child's place is not filled by another child; and

(C) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(4) The following are the child care rates, the rates are based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

(a) [Table not included. See ED. NOTE.]

(b) [Table not included. See ED. NOTE.]

(c) [Table not included. See ED. NOTE.]

(5) Except to the extent provided otherwise in section (12) of this rule, this section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) The ERDC eligibility standard is met for *need groups* (see OAR 461-110-0630) of eight or less if monthly *countable income* (see 461-001-0000) for the *need group* is less than 185 percent of the federal poverty level (FPL), as described in 461-155-0180(6). The eligibility standard for a need group size of eight applies to any need group larger than eight.

(b) The minimum monthly ERDC copay is \$25.

(c) For *filing groups* (see OAR 461-110-0310) whose *countable income* is at or below 50 percent of the 2007 FPL, the copay is \$25 or 1.5 percent of the filing group's monthly *countable income*, whichever is greater.

(d) For *filing groups* whose *countable income* is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Determine *filing group's countable income* as a percent of FPL (rounding to the nearest whole number percentage), subtract 50, and multiply this difference by 0.12.

(B) Add 1.5 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income to determine the copay amount.

(e) The 2007 federal poverty level used to determine copay amounts under subsections (c) and (d) of this section is set at the following amounts: [Table not included. See ED. NOTE.]

(6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (4) of this rule.

(b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.

(7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

(a) The amount billed by the provider or providers.

(b) The monthly rate established in this rule for 215 hours of care.

(8) The number of payable billed hours of care for a child is limited as follows:

(a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed:

(A) 125 percent of the number of hours necessary for the client to perform the duties of his or her job, or to participate in activities included in a *case plan* (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client; or

(B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.

(b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:

(a) The amount billed by the provider or providers; or

(b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.

(10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess of 215 hours in a month to perform the requirements of his or her employment or training. This is limited to the following situations:

(a) The commute time to and from work exceeds two hours per day.

(b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.

(c) The caretaker works a split shift and it is not feasible to care for the child between shifts.

(d) The caretaker consistently works more than 40 hours per week.

(e) Weekend work or other nonstandard work hours require care by more than one provider, and the total allowable hours billed by both providers exceeds the maximum limit.

(f) The caretaker needs child care for both full-time work and participation in Department assigned activities.

(11) The payment available for care of a child who meets the special needs criteria described in subsection (1)(e) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age; and

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(12) Starting May 1, 2012:

(a) The minimum monthly ERDC copay is \$27.

(b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client co-payment amount set under section (5) of this rule.

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

Stat. Auth.: ORS 411.060, 411.070, 412.006 & 412.049

Stats. Implemented: ORS 409.610, 411.060, 411.070, 412.006 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 31-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 14-2005, f. 9-30-

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05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 13-2012(Temp), f. & cert. ef. 4-10-12 thru 10-7-10

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

Adm. Order No.: SSP 14-2012(Temp)

Filed with Sec. of State: 4-12-2012

Certified to be Effective: 4-12-12 thru 10-9-12

Notice Publication Date:

Rules Amended: 461-135-1250

Subject: OAR 461-135-1250 about specific client eligibility and participation requirements in the Post-Temporary Assistance for Needy Families (Post-TANF) program is being amended to end the program on April 30, 2012. This amendment also does not allow continuing benefits in the Post-TANF program after April 30, 2012 for pending or submitted hearing requests.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-1250

Specific Requirements: Post-TANF

(1) This rule explains specific requirements for the Post-TANF program. Through September 30, 2010, the Post-TANF program provides \$100 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the Federal Poverty Level (FPL), whichever comes first, as long as the client meets JOBS federally required participation rates (see OAR 461-001-0025) in combined unsubsidized paid work and JOBS activities.

(2) Effective October 1, 2010, the Post-TANF program provides \$50 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the FPL, whichever comes first, as long as the client meets JOBS federally required participation rates in combined unsubsidized paid work and JOBS activities.

(3) To enroll in the Post-TANF program, a client must:

- (a) Have obtained unsubsidized paid employment;
- (b) Have become ineligible for the Pre-TANF, TANF or SFPSS programs due to earnings; and
- (c) Be a Work Eligible Individual as defined by federal regulations.

(4) To remain eligible for the monthly Post-TANF payment, the client must meet the requirements of all of the following subsections:

(a) Meet all TANF eligibility requirements, except the client need not meet the following requirements:

- (A) OAR 461-120-0310 and 461-120-0340 (child support assignment and cooperation);
- (B) OAR 461-120-0330 (pursuing assets);
- (C) OAR 461-125-0010 (deprivation);
- (D) OAR 461-155-0030 (income limits); and
- (E) OAR 461-160-0015 (resource limits).

(b) Report and meet the monthly JOBS federal participation requirements with unsubsidized paid work and, if necessary, other JOBS activities.

(c) Provide the Department with employer-produced documents of paid, unsubsidized work hours within 45 days after Pre-TANF, TANF, or SFPSS has ended.

(d) The client must also 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 subsection (c) of this section.

(e) Report all changes in residency and household group (see OAR 461-110-0210) affecting Post-TANF eligibility within 10 days of the occurrence.

(f) Changes reported for another program that affect Post-TANF eligibility are considered reported for Post-TANF.

(5) A client failing to comply with subsection (3)(c) of this rule but then providing documents after 45 days is eligible for Post-TANF payments only in the month the local Department office receives the documents and the months thereafter.

(6) Household income for the Post-TANF program is calculated in accordance with all TANF financial rules.

(7) Each parent (see OAR 461-001-0000) of a two-parent family is entitled to a monthly Post-TANF payment if both parents meet all Post-TANF enrollment and eligibility requirements.

(8) Monthly payments in the Post-TANF program begin the month after the last regular TANF benefit payment; or for Pre-TANF clients, the month after the Department verifies that the client meets TANF eligibility requirements.

(9) A client in the Post-TANF program is entitled to support services in accordance with OAR 461-190-0241. Additional support services may be granted with manager approval.

(10) A client is no longer eligible for a Post-TANF payment when the client does not meet JOBS federal participation requirements due to:

- (a) Loss of employment;
- (b) A reduction in work hours, and the client chooses not to participate in required JOBS activities offered by the Department; or
- (c) A reduction in JOBS activity hours without good cause (see OAR 461-130-0327) that when combined with work hours does not meet the JOBS federally required participation rates.

(11) Notwithstanding any other administrative rule in Chapter 461, effective April 30, 2012 the Post-TANF program ends. Continuation of Post-TANF benefits is not authorized after April 30, 2012, regardless of whether a hearing request on Post-TANF is submitted or pending.

Stat. Auth.: ORS 411.060, 411.070, 412.006, 412.009, 412.049 & 412.124

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.049, 412.124 & 2009 OL Ch. 827

Hist.: SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 29-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; [SSP 13-2011(Temp), f. & cert. ef. 6-15-11 thru 12-12-11; Suspended by SSP 14 2011(Temp), f. & cert. ef. 6-29-11 thru 12-12-11]; SSP 14-2012(Temp), f. & cert. ef. 4-12-12 thru 10-9-12

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

Adm. Order No.: SSP 15-2012(Temp)

Filed with Sec. of State: 4-13-2012

Certified to be Effective: 4-13-12 thru 10-9-12

Notice Publication Date:

Rules Amended: 461-135-1250

Rules Suspended: 461-135-1250(T)

Subject: OAR 461-135-1250 about specific client eligibility and participation requirements in the Post-Temporary Assistance for Needy Families (Post-TANF) program which was amended by temporary rule on April 12, 2012 is being further amended to state that it is program funding that ends on April 30, 2012. This temporary rule also does not allow continuing benefits in the Post-TANF program after April 30, 2012 for pending or submitted hearing requests.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-1250

Specific Requirements: Post-TANF

(1) This rule explains specific requirements for the Post-TANF program. Through September 30, 2010, the Post-TANF program provides \$100 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the Federal Poverty Level (FPL), whichever comes first, as long as the client meets JOBS *federally required participation rates* (see OAR 461-001-0025) in combined unsubsidized paid work and JOBS activities.

(2) Effective October 1, 2010, the Post-TANF program provides \$50 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the FPL, whichever comes first, as long as the client meets JOBS *federally required participation rates* in combined unsubsidized paid work and JOBS activities.

(3) To enroll in the Post-TANF program, a client must:

- (a) Have obtained unsubsidized paid employment;
 - (b) Have become ineligible for the Pre-TANF, TANF or SFPSS programs due to earnings; and
 - (c) Be a Work Eligible Individual as defined by federal regulations.
- (4) To remain eligible for the monthly Post-TANF payment, the client must meet the requirements of all of the following subsections:

(a) Meet all TANF eligibility requirements, except the client need not meet the following requirements:

- (A) OAR 461-120-0310 and 461-120-0340 (child support assignment and cooperation);
- (B) OAR 461-120-0330 (pursuing assets);

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- (C) OAR 461-125-0010 (deprivation);
- (D) OAR 461-155-0030 (income limits); and
- (E) OAR 461-160-0015 (resource limits).

(b) Report and meet the monthly JOBS federal participation requirements with unsubsidized paid work and, if necessary, other JOBS activities.

(c) Provide the Department with employer-produced documents of paid, unsubsidized work hours within 45 days after Pre-TANF, TANF, or SFPSS has ended.

(d) The client must also 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 subsection (c) of this section.

(e) Report all changes in residency and *household group* (see OAR 461-110-0210) affecting Post-TANF eligibility within 10 days of the occurrence.

(f) Changes reported for another program that affect Post-TANF eligibility are considered reported for Post-TANF.

(5) A client failing to comply with subsection (3)(c) of this rule but then providing documents after 45 days is eligible for Post-TANF payments only in the month the local Department office receives the documents and the months thereafter.

(6) Household income for the Post-TANF program is calculated in accordance with all TANF financial rules.

(7) Each *parent* (see OAR 461-001-0000) of a two-parent family is entitled to a monthly Post-TANF payment if both parents meet all Post-TANF enrollment and eligibility requirements.

(8) Monthly payments in the Post-TANF program begin the month after the last regular TANF benefit payment; or for Pre-TANF clients, the month after the Department verifies that the client meets TANF eligibility requirements.

(9) A client in the Post-TANF program is entitled to support services in accordance with OAR 461-190-0241. Additional support services may be granted with manager approval.

(10) A client is no longer eligible for a Post-TANF payment when the client does not meet JOBS federal participation requirements due to:

- (a) Loss of employment;
- (b) A reduction in work hours, and the client chooses not to participate in required JOBS activities offered by the Department; or
- (c) A reduction in JOBS activity hours without good cause (see OAR 461-130-0327) that when combined with work hours does not meet the JOBS *federally required participation rates*.

(11) Notwithstanding any other administrative rule in Chapter 461, effective April 30, 2012 the Post-TANF program funding ends. Continuation of Post-TANF benefits is not authorized after April 30, 2012, regardless of whether a hearing request on Post-TANF is submitted or pending.

Stat. Auth.: ORS 411.060, 411.070, 412.006, 412.009, 412.049 & 412.124
Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.049, 412.124 & 2009 OL Ch. 827
Hist.: SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 29-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; [SSP 13-2011(Temp), f. & cert. ef. 6-15-11 thru 12-12-11; Suspended by SSP 14 2011(Temp), f. & cert. ef. 6-29-11 thru 12-12-11]; SSP 14-2012(Temp), f. & cert. ef. 4-12-12 thru 10-9-12; SSP 15-2012(Temp), f. & cert. ef. 4-13-12 thru 10-9-12

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

Rule Caption: Nursing Facilities – Annual License Renewal.

Adm. Order No.: SPD 3-2012

Filed with Sec. of State: 4-10-2012

Certified to be Effective: 4-10-12

Notice Publication Date: 3-1-2012

Rules Amended: 411-085-0010, 411-085-0015

Subject: To implement House Bill 2054 (2011 Regular Session), the Department of Human Services (Department) is permanently

amending OAR 411-085-0010 and 411-085-0015 relating to the licensing of nursing facilities to:

- Change the nursing facility license renewal date from calendar year to annually;
- Require substantial compliance with on-site inspections for license renewal; and
- Authorize delay of annual facility license renewal until substantial compliance is certified following an on-site inspection.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-085-0010

Issuance of License

(1) No person acting individually or jointly with any other person shall establish, conduct, maintain, manage, or operate a nursing facility without a license from the Department.

(2) Each nursing facility license issued by the Department applies only to person or persons named on the license. The license is not transferable or assignable. The license is valid only for the specific premises designated on the license and for the time period specified on the license.

(3) A license may not be issued for a new facility, an expanded facility, or a facility offering new services unless the Oregon Public Health Division has issued a certificate of need for said facility or service, or has determined that a certificate of need is not required.

(4) APPLICATION FOR INITIAL LICENSURE AND LICENSE RENEWAL.

(a) The application must be on a form or forms provided by the Department and must include all information requested by the Department including but not limited to, identity and financial interest of any person, including stockholders who have an incident of ownership in the applicant representing an interest of 10 percent or more or 10 percent of a lease agreement for the facility.

NOTE: Facilities applying for Medicaid and/or Medicare certification are required by federal law to identify applicants representing a 5 percent or more interest.

(b) If the owner of the nursing facility business is a different entity from the operator of the nursing facility, an application for licensure is required from both the operator and the owner. Only one license fee is required. Each application must be signed and dated by a legally authorized representative of the entity submitting the application. The names of owners/operators shall appear on the license.

(c) The applicant must identify any person who has 10 percent incident of ownership, direct or indirect, in a pharmacy or in any business that provides services or supplies to nursing facilities. If any such person exists, the applicant must identify the person and the name and address of the pharmacy or business.

(d) The applicant must identify the number of beds the facility is then presently capable of operating considering existing equipment, ancillary service capability, and the physical requirements as specified within OAR chapter 411, divisions 85-89. The number of beds requested to be licensed may not exceed the number identified on the license to be renewed unless prior approval has been issued by the Department or a certificate of need has been issued when required pursuant to ORS Chapter 442.

(e) The applicant must include a floor plan showing the location of each bed and the dimensions and room number of each room in which a bed is located. The plan must also show the location of dining and activities areas, shower and tub rooms, toilet rooms, clean and dirty utility rooms, therapy services areas, laundry areas, and dietary service areas. After the first filing, plans need only be submitted when changes in the information required in this subsection occur and when requested by the Department.

(f) The applicant must include a copy of all leases, management, and ownership of the facility.

(g) The applicant must list all states in which the applicant or persons having a 10 percent or more incident of ownership in the facility currently is or previously has been licensed to provide long-term care.

(h) If a renewal is desired, the licensee must make application at least 45 days prior to the expiration date of the existing license.

(i) The license fee must accompany the application.

(j) If the applicant fails to provide complete and accurate information on the application, the Department may deny or revoke the license if the Department determines the missing or corrected information is needed to determine if a license should be granted.

(k) An application is not considered to be complete until all requested information and signatures have been provided.

(l) Each application for a new license (excludes license renewal) must include a completed and signed credit and background check authorization

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form for the applicant and for each person with 10 percent incident of ownership in the applicant.

(m) Applicants for license renewal must provide the Department with a completed and signed credit and background check authorization form for the applicant, and for each person with incident of ownership in the applicant when required by the Department.

(n) Applications must state whether or not the applicant and persons with incident of ownership in the applicant, have ever been convicted of a crime associated with operation of a health care facility or agency under federal law or the laws of any state.

(o) Applicants must provide such other information and documentation as the Department may reasonably require for proper administration of these rules including but not limited to, information about ownership interest in other business enterprises, if relevant.

(p) The Department shall issue the license or issue a denial of licensure within 60 days of receipt of the license fee, completed application, and after determination of substantial compliance with the on-site inspection.

(5) DEMONSTRATED CAPABILITY.

(a) Prior to issuance of a license or a license renewal, the applicant must demonstrate to the satisfaction of the Department that the applicant is capable of providing care in a manner consistent with the requirements of the rules in OAR chapter 411, divisions 85-89.

(b) The Department may consider the background and qualifications of any person owning 10 percent or more interest in the nursing facility operation when determining whether an applicant may be licensed.

(c) The Department may consider the applicant's history of compliance with Department rules and orders, including the history of compliance of each person with a 10 percent or more incident of ownership in the applicant.

(d) Any person with a past or present interest of 10 percent or more incident of ownership in any nursing facility operation shall be considered responsible for acts occurring during and relating to the operation of the nursing facility for the purpose of licensing.

(6) SEPARATE BUILDINGS. Separate licenses are not required for separate buildings located contiguously and operated as an integrated unit by the same ownership or management.

Stat. Auth.: ORS 410.070, 441.025 & 441.060

Stat. Implemented: ORS 441.025 & 441.060

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 3-2012, f. & cert. ef. 4-10-12

411-085-0015

License Expiration, Termination of Operation, License Return

(1) EXPIRATION. Effective May 16, 2011, unless revoked or terminated earlier, or issued for a shorter specified period, each license to operate a nursing facility expires annually, following the date of issue.

(2) TERMINATION OF OPERATION. Except as otherwise provided in this rule, if facility operation is discontinued for any reason, the license is expired. The licensee has appeal rights under ORS chapter 183.

(3) INACTIVE LICENSE.

(a) When the licensee proposes to replace an existing (original) licensed nursing facility with a new building, the Department may grant the licensee an inactive license for up to 24 months after closure of the original facility (departure of the last resident) under the following conditions:

(A) The existing facility may not meet the physical environment requirements for new construction in OAR chapter 411, division 087;

(B) The licensee must comply with the Oregon Health Division's certificate of need process, including the physical environment requirements for new construction;

(C) The licensee must submit to the Department a written request for an extension to continue the license and an application for license renewal and the license fee prior to the annual renewal date;

(D) The licensee must comply with plan review as described in OAR 411-087-0010 and all other applicable requirements; and

(E) The licensee's written request must include information that assures the Department that the new facility shall provide an improved quality of care that is needed in the community and that is determined by the Department to be in the public's interest.

(b) The licensee must provide written notice of intent to apply for an inactive license at least 30 days prior to closure of the original building. This notice must be provided to the Department and every licensed nursing facility, assisted living facility, and residential care facility within 20 miles of the proposed new building site.

(c) The licensee must provide a minimum of two written progress reports to the Department regarding the status of the new building.

(A) The first report must be received by the Department between six months and nine months after the original facility is closed.

(B) The second report must be received by the Department between 18 months and 21 months after the original facility is closed.

(4) EXTENSION. If the licensee fails to open the new building within 24 months of the closure of the original facility, the Department may extend the inactive license for an additional 18 months. The licensee must submit written request to the Department for an extension prior to expiration of the inactive license. The following must be included in the request for extension:

(a) NOTICE TO NEARBY FACILITIES. A statement certifying that the licensee has made reasonable attempt to provide written notice to each nursing, assisted living, and residential care facility within 20 miles of the site of the proposed facility of the intent to request an extension. Upon request, the Department shall provide a list of the names and addresses of all nursing, assisted living, and residential care facilities in the state.

(b) SITE PLAN. A completed site plan that has been submitted to the local jurisdiction (city or county planning agency).

(c) ARCHITECTURAL DRAWINGS. Working architectural drawings that have been stamped or prepared by a licensed architect.

(d) BUILDING SITE. Evidence that the land proposed for the new building is under control of the licensee.

(e) LOCAL JURISDICTION COMMUNICATION. Evidence of continued contact with the local jurisdiction.

(f) FINANCIAL COMMITMENT. Evidence of financial commitments towards completion of the project, including proof of lender commitments and cash on hand sufficient to complete the construction.

(g) CONSTRUCTION CONTRACTS. Construction contracts or other evidence showing that the project shall be completed prior to the expiration of the extended inactive license.

(5) RETURN OF LICENSE. Each license certificate must be returned to the Department immediately upon issuance of a final order revoking or suspending the license. If a license is terminated voluntarily or involuntarily because operation has been discontinued, the license certificate must be immediately returned to the Department.

Stat. Auth.: ORS 410.070, 441.025 & 441.060

Stat. Implemented: ORS 441.025 & 441.060

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SDSD 13-1999, f. 12-30-99, cert. ef. 1-1-00; SDSD 3-2001, f. 2-14-01, cert. ef. 2-15-01; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 3-2012, f. & cert. ef. 4-10-12

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Allow for telecommunicator/emergency medical dispatchers to meet pre-certification hearing standards with correction.

Adm. Order No.: DPSST 5-2012

Filed with Sec. of State: 3-26-2012

Certified to be Effective: 3-26-12

Notice Publication Date: 3-1-2012

Rules Amended: 259-008-0011

Subject: Applicants for telecommunicator/emergency medical dispatcher certification are required to meet the National Emergency Number Association (NENA) hearing standard 54-002 for uncorrected hearing loss. This rule update adds language to the Oregon minimum standards which allows applicants meet the minimum hearing standard with corrective devices.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0011

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

(1) Fingerprints. On or before the date of employment, each telecommunicator and emergency medical dispatcher must be fingerprinted on standard applicant fingerprint cards.

(a) The hiring agency, if a public agency, is responsible for fingerprinting and will forward two (2) cards to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(b) If the hiring agency is a private agency it is responsible for fingerprinting and will forward two (2) cards to the Department along with the appropriate fee.

(A) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.

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(B) The Oregon State Police Identification Services Section will notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.

(C) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department will comply with the most current requirements.

(D) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department will be completed and returned to the Department by the applicant pending fingerprint clearance.

(2) Criminal Records. No telecommunicator or emergency medical dispatcher will have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(3) Notification of Conviction:

(a) A telecommunicator or emergency medical dispatcher who is convicted of a crime as identified in OAR 259-008-0070 while employed by a public or private public safety agency must notify the agency head within 72 hours of conviction.

(b) When an agency receives notification of a conviction from its employee or another source, they must notify the Department within five (5) business days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of conviction.

(4) Moral Fitness (Professional Fitness). All telecommunicators and emergency medical dispatchers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(b) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(5) Education:

(a) Applicants for the position of a telecommunicator or emergency medical dispatcher will be required to furnish documentary evidence of one of the following:

(A) High School diploma;

(B) Successful completion of the General Educational Development (GED) Test; or

(C) A four-year, post-secondary degree issued by a degree-granting college or university accredited by a recognized national or regional accrediting body, or recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above must consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(6) Reading Standard. Before beginning basic telecommunicator or Emergency Medical Dispatcher (EMD) training or challenging basic telecommunicator training, each applicant must provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading level in the English language.

(a) The hiring agency is responsible for ensuring a Department-approved reading test has been administered. The hiring agency must forward the results of the test to the Department on a Form F-5 (Application for Training) prior to the applicant being admitted to basic telecommunicator or EMD training.

(b) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by DPSST under the provisions of OAR 259-008-0045 are exempt from completing the 12th grade reading test prior to attending a course identified in this section.

(7) Physical Examination. All Telecommunicators and Emergency Medical Dispatcher applicants must be examined by a licensed health professional.

(a) The medical examination must be completed not more than 180 days prior to initial offer of employment, and not more than 90 days after the initial offer of employment.

(b) The examination must conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101.

(c) Individuals who have successfully completed a physical examination (while at the same employer) and are selected for a certifiable position in a discipline in which the individual is not yet certified must complete and pass a new physical examination.

(d) The Department will not require a new physical examination when a Telecommunicator or Emergency Medical Dispatcher obtains employment or re-employment in the same discipline if the Telecommunicator or Emergency Medical Dispatcher:

(A) Has had a successfully completed a physical examination, and

(B) Is currently certified; or

(C) Is currently employed full-time in another jurisdiction and has successfully completed a comparable physical examination in that jurisdiction.

(e) Notwithstanding subsection (d), a medical examination may be required by a hiring agency at its discretion.

(f) Telecommunicator and Emergency Medical Dispatcher applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision must be at least 20/30 (Snellen) when tested using both eyes together.

(B) Color Vision. Red or green deficiencies may be acceptable, providing the applicant can read at least nine (9) of the first thirteen (13) plates of the Ishihara Test (24 Plate Edition). Applicants who fail the Ishihara test can meet the color vision standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer and approved by DPSST. The results of the field test and the methods for testing must be maintained by the employing agency.

(i) Any employing agency that conducts a field test to meet the color vision standard must also complete a Department approved affidavit attesting that the applicant can either correctly discriminate colors or is able to successfully perform the required tasks of a Telecommunicator or Emergency Medical Dispatcher, notwithstanding the applicant's inability to correctly discriminate colors.

(ii) Any affidavit required by (i), that the Department receives and accepts, is non-transferable to any subsequent employer and may not be used by any other entity for certification purposes.

(iii) Notwithstanding subsection (d) of this rule, each employer must complete an agency-specific field test and a Department approved affidavit as described in subsection (i) of this section for any Telecommunicator or Emergency Medical Dispatcher who previously met the color vision standard by completing a field test.

(C) Peripheral Vision. Visual Field Performance must be 120 degrees in the horizontal meridian combined.

(g) Applicants for the position of Telecommunicator or Emergency Medical Dispatcher must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others.

(A) The applicant must meet National Emergency Number Association (NENA) hearing standard 54-002 (June 10, 2006).

(B) If the applicant cannot meet the identified hearing standard without correction, the applicant may utilize hearing amplification devices to meet the hearing standard. The Department may require an applicant to have another examination by a licensed audiologist or otorhinolaryngologist (ear, nose, throat) designated by the Department to verify that the applicant's corrected hearing meets the Board's minimum hearing standard.

(h) Applicants for the position of Telecommunicator or Emergency Medical Dispatcher must be able to use vocal cords and exhibit normal speech patterns, sufficient to perform speaking-related essential tasks.

(8) If further medical examination is required, it will be at the expense of the applicant or the hiring authority.

(9) All Telecommunicator and Emergency Medical Dispatcher applicants must submit a current-version Medical Examination Report for Telecommunicators and Emergency Medical Dispatchers (DPSST Form F-2T) or a signed medical report completed by a licensed health professional identified by the Department containing, at a minimum, the information on Form F-2T prior to the acceptance into a basic course or any course where such a report is required by the Department. The Form F-2T will be furnished to the examining health professional by the hiring agency.

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(10) The Department may require an applicant offered conditional employment to take a subsequent examination by a licensed physician of the Department's choice at the expense of the applicant or the hiring authority.

(11) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of a Telecommunicator or Emergency Medical Dispatcher's duties. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(12) A person or department head requesting a waiver of any physical requirement set forth in section (11) of this rule must submit the request to the Department in writing, accompanied by supporting documents or pertinent testimony which would justify the action requested. The supporting documents must include information pertinent to the waiver request.

(a) The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed.

(b) Any expense associated with providing documentation or testimony will be borne by the person requesting the waiver or the requesting agency.

(c) If the person requesting the waiver does not obtain employment within one (1) year from the date a waiver is granted, the waiver will be considered void.

(d) If the Board grants a waiver, it will be recorded on the certification and any subsequent certification unless removed by the Board upon proof that the condition prompting the waiver no longer exists.

(e) If the Board denies a request for a waiver of any physical requirement set forth in section (7) of this rule, the Department will issue Notice and proceed as provided in section (13) of this rule.

(13) Contested Case Hearing Process for denial of waiver.

(a) Initiation of Proceedings: Upon determination that the reason for denial of a waiver is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(b) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional or individual.

(c) Response Time: A party who has been served with a "Contested Case Notice" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(d) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver.

(e) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings.

(f) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(g) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(h) Final Order: The Department will issue a final order if a public safety professional or individual fails to file exceptions and arguments in a timely manner.

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

Stat. Auth.: ORS 181.640, 181.644 & 183.341

Stats. Implemented: ORS 181.640, 181.644 & 183.341

Hist.: BPSST 1-2002, f. & cert. ef. 2-6-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 5-2008, f. & cert. ef. 4-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 6-2009, f. & cert. ef. 7-13-09; DPSST 9-2010(Temp), f. & cert. ef. 10-15-10 thru 4-12-11; DPSST 13-2010, f. & cert. ef. 12-23-10; DPSST 9-2011, f. & cert. ef. 6-28-11; DPSST 14-2011, f. 9-26-11, cert. ef. 10-1-11; DPSST 5-2012, f. & cert. ef. 3-26-12

Rule Caption: Update all definitions to ensure consistency with statute; Update Correctional Officer; Add DPSST; Update Recall.

Adm. Order No.: DPSST 6-2012

Filed with Sec. of State: 3-27-2012

Certified to be Effective: 3-27-12

Notice Publication Date: 3-1-2012

Rules Amended: 259-008-0005

Subject: The definition of "correctional officer" is updated to include supervisors and managers of correctional officers (2011 OR SB 76). The definitions of "law enforcement unit" and "police officer" are expanded to include universities with police departments and tribal governments (2011 OR SB 405 & SB 412).

District attorney's offices/investigators and animal care agencies/agents are added to the definition of "law enforcement unit" and "police officer" and certified reserve officers are added to the definition of "public safety professional" to ensure consistency between ORS 181.610 and Oregon Administrative Rule.

Housekeeping changes are made for clarity. The acronym "DPSST" is defined and the definition of "recall" is updated to include any administrative requirements that might be required to restore certification.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0005

Definitions

(1) "Assistant Department Head" means an officer occupying the first position subordinate to a Department Head who is primarily responsible for supervision of middle managers and supervisors.

(2) "Board" means the Board on Public Safety Standards and Training.

(3) "Casual employment" means employment that is occasional, irregular, or incidental for which the employee does not receive seniority rights or fringe benefits.

(4) "Certified Reserve Officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(5) "Commissioned" means being authorized to perform various acts or duties of a police officer or reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(6) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including, but not limited to, vocational or technical education programs or lower division collegiate programs.

(7) "Corrections Officer" means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles;

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers as described in paragraph (a) of this subsections; or

(c) Is any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(8) "Department" and "DPSST" means the Department of Public Safety Standards and Training.

(9) "Department Head" means the chief of police, sheriff, or chief executive of a law enforcement unit or a public or private safety agency directly responsible for the administration of that unit.

(10) "Director" means the Director of the Department of Public Safety Standards and Training.

(11) "Educational Credits" are credits earned for studies satisfactorily completed at an accredited post-secondary education institution recognized under OAR 259-008-0045.

(12) "Emergency Medical Dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(13) "First-Level Supervisor" means a law enforcement officer, telecommunicator, or emergency medical dispatcher occupying a position between the operational level and the middle manager position who is primarily responsible for the direct supervision of subordinates. A first level

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supervisor position does not include a position with limited or acting supervisory responsibilities.

(14) "Full-time employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for more than 80 hours per month for a period of more than 90 consecutive calendar days. For purposes of this rule, any employment that meets the definition of seasonal, casual, or temporary employment is not considered full-time employment as a public safety professional.

(15) "High School" is a school accredited as a high school by the Oregon Department of Education, a school accredited as a high school by the recognized regional accrediting body, or a school accredited as a high school by the state university of the state in which the high school is located.

(16) "Law Enforcement Officers" means police, corrections, and parole and probation officers as described in the Public Safety Standards and Training Act.

(17) "Law Enforcement Unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal governments as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, or common carrier railroad the primary duty of which, as prescribed by law, ordinance, or directive, is any one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control, or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision, and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation.

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office; or

(d) A private nonprofit animal care agency that has maintained an animal welfare investigation department for at least five years and has had officers commissioned as special agents by the Governor.

(18) "Leave" means a leave granted to a public safety professional by their employing public or private safety agency.

(19) "Middle Manager" means a law enforcement officer, telecommunicator, or emergency medical dispatcher occupying a position between first-level supervisor and department head position and is primarily responsible for management and command duties. A middle manager position does not include a position with limited, or acting middle management duties.

(20) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for 80 hours or less per month for a period of more than 90 consecutive calendar days.

(21) "Parole and Probation Officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) Any officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(c) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(22) "Police Officer" means an officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(a)(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state or is an authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011; or

(c) Any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.651.

(23) "Public or private safety agency" means:

(a) A law enforcement unit; or

(b) A unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, police, ambulance or emergency medical services.

(24) "Public Safety Personnel," "Public Safety Officer," and "Public Safety Professional" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, and telecommunicators.

(25) "Recall" means the administrative inactivation of a certificate issued by the Department until maintenance requirements or other administrative requirements for certification are met and certification is restored.

(26) "Regulations" mean written directives established by the Department or its designated staff describing training activities and student procedures at the Oregon Public Safety Academy.

(27) "Reimbursement" is the money allocated from the Police Standards and Training Account, established by ORS 181.690, to a law enforcement unit meeting the requirements of these regulations to defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.

(28) "Reserve Officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, the Governor, or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(29) "Seasonal Employment" means employment that can be carried on only at certain seasons or fairly definite portions of the year, with defined starting and ending dates based on a seasonally determined need.

(30) "Staff" means those employees occupying full-time, part-time, or temporary positions with the Department.

(31) "Telecommunicator" means:

(a) A person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105; or

(b) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(32) "Temporary employment" means employment that lasts no more than 90 consecutive calendar days and is not permanent.

(33) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.715).

(34) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0010, 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 3-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. &

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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 7-2000, f. & cert. ef. 9-29-00; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 6-2012, f. & cert. ef. 3-27-12

Rule Caption: Revise requirements for Fire Ground Leader certification.

Adm. Order No.: DPSST 7-2012

Filed with Sec. of State: 3-28-2012

Certified to be Effective: 3-28-12

Notice Publication Date: 3-1-2012

Rules Amended: 259-009-0062

Subject: This rule change updates the Oregon-specific Fire Ground Leader standard as a result of significant changes to the NFPA Fire Officer standard which allows individuals to achieve the educational requirements for NFPA Fire Officer I within their home agencies.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-009-0062

Fire Service Personnel Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by satisfactorily completing the requirements specified in section (2) of this rule: through participation in a fire service agency training program accredited by the Department; or through a course certified by the Department; or by evaluation of experience as specified in OAR 259-009-0063. The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance Evaluations (TPE) if applicable.

(2) The following standards for fire service personnel are hereby adopted by reference:

(a) The provisions of the NFPA Standard 1001, 2008 Edition, entitled “Fire Fighter Professional Qualifications”;

(A) “Authority having jurisdiction” means the Department of Public Safety Standards and Training.

(B) Delete section 1.3.1.

NOTE: This references NFPA 1500.

(C) Delete section 2.2.

NOTE: This references NFPA 1500 and 1582.

(D) Entry Level Fire Fighter means an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard 1403, 1997 Edition, entitled “Live Fire Training Evolutions” and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and verified so by the agency head is qualified to perform live-fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.

(E) Before an applicant can qualify for certification, the applicant must complete either a Task Performance Evaluation or a Department approved Task Book for Fire Fighter I and Fire Fighter II, signed off by the Agency Head or Training Officer.

(b) The provisions of the NFPA Standard 1002, 2009 Edition, entitled Standard for Fire Apparatus Driver/Operator Professional Qualifications,” are adopted subject to the following definitions and modifications hereinafter stated:

(A) 5.1 General. The job performance requirements defined in Sections 5.1 and 5.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Pumper.

(B) 6.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 6.1 and 6.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aerial.

(C) 7.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 7.1 and 7.2 must be met prior to certification as a Fire Service Agency Driver/Operator-Tiller.

(D) 8.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 8.1 and 8.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Wildland Fire Apparatus.

(E) 9.1 General. The requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department

and the job performance requirements defined in Sections 9.1 and 9.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aircraft Rescue and Fire Fighting Apparatus (ARFF).

(F) 10.1 General. The requirements of NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 10.1 and 10.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Mobile Water Supply Apparatus.

(G) Delete “the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program”.

(H) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for: Driver, Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Fire-Fighting Apparatus Operator or Mobile Water Supply Apparatus Operator and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(c) The provisions of the NFPA Standards 1003, 2005 Edition, entitled “Standard for Airport Fire Fighter Professional Qualifications,”

(A) 6.1 General. Prior to certification as a Fire Service Agency NFPA 1003 Airport Fire Fighter, the requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Aircraft Rescue and Fire Fighting Apparatus Operator (ARFF), as specified by the Department, and the job performance requirements defined in sections 6.1 through 6.4 must be met.

(B) All applicants for certification must complete either a Task Performance Evaluation or a Department-approved Task Book for: Airport Fire Fighter and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(d) The provisions of NFPA Standard 1005, 2007 Edition, entitled “Marine Fire Fighting for Land Based Fire Fighters Professional Qualifications,” are adopted subject to the following definitions and modifications:

(A) “Authority having jurisdiction” means the Department of Public Safety Standards and Training.

(B) Delete section 2.2.

NOTE: This references NFPA 1500.

(C) Delete sections of 2.4.

NOTE: This references NFPA 1000, NFPA 1081, NFPA 1405, NFPA 1670 and NFPA 1710.

(D) 5.1 General. Prior to certification as a Fire Service Agency NFPA 1005 Marine Land-Based Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department.

(E) All applicants for certification must complete a Department approved Task Book for: Marine Fire Fighting for Land Based Fire Fighters and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(e) The provisions of the NFPA Standards 1003, 2005 Edition, entitled “Standard for Airport Fire Fighter Professional Qualifications,”

(A) 6.1 General. Prior to certification as a Fire Service Agency NFPA 1003 Airport Fire Fighter, the requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Aircraft Rescue and Fire Fighting Apparatus Operator (ARFF), as specified by the Department, and the job performance requirements defined in sections 6.1 through 6.4 must be met.

(B) All applicants for certification must complete either a Task Performance Evaluation or a Department-approved Task Book for: Airport Fire Fighter and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(f) The provisions of NFPA Standard 1005, 2007 Edition, entitled “Marine Fire Fighting for Land Based Fire Fighters Professional Qualifications,” are adopted subject to the following definitions and modifications:

(A) “Authority having jurisdiction” means the Department of Public Safety Standards and Training.

(B) Delete section 2.2.

NOTE: This references NFPA 1500.

(C) Delete sections of 2.4.

NOTE: This references NFPA 1000, NFPA 1081, NFPA 1405, NFPA 1670 and NFPA 1710.

(D) 5.1 General. Prior to certification as a Fire Service Agency NFPA 1005 Marine Land-Based Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department.

(E) All applicants for certification must complete a Department approved Task Book for: Marine Fire Fighting for Land Based Fire Fighters and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(F) Transition Phase:

(i) An application for certification in Marine Fire Fighting for Land Based Fire Fighters must be submitted to the Department no later than June

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30, 2009 to receive consideration for certification without having to complete a task book.

(ii) All applications received on or after July 1, 2009, will need to show completion of the approved task book.

(g) The provisions of the NFPA Standard No. 1031, Edition of (2009), entitled "Professional Qualifications for Fire Inspector and Plan Examiner" are adopted.

(A) All applicants for certification as an NFPA Fire Inspector I must:

(i) Successfully complete a Department approved Task Book; and

(ii) Furnish proof that they have passed an exam demonstrating proficiency in the model fire code adopted by the State of Oregon or an equivalent.

(B) All applicants for certification as an NFPA Fire Inspector II must:

(i) Hold a certification as a Fire Inspector I; and

(ii) Successfully complete a Department approved Task Book.

(C) All applicants for certification as an NFPA Fire Inspector III must:

(i) Hold a certification as a Fire Inspector II; and

(ii) Successfully complete a Department approved Task Book.

(D) Task books must be monitored by a Field Training Officer approved by the Department. The Field Training Officer must be certified at or above the level being monitored and have at least five (5) years inspection experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department staff.

(h) The provisions of the NFPA Standard No. 1033, Edition of (2009), entitled "Professional Qualifications for Fire Investigator" are adopted subject to the following definitions and requirements:

(A) An individual must successfully complete a Department approved Task Book before the Department will administer a written examination for the Fire Investigator certification level. Exception: Anyone holding a valid IAAI Fire Investigator Certification, National Association of Fire Investigators (NAFI) certification, or Certified Fire Explosion Investigators (CFEI) certification is exempt from taking the Department's Fire Investigator written exam.

(B) A Department approved Field Training Officer must monitor the completion of a Task Book. The Field Training Officer must be certified at or above the level being monitored and have at least five (5) years fire investigation experience. Exception: The Department may approve a Field Training Officers with equivalent training, education and experience.

(i) The provisions of the NFPA Standard No. 1035, Edition of 2000, entitled "Professional Qualifications for Public Fire and Life Safety Educator" are adopted subject to the following definitions and modifications:

(A) Chapter 6 (Six) "Juvenile Firesetter Intervention Specialist I" and Chapter 7 (Seven) "Juvenile Firesetter Intervention Specialist II," Oregon-amended, shall be adopted with the following changes:

(i) Change the following definitions:

(I) 1-4.4 Change the definition of "Assessment" to read: "A structured process by which relevant information is gathered for the purpose of determining specific child or family intervention needs conducted by a mental health professional."

(II) 1-4.11 Change the title of "Fire Screener" to "Fire Screening" and the definition to read "The process by which we conduct an interview with a firesetter and his or her family using state approved forms and guidelines. Based on recommended practice, the process may determine the need for referral for counseling and/or implementation of educational intervention strategies to mitigate effects of firesetting behavior."

(III) 1-4.14 Include "insurance" in list of agencies.

(IV) 1-4.15 Change the definition to read: "...that may include screening, education and referral for assessment for counseling, medical services."

(V) 1-4.16 Change "person" to "youth" and change age from 21 to 18.

(VI) 1-4.17 Add "using state-approved prepared forms and guidelines."

(VII) 1-4.22 Add "...or by authority having jurisdiction."

(VIII) 1-4.24 Add "...or as defined by the authority having jurisdiction."

(ii) Under 6-1 General Requirements, delete the statement, "In addition, the person shall meet the requirements for Public Fire and Life Safety Educator I prior to being certified as a Juvenile Firesetter Intervention Specialist I."

(B) A task book shall be completed prior to certification as a Public Fire and Life Safety Educator I, II or III.

(C) A task book shall be completed prior to certification as a Public Information Officer.

(D) A task book shall be completed prior to certification as a Juvenile Firesetter Intervention Specialist I and II.

(j) The provisions of the NFPA Standard No. 1041, Edition of 2007, entitled "Standard for Fire Service Instructor Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) "Fundamentals of Instruction" shall mean a 16-hour instructor training course for those instructors used for in-house training. This course includes a task book. This course does not lead to certification.

(B) Successfully complete an approved task book for Fire Service Instructor I and II. This requirement is effective for any application for certification after January 4, 2002.

(k) The provisions of the NFPA Standard 1021, 2009 Edition, entitled "Standards for Fire Officer Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 4.1 General. For certification as Fire Officer I, the candidate must be certified at NFPA 1001 Fire Fighter II, and NFPA 1041 Fire Instructor I, as defined by the Department, and meet the job performance requirements defined in Sections 4.1 through 4.7 of this Standard.

(i) Amend section 4.1.2 General Prerequisite Skills to include college courses or Department approved equivalent courses in the following areas of study: Communications, Math, Physics, Chemistry, or Fire Behavior and Combustion. Refer to the suggested course guide for detailed course, curriculum and training information.

(ii) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for; NFPA Fire Officer I and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) 5.1 General. For certification as NFPA Fire Officer II, the candidate must be certified as NFPA Fire Officer I, as defined by the Department, and meet the job performance requirements defined in Section 5.1 through 5.7 of the Standard.

(i) Amend section 5.1.2 General Prerequisite Skills to include college courses or Department approved equivalent courses in the following areas of study: Psychology or Sociology.

(ii) Amend section 5.3 Community and Government Relations to include State and Local Government or Department approved equivalent courses.

(iii) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for NFPA Fire Officer II, and signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(C) 6.1 General. For certification as NFPA Fire Officer III, the candidate must be certified as a NFPA Fire Officer II, NFPA, NFPA 1041 Fire Instructor II, as defined by the Department, and meet the job performance requirements defined in Sections 6.1 through 6.7 of the Standard.

(i) All applicants for certification must complete a Department approved Task Book for NFPA Fire Officer III, and signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(D) 7.1 General. For certification as NFPA Fire Officer IV the candidate must be certified as NFPA Fire Officer III, as defined by the Department, and meet the job performance requirements in Sections 7.1 through 7.7 of the Standard.

(i) All applicants for certification must complete a Department approved Task Book for NFPA Fire Officer IV, and signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(l) Hazardous Materials Responder (DPSST-P-12 1/96).

(m) Fire Ground Leader.

(A) This is a standard that is Oregon-specific.

(B) An applicant applying for Fire Ground Leader must first be certified as an NFPA Fire Fighter II.

(C) An applicant applying for Fire Ground Leader must document training in all of the following areas:

(i) Building Construction: Non-Combustible and Combustible;

(ii) Emergency Service Delivery;

(iii) Fire Behavior;

(iv) Fire Ground Safety; and

(v) Water Supply Operations.

(D) All applicants for certification must complete a Task Performance Evaluation or a Department-approved Task Book for Fire Ground Leader. The Evaluation or Task Book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(n) Wildland Interface Fire Fighter.

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(A) This standard includes NWCG Wildland Fire Fighter Type I and Type II.

(B) An individual applying for Wildland Interface Fire Fighter must document training in all of the following areas at the time of application:

- (i) S-130 Fire Fighter Training (includes L-180);
 - (ii) S-190 Wildland Fire Behavior;
 - (iii) S-131 Firefighter Type I;
 - (iv) I-100 Introduction to ICS; and
 - (v) Completion of the NWCG FFT1 Task Book.
- (o) Wildland Interface Engine Boss.
- (A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Engine Boss must be certified as Wildland Interface Fire Fighter prior to applying for Wildland Interface Engine Boss and must document training in all of the following areas at the time of application:

- (i) I-200 Basic Incident Command;
- (ii) S-230 or S-231 Crew Boss (Single Resource);
- (iii) S-290 Intermediate Wildland Fire Behavior; and
- (iv) Completion of the Task Book for NWCG Single Resource Boss Engine.

- (p) Wildland Interface Crew Boss.
- (A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Crew Boss must be certified as Wildland Interface Fire Fighter prior to applying for Wildland Interface Crew Boss and must document training in all of the following areas at the time of application:

- (i) I-200 Basic Incident Command;
- (ii) S-230 Crew Boss (Single Resource);
- (iii) S-290 Intermediate Wildland Fire Behavior; and
- (iv) Completion of the Task Book for NWCG Single Resource Boss Crew.

- (q) Wildland Interface Strike Team Leader Engine.
- (A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Strike Team Leader Engine must be certified as Wildland Interface Engine Boss prior to applying for Wildland Interface Strike Team/Leader Engine and must document training in all of the following areas at the time of application:

- (i) S-215 Fire Operations in the WUI;
- (ii) S-330 Task Force/Strike Team Leader;
- (iii) I-300 Intermediate ICS; and
- (iv) Completion of the Task Book for NWCG Strike Team Leader Engine.

- (r) Wildland Interface Strike Team Leader Crew.
- (A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Strike Team Leader Crew must be certified as Wildland Interface Crew Boss prior to applying for Wildland Interface Strike Team Leader Crew and must document training in all of the following areas at the time of application:

- (i) S-215 Fire Operations in the WUI;
- (ii) S-330 Task Force/Strike Team Leader;
- (iii) I-300 Intermediate ICS; and
- (iv) Completion of the Task Book for NWCG Strike Team Leader Crew.

- (s) Wildland Interface Structural Group Supervisor.
- (A) This is an Oregon standard.

(B) An individual applying for Wildland Interface Structural Group Supervisor must be certified as Wildland Interface Strike Team Leader Engine prior to applying for certification as Wildland Structural Interface Group Supervisor and must document training in all of the following areas at the time of application:

- (i) S-390 Introduction to Wildland Fire Behavior Calculations;
 - (ii) S-339 Division/Group Supervisor; and
 - (iii) Completion of the Task Book for NWCG Group Supervisor.
- (t) Wildland Interface Division/Group Supervisor.
- (A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Division/Group Supervisor must be certified as Wildland Interface Strike Team Leader Engine and a Wildland Interface Strike Team Leader prior to applying for certification as Wildland Interface Division/Group Supervisor and must document training in all of the following areas at the time of application:

- (i) S-390 Introduction to Wildland Fire Behavior Calculations;
- (ii) S-339 Division/Group Supervisor; and
- (iii) Completion of the Task Book for NWCG Division/Group Supervisor.

(u) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book. Historical Recognition:

(A) The application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.

(B) The application must be submitted to the Department no later than October 1, 2004, to receive certification for Maritime Fire Service Operator without having to complete the task book.

(C) All applications received after October 1, 2004, will need to show completion of the approved task book.

(v) Certification guide for Wildland Fire Investigator (August, 2005).

(w) The provisions of the 2008 Edition of NFPA 1006 entitled, "Standards for Technical Rescuer Professional Qualifications" are adopted subject to the following modifications:

(A) The "Authority Having Jurisdiction" means the local or regional fire service agency.

(B) Historical Recognition:

(i) Applicants who currently hold active Department of Public Safety Standards and Training NFPA Surface Water Rescue Technician and NFPA Rope Rescue levels of certification may apply for NFPA Swiftwater Rescue level of certification.

(ii) The NFPA Technical Rescuer application for certification under (i) above must be submitted to the Department of Public Safety Standards and Training on or before December 30, 2011.

(C) Instructors:

(i) Curriculum must be certified by the Department to meet NFPA 1006 standards.

(ii) An instructor delivering training under a fire service agency's accreditation agreement must be a certified technician in that specialty rescue area.

(D) Task Books:

(i) A task book must be completed for each of the eleven specialty rescue areas applied for.

(ii) Only a certified technician in that specialty rescue area can sign off on the task book.

(iii) The requirements in Chapters 4 and 5 need only to be met once for all eleven specialty rescue areas.

(x) Urban Search and Rescue.

(A) This is a standard that is Oregon-specific.

(B) The following eleven (11) specialty Urban Search and Rescue (USAR) certifications are adopted:

- (i) Task Force Leader;
- (ii) Safety Officer;
- (iii) Logistics Manager;
- (iv) Rescue Team Manager;
- (v) Rescue Squad Officer;
- (vi) Rescue Technician;
- (vii) Medical Technician;
- (viii) Rigging Technician;
- (ix) Search Team Manager;
- (x) Search Squad Officer;
- (xi) Search Technician.

(C) An applicant applying for any USAR certification(s) must complete the appropriate application(s) attesting to completion of the required training.

(y) The provisions of the NFPA Standard 472, 2008 Edition, entitled "Standard for Hazardous Materials and Weapons of Mass Destruction" are adopted subject to the following definitions and modifications hereinafter stated:

(A) Hazardous Materials Technician: All applicants for certification must first certify as an Operations Level Responder and complete a Department approved Task Book, signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(B) Hazardous Materials Safety Officer: All applicants for certification must first certify as a Hazardous Materials Technician and complete a Department approved Task Book, signed off by the Agency Head or Training Officer, before an applicant can qualify for certification. This certification level includes, but is not limited to, the following course work:

- (i) Analyzing the Incident;
- (ii) Planning the Response;
- (iii) Implementing the Planned Response;
- (iv) Evaluating the Progress.

(C) Incident Commander: The level of certification formerly known as "On-Scene Incident Commander" is now known as "Incident Commander." The Incident Commander correlates directly with NFPA 472.

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All applicants for certification must first certify as an Operations Level Responder.

(D) Operations Level Responder: The level of certification formerly known as "First Responder" is now known as "Operations Level Responder." The Operations Level Responder correlates directly with NFPA 472. Successful completion of skills sheets or task performance evaluations (TPE) must be met prior to certification as an Operations Level Responder.

(z) Specialty Levels of Certification. All applicants for specialty levels of certification must first certify as a Hazardous Materials Technician.

(A) The following four (4) specialty certifications are adopted:

- (i) Cargo Tank Specialty;
- (ii) Intermodal Tank Specialty;
- (iii) Marine Tank Vessel Specialty;
- (iv) Tank Car Specialty;

(B) Successful completion of task performance evaluations (TPE) must be met prior to obtaining a specialty level of certification.

(3) Task performance evaluations, where prescribed, shall be required prior to certification. Such examinations shall be conducted in the following manner:

(a) Task performance competency shall be evaluated by three people nominated by the employing fire service agency's Chief Officer for approval by the Department or its designated representative.

(b) The employing fire service agency's equipment and operational procedures shall be used in accomplishing the task performance to be tested.

(c) Specific minimum testing procedures, as provided by the Department, shall be used for administration of the evaluation.

(d) The training officer for an accredited fire service agency training program must notify the Department or its designated representative prior to performing a Task Performance Evaluation.

(e) At the request of the fire chief, a representative of the Department will be designated to monitor the task performance evaluation for personnel from a fire service agency whose training program is not accredited.

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2003 f. & cert. ef. 7-24-03; DPSST 13-2003(Temp), f. & cert. ef. 10-27-03 thru 3-31-04; DPSST 3-2004(Temp), f. & cert. ef. 4-9-04 thru 10-1-04; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006 f. & cert. ef. 7-7-06; DPSST 14-2006, f. & cert. ef. 10-13-06; DPSST 16-2006, f. & cert. ef. 11-20-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 12-2009, f. & cert. ef. 10-15-09; DPSST 16-2009(Temp), f. & cert. ef. 12-15-09 thru 6-11-10; DPSST 5-2010, f. 6-11-10, cert. ef. 6-14-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 3-2011, f. 3-28-11, cert. ef. 5-1-11; DPSST 7-2012, f. & cert. ef. 3-28-12

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Rule Caption: Clarifies the maintenance process for part-time parole and probation officers.

Adm. Order No.: DPSST 8-2012

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Certified to be Effective: 3-29-12

Notice Publication Date: 3-1-2012

Rules Amended: 259-008-0066

Subject: The maintenance process for part-time parole and probation officers is clarified. The language and procedures are updated to mirror the language and procedures used for the police officers and telecommunicators/emergency medical dispatcher maintenance cycles.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0066

Maintenance of Certification for Part-Time Parole and Probation Officers

(1) Basic Certification. All certified parole and probation officers who have obtained basic certification and employment as a full-time parole and probation officer for a minimum of one year may continue certification if:

(a) That officer begins working as a parole and probation officer in a part-time capacity, as defined in OAR 259-008-0005 and ORS 181.610 within three (3) months of leaving a full-time position; and

(b) The employing agency notifies the Department of all personnel actions involving part-time parole and probation officers whose certification is to be continued on a Personnel Action Report (DPSST Form F-4) as required under OAR 259-008-0020.

(2) In order to maintain certification, part-time parole and probation officers must complete at least 20 hours of maintenance training annually.

The content of the training is determined by the agency head of the employing agency.

(a) The annual maintenance training cycle for part-time parole and probation officers begins on January 1st and ends on December 31st of each year.

(b) The employing agency must maintain documentation of all required maintenance training for each part-time parole and probation officer.

(c) The employing agency must provide documentation to the Department of training completed from January 1st through December 31st of each year.

(3) On or after December 31st of each year, the Department will identify all part-time parole and probation officers who are deficient in maintenance training hours according to Department records and provide notification of deficiency to the employing agency.

(a) Within the 30 days identified in the notification of deficiency, the agency must submit a Part-Time Parole & Probation Officer Maintenance Training Log (Form F-17) to the Department identifying the maintenance training hours completed during the previous one (1) year reporting period for each officer identified as deficient.

(b) Failure to submit the completed Form F-17 to the Department for officers with identified training deficiencies will result in a notification of recall letter being sent to the agency head and officer.

(c) Maintenance training hours reported to the Department on a Form F-17 will be used solely to verify completion of maintenance training requirements and will not be added to the officer's training record. A Form F-6 (Course Attendance Roster) must be forwarded to the Department to have training hours added to an officer's record.

(4) The Department will recall a part-time parole and probation officer's certification for:

(a) Failure to complete or report any required maintenance training identified in section (2) above on or before December 31st of each year; or

(b) Failure to submit a completed Form F-17 within the 30 days identified in the notification in (3) above.

(5) Recertification following a recall may be obtained at the approval of the Department by submitting the following to the Department:

(a) A written request from the employing agency head requesting recertification, along with a justification of why the required maintenance training hours were not reported; and

(b) Verification that maintenance training hours were completed.

(6) Upon written request from the head of an employing agency, the Department may grant an extension for the completion of maintenance training hours if an officer was on an extended leave of absence or the Department finds there is other good cause to grant an extension. The granting of such an extension is within the sole discretion of the Department.

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

Stat. Auth.: ORS 181.640 & 181.653

Stats. Implemented: ORS 181.640 & 181.653

Hist.: BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 8-2012, f. & cert. ef. 3-29-12

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Rule Caption: Updates the list of persons exempt from regulation as private security providers.

Adm. Order No.: DPSST 9-2012

Filed with Sec. of State: 4-2-2012

Certified to be Effective: 4-2-12

Notice Publication Date: 3-1-2012

Rules Amended: 259-060-0015

Subject: Persons who provide security services for non-profit organizations and students of community colleges contributing to campus security are exempted from regulation as a private security provider (2011 OR SB 635).

Also clarifies the definition of alarm monitor and crowd management (2011 OR SB 878).

Rules Coordinator: Linsay Hale—(503) 378-2431

259-060-0015

Prohibited Acts

(1) It is unlawful:

(a) For a person to engage in the business of, or perform any service as, a private security professional, or to offer services in such capacity unless the person has obtained a certificate under the Private Security Service Providers Act and these rules.

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(b) For a person to engage in the business of, or perform any service as, an executive or supervisory manager, or to offer services in such capacities unless the person has obtained a license under ORS 181.878.

(c) For a person to perform supervisory duties over persons performing crowd management or guest services, as described in ORS 181.871, unless the person has obtained a license or certificate under ORS 181.878.

(d) For an executive or supervisory manager to assign a person to perform private security services unless the person is certified as a private security professional under ORS 181.878 and these rules, except as otherwise provided in ORS 181.873 and OAR 259-060-0120 (relating to temporary assignments).

(e) To provide private security services as a private security professional without having a certificate or license issued under ORS 181.878 in the person's possession.

(f) For purposes of these administrative rules, these prohibitions apply to any business, employer, or entity that provides private security services within this state, or the monitoring of alarm systems designed to detect unauthorized intrusion, regardless of whether the business, employer or entity is located in this state.

(2) Conviction for a non-person felony or Class A misdemeanor will result in disqualification or revocation of certification as a private security provider for ten years from date of conviction.

(3) Exemptions: The following persons are exempt from regulation as private security providers:

(a) Persons holding a current Department certification as a police officer or parole and probation officer.

(b) A law enforcement officer of the United States.

(c) An officer or employee of this state, Oregon Health Sciences University established by ORS 353.020 or the United States while performing the duties of the office or employment.

(d) A person appointed or commissioned by the Governor to perform law enforcement or security services.

(e) An attorney admitted to practice law in this state while engaged in the practice of law.

(f) An insurance adjuster licensed in this state while performing duties authorized by the license.

(g) A person who monitors alarm systems that are not designed to detect threats to public safety or personal well-being.

(h) A person while protecting the person's property.

(i) A person who repairs and installs intrusion alarms while repairing or installing intrusion alarms.

(j) A person acting as an investigator as defined in ORS 703.401.

(k) A person performing crowd management or guest services, including, but not limited to, a person described as a ticket-taker, an usher, parking attendant or event staff or a person employed for the purpose of age verification and controlling access at an entrance of the premises by a licensee of the Oregon Liquor Control Commission.

(l) A person who performs security services at a facility regulated by the United States Nuclear Regulatory Commission and the facility is operated by the person's employer.

(m) An individual while on active duty as a member of the armed services or while performing duties as a law enforcement officer.

(n) An employee of a financial institution who has been designated as a security officer for the financial institution pursuant to the Bank Protection Act of 1968 (12 U.S.C 1881 et seq.) and regulations adopted thereunder or pursuant to ORS 723.276 (5).

(o) A person who provides security services as a volunteer or for de minimis consideration other than money for an event operated for the benefit of a corporation that is organized not for profit pursuant to ORS chapter 65 or any predecessor of ORS chapter 65 or that is exempt from taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c) of the Internal Revenue Code.

(p) A student enrolled in a community college as defined in ORS 341.005 while engaged in nonconfrontational activities that contribute to campus safety under the direct or indirect supervision of a law enforcement professional or private security professional certified or licensed by the Department of Public Safety Standards and Training, provided the community college has conducted a criminal background check on the student.

(3) The exemption provided by subsection (2)(k) of this section applies only:

(a) To a person who is not:

(A) Armed;

(B) Permitted to initiate confrontational activities; or

(C) Hired with the primary responsibility of taking enforcement action as described in ORS 181.870(8)(f);

(b) If there is at least one person on-site who is certified or licensed under ORS 181.878 for every 10 or fewer uncertified persons performing the services described in subsection (2)(k) of this section;

(c) If any enforcement action, as described in ORS 181.870(8)(f), other than incidental or temporary action, is taken by or under the supervision of a person certified or licensed under ORS 181.878; and

(d) During the time when a crowd has assembled for the purpose of attending or taking part in an organized event, including pre-event assembly, event operation hours and post-event departure activities.

Stat. Auth.: ORS 181.873, 181.871 & 181.878

Stats. Implemented: ORS 181.873, 181.871 & 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; 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 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 9-2012, f. & cert. ef. 4-2-12

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Rule Caption: Clarifies the process for retired public safety professionals to receive retirement cards.

Adm. Order No.: DPSST 10-2012

Filed with Sec. of State: 4-9-2012

Certified to be Effective: 4-9-12

Notice Publication Date: 3-1-2012

Rules Amended: 259-008-0100

Subject: Clarifies the process for receiving retirement cards for honorably retired public safety professionals.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0100

Miscellaneous Activities of the Board or Department

(1) The Board or Department may make or encourage studies of any aspect of corrections, parole and probation, telecommunications, emergency medical dispatch, fire, or police administration, including the stimulation of research by public and private agencies which shall be designed to improve the Criminal Justice System.

(2) The Board or Department may cooperate and consult with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, community colleges, and other institutions concerning the development of criminal justice training schools and programs or courses of instruction.

(3) The Board or Department may cooperate and consult with official bodies or individuals charged by law with the responsibility for corrections, parole and probation, telecommunications, emergency medical dispatch, fire or police selection and training standards in other states.

(4) The Board or Department may periodically publish or recommend that other governmental agencies publish curricula, manuals, lesson plans, brochures, newsletters, and other materials to aid departments in achieving the objectives of the Act.

(5) The Department may direct, operate, or sponsor training schools and set reasonable rules and regulations for the operation and use by trainees.

(6) The Department may, on request, issue Retirement Cards to those Department-certified public safety professionals who have honorably served the citizens of Oregon and who have honorably retired from their agency.

(a) For the purposes of this rule, "honorably retired" means reaching the State of Oregon's recognized retirement age and retiring in good standing from a certified position as a public safety professional with a minimum of five (5) years of full-time public safety experience in Oregon.

(b) A public safety professional who has sustained a permanent disability that prevents a return to their certifiable position may qualify for a Retirement Card if the public safety professional has served a minimum of five (5) years as a full-time public safety professional in Oregon.

(c) The request for a Retirement Card must be made by the agency with which the public safety professional was last employed prior to retirement. The request must be made using a Form F-30 Retirement Card Request Form.

(d) The Department will issue only one Retirement Card per qualifying public safety professional.

(e) If a Retirement Card is lost or damaged, the Department may issue a replacement Card if requested by the applicable public safety professional. Additional verification of original eligibility may be required.

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(7) In accordance with the Oregon Revised Statutes the Board, in consultation with the Department, designates the following classifications of public safety personnel killed in the line of duty who may be honored at the Law Enforcement Memorial Wall.

(a) Eligibility:

(A) For the purpose of placing names, law enforcement officer includes, as defined in ORS 181.610, police officer, reserve officer, corrections officer, and parole and probation officer. Also included are federal law enforcement officers assigned to or performing law enforcement duties in Oregon.

(b) Criteria for placement on the Law Enforcement Memorial Wall:

(A) Officers who suffered an "in-the-line-of-duty" death.

(i) "In the line of duty death" means a fatal injury which is the direct or proximate result of any enforcement action or emergency response resulting in death or death directly resulting from law enforcement training for enforcement action or emergency response that the law enforcement officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service while on or off duty.

(ii) A fatal injury may include a medical condition which arises out of law enforcement actions or training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing her/his death during a continuous period of hospitalization resulting from a law enforcement action.

(iii) Not included under this definition are deaths attributed to natural causes (except when a medical condition arises out of law enforcement action or law enforcement training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing his/her death during a continuous period of hospitalization immediately following the taking of law enforcement action). Deaths attributed to voluntary alcohol or controlled substance abuse, deaths caused by the intentional misconduct of the officer, deaths caused by the officer's intention to bring about his or her own death, and deaths attributed to an officer performing his/her duty in a grossly negligent manner at time of death are not included under this definition.

(iv) When there is doubt arising from circumstances of the officer's death or with respect to individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Board on Public Safety Standards and Training Executive Committee.

(c) Exclusions from the Law Enforcement Memorial Wall:

(A) Officers whose deaths are attributed to natural causes are not eligible for inclusion in the wall; or

(B) A death that is attributed to the officer's voluntary alcohol or substance abuse use; or

(C) Death caused by intentional misconduct of the officer; or

(D) Death caused by the officer's intention to bring about his or her own death; and

(E) Death attributed to an officer performing his or her duty in a grossly negligent manner at the time of death.

(d) When there is doubt arising from the circumstances of the officer's death or with respect to the individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Executive Committee.

(e) The costs of maintenance and relocation of the Law Enforcement Memorial Wall and the costs of an annual memorial service honoring persons killed in the line of duty shall be paid out of the Police Memorial Trust Fund.

(8) In accordance with the Oregon Revised Statutes the Commission, in consultation with the Department, designates the following classifications of public safety personnel who may receive the Law Enforcement Medal of Honor.

(a) Eligibility:

(A) For the purpose of nominating names, law enforcement officer includes, but is not limited to, a police officer, reserve officer, corrections officer, or parole and probation officer. Also included are any state, county, municipal, federal or tribal individual who is:

(i) Commissioned; and

(ii) Responsible for enforcing criminal laws in the state of Oregon.

(b) Criteria for nominations for the state Law Enforcement Medal of Honor:

(A) Officers who have distinguished themselves by exceptionally honorable and meritorious conduct while in the performance of duty.

(i) "Exceptionally honorable and meritorious conduct" means an officer has distinguished themselves conspicuously by gallantry and fortitude at the risk of their life "above and beyond" the call of duty while performing or fulfilling their responsibilities as a law enforcement officer. It

involves risk of life and is an act of bravery, self-sacrifice so conspicuous as to clearly distinguish the individual above their comrades.

(ii) "While in the performance of duty" requires acting in an official capacity and performing a law enforcement function.

(B) The exceptionally honorable and meritorious conduct must have occurred on or after January 1, 2006.

(c) Process for Nominations:

(A) All nominations must be submitted in writing to the Secretary of the Law Enforcement Medal of Honor Commission;

(B) All nominations must be presented on an official nomination form;

(C) All nominations must be postmarked no later than one year after the date an officer has performed exceptionally honorable and meritorious conduct;

(D) All nominations must be endorsed by the chief law enforcement officer of the department or agency of the nominee;

(E) All nominations must receive a unanimous vote by the Commission.

(F) Notwithstanding subsection (E) of this rule, a Commission member is prohibited from voting on any nomination submitted from their employing agency. The Commission may achieve a unanimous vote by obtaining a majority vote in instances when a Commission vacancy occurs or a Commission member has been excused from voting.

(G) Any and all documentation, which includes, but is not limited to, police reports, media reports, pictures, testimonials or affidavits, must accompany the nomination. If necessary, the Commission may request additional information. The request will be in writing and addressed to the individual identified as the contributor on an official nomination form.

(d) Law Enforcement Medal of Honor Award

(A) All awards will be presented by the Governor, or his/her designee, at an appropriate time determined by the Commission.

(B) A medal of honor may only be awarded for an event occurring on or after January 1, 2006. This includes medals awarded posthumously.

(C) An individual receiving the Law Enforcement Medal of Honor Award will retain the option for a public or private ceremony.

(C) The costs of awards and medals and the costs associated with a ceremony honoring persons receiving an award shall be paid out of the Law Enforcement Medal of Honor Account established in ORS 176.264.

(f) Commission Protocol:

(A) The Commission will meet no less than once every six months to consider candidates for nomination for the Law Enforcement Medal of Honor, unless no nominations have been received by the Commission during a six month period.

(B) The Commission will determine the protocol for all award ceremonies.

(C) The Commission retains sole authority to approve administrative rule changes relating to the law enforcement medal of honor.

Stat. Auth.: ORS 176.260 & 181.640

Stats. Implemented: ORS 176.260 & 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0080, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; 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 16-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; Administrative correction 5-7-02; BPSST 17-2002, f. & cert. ef. 7-5-02; DPSST 12-2007, f. & cert. ef. 10-15-07; DPSST 10-2012, f. & cert. ef. 4-9-12

Department of State Lands Chapter 141

Rule Caption: State General Permit (GP) for Maintaining Drainage to Protect Agricultural Land.

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

Filed with Sec. of State: 4-2-2012

Certified to be Effective: 4-2-12 thru 9-28-12

Notice Publication Date:

Rules Adopted: 141-093-0220, 141-093-0225, 141-093-0230, 141-093-0235, 141-093-0240

Subject: SB 600 (2011) amended the Removal-Fill Law to allow the Department of State Lands to establish by rule a general permit (GP) that allows the removal of no more than 100 cubic yards of material from waters of the state for the purpose of maintaining drainage and protecting agricultural land. The Department may also waive the fees specified in ORS 196.815 for removal taking place under the provisions of this section. The proposed rule implements this statutory change. The proposed GP authorizes removal of up to 100 cubic yards of material and fill of up to 100 cubic yards of material for the

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purpose of maintaining drainage to protect agricultural lands. Fees are waived both for the fill and the removal.

Rules Coordinator: Elizabeth Bolden—(503) 986-5239

141-093-0220

Purpose

This General Permit (GP) authorizes removal of up to 100 cubic yards of material and fill of up to 100 cubic yards of material for the purpose of maintaining drainage to protect agricultural lands.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990
Stats. Implemented: ORS 196.600 - 196.692 & 196.795 - 196.990
Hist.: DSL 2-2012(Temp), f. & cert. ef. 4-2-12 thru 9-28-12

141-093-0225

Eligibility Requirements

Activities authorized by this GP must meet all of the following requirements for maintaining drainage to protect agricultural lands.

(1) **Purpose.** Removal and fill must be for the primary purpose of maintaining drainage to protect agricultural land.

(2) **Land Use.** The current land use must be agricultural land. For the purposes of this general permit, agricultural land means:

(a) Land currently used for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, fish, or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof.

(b) Agricultural Land also includes land used for the:

(A) On-site preparation, storage and disposal of the products or by-products raised on such land for human or animal use;

(B) Primary purpose of obtaining a profit, in money, by stabling or training equines;

(C) On-site construction and maintenance of equipment and facilities used for the activities described in this subsection; or

(D) Growing trees exclusively as an agricultural, not forestry, commodity (e.g. cultured Christmas trees or hybrid cottonwood).

(3) **Removal of Material.** The excavation is limited to the minimum amount necessary to maintain drainage within existing bed and banks. Channel relocation is not allowed.

(4) **Removal Threshold.** The activity is limited to no more than a total of one hundred (100) cubic yards of material from below ordinary high water or below the elevation of highest measured tide, for each landowner, per calendar year.

(5) **Disposal of Excavated Material.** Material removed as a result of this activity may be placed in adjacent converted wetlands as long as the effects are temporary and do not result in a permanent conversion of wetland to upland.

(6) **No Removal-Fill in SSW Allowed.** Removal and fill under this general permit may not occur in waterways designated State Scenic Waterway (SSW) or waterways located in SSW Related Adjacent Lands.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990
Stats. Implemented: ORS 196.600 - 196.692 & 196.795 - 196.990
Hist.: DSL 2-2012(Temp), f. & cert. ef. 4-2-12 thru 9-28-12

141-093-0230

GP-Specific Application Requirements

Notwithstanding 141-093-0115, the applicant must provide the following information in an application:

(1) **Description of the work to be done.** Provide a description of how the work will be conducted and where the dredge spoil will be placed.

(2) **Alternatives.** Provide a statement about other methods that would protect agricultural lands and maintain drainage which would not require work in the waterway.

(3) **Location of Project:**

(a) A tax lot map that highlights the entire location and length of the removal and fill activity with respect to all tax lot lines;

(b) A scaled plan view drawing showing the approximate location of the existing channel and its dimensions; and

(c) The line indicating the location of the Ordinary High Water for non-tidal waters, Highest Measured Tide for tidal waters.

(4) **Disposal Location.** The application must include a map of the disposal location with respect to tax lot lines and waterways within the tax lot.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990
Stats. Implemented: ORS 196.600 - 196.692 & 196.795 - 196.990
Hist.: DSL 2-2012(Temp), f. & cert. ef. 4-2-12 thru 9-28-12

141-093-0235

Authorized Activities

Maintenance of Drainage. The annual removal of up to one hundred cubic yards of material below OHW or HMT for jurisdictional waterways for maintaining existing drainage to protect agricultural land and the placement of up to one hundred cubic yards of material in wetlands as a result of the project, when upland disposal is not practicable.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990
Stats. Implemented: ORS 196.600 - 196.692 & 196.795 - 196.990
Hist.: DSL 2-2012(Temp), f. & cert. ef. 4-2-12 thru 9-28-12

141-093-0240

General Permit-Specific Conditions

(1) **General Conditions Apply.** All the conditions set forth in OAR 141-093 141-093-0135 apply to this GP.

(2) **Temporary impacts only.** No conversion of wetland to upland is allowed. All material placed in wetlands must be spread in a thin layer before the onset of winter rains.

(3) **Removal of Woody Vegetation.** Removal of woody vegetation must be limited to the minimum amount needed to complete the activity, including removal site access.

(4) **Maintenance of Riparian Buffer.** Where practicable and necessary to complete the activity, removal of woody vegetation is limited to the north or east sides of the stream channel.

(5) **Operation in the Dry Required.** Equipment used to remove material must operate from top of bank position when feasible, otherwise from a dry position below top of bank.

(6) **Design to Limit Maintenance.** To the extent practicable, the project must be implemented to naturally maintain inlet and outlet connections with the main stream channel.

(7) **Erosion Control.** As necessary, erosion control measures must be installed and maintained during the activity and after disposal, so as to prevent discharge into waters of this state.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990
Stats. Implemented: ORS 196.600 - 196.692 & 196.795 - 196.990
Hist.: DSL 2-2012(Temp), f. & cert. ef. 4-2-12 thru 9-28-12

Department of Transportation Chapter 731

Rule Caption: ODOT's relationship with Oregon Department of Aviation.

Adm. Order No.: DOT 2-2012

Filed with Sec. of State: 3-21-2012

Certified to be Effective: 3-21-12

Notice Publication Date: 2-1-2012

Rules Adopted: 731-003-0005

Rules Repealed: 731-003-0005(T)

Subject: Enacted 2011 legislation stated that ODOT would need to adopt rules for the business processes identified in the bill. Adoption of rules for policies and procedures already in place in ODOT would be extensive for each business process related to financial transactions. ODOT uses a process where all divisions, including ODA, assist in development and review of these policies and procedures contained in the Financial Administration and Standards Manual (FASM).

This rule is intended to provide Aviation and the public with guidance on what information Aviation must comply with. The rule also requires that ODOT's relationship with Aviation be guided by an intergovernmental agreement. This information is necessary for ODOT and Aviation to have a clear understanding of their working relationship and to enhance Aviation's ability to provide services to Oregonians. This rule replaces a temporary rule that became effective September 30, 2011.

Rules Coordinator: Lauri Kunze—(503) 986-3171

731-003-0005

Provision of Business Services to Department of Aviation

(1) Oregon Laws 2011, chapter 630, requires the Department of Transportation to provide the following services to the Department of Aviation, and requires the Department of Aviation to abide by all rules adopted by the Department of Transportation related to the following services:

(a) Budget preparation services;

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- (b) Daily processing for accounts payable, accounts receivable, payroll, receipts and disbursements;
- (c) Records and inventory maintenance accounting services;
- (d) Financial management reports and revenue and expenditure projections;
- (e) Purchasing, leasing and contracting services;
- (f) Internal audit services;
- (g) Computer and information system services; and
- (h) Human resource services.

(2) The most current Department of Transportation administrative rules related to the services identified in section (1) apply to the Department of Aviation, including but not limited to OAR Chapter 731, Divisions 146, 147, 148 and 149.

(3) The most current Department of Transportation policies and procedures related to the services identified in section (1) apply to the Department of Aviation.

(4) The Financial Administration and Standards Manual applies to the Department of Aviation.

(5) For purposes of providing the services identified in section (1) the Department of Aviation shall be treated the same as a division of the Department of Transportation in applying applicable rules, policies and procedures.

(6) The Department of Transportation and Department of Aviation shall enter into an interagency agreement to address additional administration and implementation issues related to providing the services identified in section (1), and to establish the fee for providing those services and payment thereof.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 630, OL 2011
Stats. Implemented: Ch. 630, OL 2011
Hist.: DOT 2-2011(Temp), f. & cert. ef. 9-30-11 thru 3-21-12; DOT 2-2012, f. & cert. ef. 3-21-12

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

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

Adm. Order No.: DMV 3-2012

Filed with Sec. of State: 3-26-2012

Certified to be Effective: 4-1-12

Notice Publication Date: 2-1-2012

Rules Amended: 735-032-0010

Subject: This rule amendment brings OAR 735-032-0010 into compliance with ORS 803.570, which requires DMV to establish by rule the registration plate manufacturing cost for a registration plate or pair of registration plates. The cost established by DMV is calculated by taking the cost to manufacture a single plate or pair of plates, and rounding the amount(s) charged DMV customers to the next higher half-dollar. DMV has adopted OAR 735-032-0010 to set the registration plate manufacturing cost amounts. (Previously, the plate manufacturing cost amount was \$2 for a single plate and \$3 for a pair of plates.) The plate manufacturing cost amount is then added to the statutory fee set forth in ORS 803.570 which is \$10 for a single plate and \$20 for a pair of plates. The total, which is also established in OAR 735-032-0010, is the registration plate fee that must be paid when a registration plate or pair of registration plates is issued to a customer.

In January 2011, DMV renewed a 10-year agreement (Agreement) with Irwin-Hodson Group (Contractor) to manufacture registration plates for DMV. Later in 2011 DMV entered into a 12-month price agreement with the Contractor. Under the new price agreement, DMV's cost for a pair of plates increased from \$3.43 to \$3.52, which when rounded to the nearest half-dollar is \$4.

DMV has amended OAR 735-032-0010 to increase from \$3 to \$4, the manufacturing cost amount charged for each pair of registration plates issued. As a result, the registration plate fee for a pair of plates will rise from \$23.00 to \$24.00. The fee for a single plate will remain the same. The effective date of the rule and fee increase is April 1, 2012.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-032-0010

Registration Plate Fees

(1) ORS 803.570 requires DMV to establish the fee amounts for each registration plate issued and for each pair of plates issued.

(2) The plate fee amounts are calculated by:

(a) Determining the cost to manufacture a single registration plate and a pair of registration plates (cost), respectively, and rounding the cost amount(s) to the next higher half-dollar; and

(b) Adding \$10 for a single plate and \$20 for a pair of plates, respectively.

(3) Based on the calculation under section (2) of this rule, registration plate fees are:

(a) \$12 for a single plate issued (\$2 cost + \$10 = \$12).

(b) \$24 for a pair of plates issued (\$4 cost + \$20 = \$24).

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

Stats. Implemented: ORS 803.570

Hist.: MV 29-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-100-0310; MV 21-1988, f. 6-29-88, cert. ef. 7-1-88; DMV 4-1997, f. 1-24-97, cert. ef. 4-1-97; DMV 5-2003(Temp), f. 5-14-03, cert. ef. 7-1-03 thru 12-27-03; DMV 32-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 8-2004, f. & cert. ef. 5-24-04; DMV 18-2009(Temp), f. 9-29-09, cert. ef. 10-1-09 thru 3-29-10; DMV 4-2010, f. & cert. ef. 2-25-10; DMV 3-2012, f. 3-26-12, cert. ef. 4-1-12

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

Adm. Order No.: DMV 4-2012(Temp)

Filed with Sec. of State: 3-26-2012

Certified to be Effective: 3-26-12 thru 9-21-12

Notice Publication Date:

Rules Amended: 735-070-0085

Subject: Oregon Laws 2012, Chapter 9 (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.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-070-0085

Proof of Treatment Completion Required for Reinstatement of DUII Suspension

(1) Except as provided in section (3) of this rule, a person whose driving privileges are suspended due to a conviction in an Oregon court of driving under the influence of intoxicants (DUII) must provide proof that the person completed a treatment program to which the person was referred under ORS 813.021. DMV will accept the following as proof that the person completed the required treatment:

(a) A DUII Treatment Completion Certificate, DMV Form 735-6821, completed by an authorized representative of an Oregon DUII treatment program approved by the Director of the Oregon Health Authority (OHA) or by an authorized representative of OHA on behalf of an Oregon DUII treatment provider or an out-of-state DUII treatment provider.

(b) A copy of the report to the referring court, as described under ORS 813.021(4), from an authorized representative of the agency or organization that conducted the person's screening interview stating the person's successful completion of the DUII treatment program to which the person was referred under ORS 813.021.

(c) A letter from a referring court stating that the court has determined that the person has completed the DUII treatment program to which the person was referred under ORS 813.021.

(2) If the person has more than one suspension of driving privileges resulting from DUII convictions, the proof required under section (1) of this rule is sufficient for reinstatement of all DUII suspensions with arrest dates that were before the date treatment was completed. For purposes of this section, the proof must show the date treatment was completed.

(3) DMV may waive the requirement to provide proof upon showing of good cause. DMV may find good cause when all of the following occur:

(a) Seven years have elapsed since the person's last DUII conviction;

(b) The person's Oregon driving record and a search of the National Driver Register/Problem Driver Pointer System (NDR/PDPS) show no

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alcohol or drug-related convictions, suspensions or diversion agreements in the past seven years; and

(c) The person provides documentation, acceptable to DMV, showing the person does not have a problem condition involving alcohol, inhalants or controlled substances as described in ORS 813.040. Documentation may be, but is not limited to, the following:

(A) A certificate or letter showing completion of an alcohol or drug dependency treatment program within the past seven years; or

(B) An assessment finding the person does not have a problem condition involving alcohol, inhalants or controlled substances, from a person qualified to perform assessments for the treatment of alcoholism, drug dependency or dependency on inhalants.

Stat. Auth.: ORS 184.616, 184.619, 802.010, ORS 809.380 OL 2012, Ch. 9
Stats. Implemented: OL 2012, Ch. 9
Hist.: DMV 5-1994, f. & cert. ef. 7-21-94; DMV 4-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

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

Rule Caption: Traffic Signal Approval, Installation, Modification, and Removal on State Highways.

Adm. Order No.: HWD 5-2012

Filed with Sec. of State: 3-26-2012

Certified to be Effective: 3-26-12

Notice Publication Date: 12-1-2011

Rules Adopted: 734-020-0485

Rules Amended: 734-020-0020, 734-020-0400, 734-020-0420, 734-020-0430, 734-020-0470, 734-020-0480, 734-020-0500

Rules Repealed: 734-020-0025, 734-020-0032, 734-020-0034, 734-020-0135, 734-020-0140, 734-020-0440, 734-020-0450, 734-020-0460, 734-020-0490

Subject: These rule changes make traffic signal rules current, remove unnecessary requirements, and eliminate inaccurate, obscure, and cumbersome references. New OAR 734-020-0485 establishes the design standard for installation of new, replaced, or significantly modified signal installations.

The following ruled were amended:

- 734-020-0020 delegates authority for parking and turn prohibitions
- 734-020-0400 establishes the purpose for the Traffic Signals rules
- 734-020-0420 defines terms used within rules 734-020-0400 through 734-020-0500
- 734-020-0430 clarifies the State Traffic/Roadway Engineer approval process
- 734-020-0470 defines traffic signal spacing and allows State Traffic/Roadway Engineer to use discretion for approval
- 734-020-0480 traffic signal progression analysis in the traffic signal approval process
- 734-020-0500 states the conditions for removal of an existing traffic signal

The following rules were repealed:

- 734-020-0025 Guidelines for U-Turn Designation (currently available in the Traffic Manual)
- 734-020-0032 Definitions, relating to portable traffic signals (part of the guidelines and equipment specifications)
- 734-020-0034 Guidelines, for portable traffic signals (guidance will be moved to an appropriate technical manual)
- 734-020-0135 General Policy, for multiple right and left turns at highway intersections (included in the Traffic Manual)
- 734-020-0140 Criteria for Multiple Left or Right Turn Movements (to be included in the Traffic Manual)
- 734-020-0440 Traffic Signals on State Highways at Public Roads (covered under 734-020-0430)
- 734-020-0450 Traffic Signals on State Highways at Private Roads (covered under 734-020-0430)
- 734-020-0460 Consideration for Approval of a Traffic Signal Installation (included in 734-020-0430)

- 734-020-0490 Conditions of Approval (warrants are under 734-020-0430 and approaches are under 734-020-0485)

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-020-0020

Warrants for Parking and Turn Prohibitions

The State Traffic/Roadway Engineer (STRE) is delegated the authority to establish parking or turn prohibitions on state highways for state wide consistency. Region Traffic Engineers (RTE) are delegated the authority to establish parking or turn prohibitions on state highways within their respective Regions. RTE may consult with the STRE prior to establishing prohibitions. RTE will notify the STRE of the prohibitions.

(1) Parking prohibitions and turn prohibitions shall be warranted if:

(a) An engineering investigation indicates that such prohibitions will improve safe traffic operating conditions; or

(b) An engineering investigation indicates that such prohibitions are necessary to increase the capacity of the roadway or to otherwise expedite the movement of traffic.

(c) The engineering investigation will include a review and analysis of the past accident history, a study of the traffic volumes, patterns and turning movements when appropriate. A field investigation of the physical conditions will be made when required.

(2) Parking prohibitions shall be warranted if an engineering investigation indicates that such parking prohibitions are necessary:

(a) to prevent the imminent damage to the facility. Where parked vehicles could damaged the pavement surface; or

(b) to prevent facility conflicts with maintenance; or

(c) for time limit restrictions or loading zones.

(3) Turn prohibitions shall be warranted if an engineering investigation indicates that such turn prohibitions are necessary for safety or operations.

Stat. Auth.: ORS 184 & 810
Stats. Implemented: ORS 810.160 & 810.210
Hist.: 1 OTC 53, f. 3-3-75, ef. 3-25-75; HWD 5-2012, f. & cert. ef. 3-26-12

734-020-0400

Purpose

The purpose of OAR 734-020-0400 through 734-020-0500 is to establish the approval process for installation, modification, or removal of traffic signals under the authority of the Oregon Department of Transportation.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & 810.200
Stats. Implemented: ORS 810.200 & 810.210
Hist.: TO 5-1999, f. & cert. ef. 12-17-99; HWD 5-2012, f. & cert. ef. 3-26-12

734-020-0420

Definitions

For the purposes of OAR 734-020-0400 through 734-020-0500, the following definitions apply:

(1) "Approach" means all lanes of traffic moving toward an intersection or a mid-block location from one direction.

(2) "MUTCD" means the Manual on Uniform Traffic Control Devices as adopted by OAR 734-020-0005.

(3) "Private approach" means a private roadway or connection that is legally constructed and recognized by the Department in accordance with OAR 734-051.

(4) "Public road" means a public roadway, or similar facility under the jurisdiction of a public entity and open to public travel.

(5) "Roadway improvement project" means a major construction, reconstruction or realignment of a section of state highway.

(6) "State Highway System" means the group of roads and highways, so designated by law or by the Oregon Transportation Commission pursuant to ORS 366.220.

(7) "Traffic signal" means any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed.

(8) "Engineering study" is a documented comprehensive analysis and evaluation of available pertinent information, and the application of appropriate principles, standards, guidance, and practices as contained in the MUTCD and other sources, for the purposes of deciding upon the applicability, design, operation, or installation of a traffic control device.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & 810.200
Stats. Implemented: ORS 810.200 & 810.210
Hist.: TO 5-1999, f. & cert. ef. 12-17-99; HWD 5-2012, f. & cert. ef. 3-26-12

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734-020-0430

Traffic Signal Approval

(1) No traffic signal shall be designed for, or constructed on, the State Highway System, regardless of the funding source, without the prior approval of the State Traffic/Roadway Engineer (STRE).

(2) Regardless of any ODOT approved documents, such as land use documents, transportation system plans, corridor plans or other agreements a traffic signal shall not be designed or constructed unless first approved by the STRE.

(3) An engineering study is required for approval. The study shall indicate the need for the traffic signal and demonstrate that the installation of a traffic signal would improve the overall safety and operation of the intersection.

(4) Intersections shall meet MUTCD traffic signal warrants, unless the STRE finds special conditions documented in the engineering study where no existing warrant is applicable.

(5) Traffic signal warrants should be met within three years after construction when a traffic signal is constructed as part of a roadway improvement project.

(6) Traffic signal warrants should be met on day of opening to accommodate additional traffic from a public or private development. The traffic signal shall not be turned-on more than one month in advance of day of opening.

(7) If traffic signal is not advanced to construction within five years the STRE traffic signal approval is automatically rescinded.

(8) For private approaches, assess the ability of the existing, planned, and proposed public roads to accommodate the traffic at another location.

(9) The STRE traffic signal approval does not assure the eventual design, installation, or operation of a traffic signal.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & 810.200
Stats. Implemented: ORS 810.200 & 810.210
Hist.: TO 5-1999, f. & cert. ef. 12-17-99; HWD 6-2005, f. & cert. ef. 7-22-05; HWD 5-2012, f. & cert. ef. 3-26-12

734-020-0470

Traffic Signal Spacing Requirement

The desirable spacing of signalized intersections on statewide and regional highways is 1/2 mile. The STRE may approve the installation of a traffic signal at locations where 1/2-mile spacing is inappropriate or infeasible due to:

- (1) Topography;
- (2) Existing or proposed road layout;
- (3) Identified traffic crash pattern;
- (4) Unique physical constraints; or
- (5) Existing or proposed land use patterns.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & 810.200
Stats. Implemented: ORS 810.200 & 810.210
Hist.: TO 5-1999, f. & cert. ef. 12-17-99; HWD 5-2012, f. & cert. ef. 3-26-12

734-020-0480

Traffic Signal Progression Analysis for Traffic Signal Approval

(1) A traffic signal progression analysis is required for both existing and future conditions when a proposed traffic signal location is within one half mile of any existing or proposed new traffic signal. The STRE may require traffic signal progression analysis for spacing greater than one half mile.

(2) A traffic signal progression analysis for all new or modified approaches at traffic signals on state highways may be required for both existing and future conditions.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & 810.200
Stats. Implemented: ORS 810.200 & 810.210
Hist.: TO 5-1999, f. & cert. ef. 12-17-99; HWD 5-2012, f. & cert. ef. 3-26-12

734-020-0485

Design Standards for Installation or Modification of a Traffic Signal

The following design standards apply to new, replaced, or significantly modified signal installations:

(1) The traffic signal design plans shall conform to the conditions listed in the STRE traffic signal approval.

(2) All approaches to a traffic signal controlled intersection shall be signalized.

(3) Design geometry of a private approach shall be consistent with that of public road intersections including curbs, appropriate lane widths, pavement markings, and vertical alignment.

Stat. Auth.: ORS 184.616, 184.619 & 810.200
Stats. Implemented: ORS 810.200 & 810.210
Hist.: HWD 5-2012, f. & cert. ef. 3-26-12

734-020-0500

Removal of Traffic Signals

An existing traffic signal may be removed if MUTCD traffic signal warrants are no longer met or a proposed change in geometry or traffic flow pattern will eliminate the need for the traffic signal. No traffic signal shall be removed from the State Highway System without prior approval of the STRE. A traffic control engineering study is required for approval, which shall include all of the following:

- (1) A comprehensive investigation of traffic and safety conditions.
- (2) Assessment of needs of the local community.
- (3) Public opinion considerations.

Stat. Auth.: ORS 184.616, 184.619, 366.205 & 810.200
Stats. Implemented: ORS 810.200 & 810.210
Hist.: TO 5-1999, f. & cert. ef. 12-17-99; HWD 5-2012, f. & cert. ef. 3-26-12

Rule Caption: Outdoor advertising sign application process.

Adm. Order No.: HWD 6-2012

Filed with Sec. of State: 3-26-2012

Certified to be Effective: 3-26-12

Notice Publication Date: 2-1-2012

Rules Adopted: 734-060-0007

Rules Amended: 734-060-0000, 734-060-0010, 734-065-0015, 734-065-0020, 734-065-0025

Rules Repealed: 734-060-0000(T), 734-060-0007(T)

Subject: OAR 734-060-0000 outlines the process for filing an application for an outdoor advertising sign. OAR 734-060-0007 outlines the process for filing an application for a digital billboard, which is a subset of outdoor advertising signs specifically authorized in 2011 SB 639. Temporary rules were filed in July 2011 implementing SB 639. These amendments revise the language of the temporary rules and permanently implement SB 639 provisions.

OAR 734-060-0010 outlines the process for requesting an outdoor advertising sign permit for a sign on a transit shelter. OAR 734-065-0015, 734-065-0020 and 734-065-0025 outline the process for requesting an outdoor advertising sign permit for a sign on a transit shelter. These amendments allow an easier process for applicants to request the permit and change the size to the industry standard for such signs.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-060-0000

Outdoor Advertising Sign Application Process

(1) Application forms. An application for a sign permit under the Oregon Motorist Information Act (OMIA) is made by completing and submitting the appropriate form, attaching to the form all documents necessary to show the application meets the requirements of the law, and submitting the correct fee to the Outdoor Advertising Sign Program of the Oregon Department of Transportation. Application forms are available from the Outdoor Advertising Sign Program. There are three different Outdoor Advertising Sign application forms: "Standard Outdoor Advertising Sign Permit Application" for new permits for outdoor advertising signs that pre-existed the law change on May 30, 2007, relocations and reconstructions of such permitted signs; "Digital Billboard Outdoor Advertising Sign Application" for digital permits newly issued under ORS 377.710, or relocation and reconstruction of such permitted signs and "Application for Transit Bench or Shelter Sign" for signs on bus/transit benches and bus/transit shelters. The Department may deny a permit application if the applicant does not use the correct form.

(2) Copies of sign laws. The Department will make available copies of all state sign statutes, administrative rules, federal statutes, federal regulations, and federal-state agreements in effect. The Department may charge for the copies at the rate established by law for public records requests, and may require prepayment. The Department may also provide these documents by e-mail, web site, or in other forms for the convenience of the public and the Department.

(3) Summary of regulations. To assist potential permit applicants and the general public, the Department will make available a summary of sign permit regulations. The summary does not bind the Department to the items listed or waive its right and duty to enforce all requirements under the law.

(4) Contents of applications for Standard Outdoor Advertising Signs and Digital Billboard Outdoor Advertising Signs. To be complete the application must include the following.

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(a) Application form Part 1: Applicant Information, Sign Specifications. Information must be complete and accurate for applicant, sign builder, purpose of application, description, township/range/section/tax lot, highway route number or name and side of highway, how site is marked, name and address of property owner, and why the sign will be an "outdoor advertising sign." The location boxes should be completed to the best of applicant's ability to enable the Department to find the site.

(b) Application form Part 2: Certification of Applicant. The application form must be signed and dated by the applicant, certifying the information provided by applicant is accurate and has not been changed after the local government certification (see section (c) below). If the applicant is a corporate or other business entity the individual signing must include their title so as to indicate the authority to sign for the applicant.

(c) Application form Part 3: Certification of Local Jurisdiction. After completing Part 1, applicant must submit the complete application to the local jurisdiction for zoning and local compliance information. The local official must complete Part 3 and, if relevant, attach a letter of explanation of local code compliance. The local official must sign and date Part 3. This section does not apply to transit signs.

(d) Fee. The fee is based on square footage as described in OAR 734-059-0100. To be complete applicant must submit the correct application fee. The Sign Program does not accept cash, debit or credit cards; checks must be made out to Oregon Department of Transportation.

(e) Written proof of landowner consent. All applications, except transit sign applications, must include written proof that the landowner consents to have applicant maintain the proposed sign. The document must be signed by the landowner and the application filed during the base term of the agreement, or during a renewal term that is automatic or at applicant's election. If during a renewal period applicant must certify that the renewal was exercised and continues in effect. Examples of acceptable documents are the land lease, land lease plus applicant's certification as described above, land lease plus owner's written confirmation that an extension is being exercised, or a current memo signed and dated by land owner stating that applicant has permission to put the sign at the specified location. Payment information need not be included unless it is the evidence that compensation is exchanged making it an outdoor advertising sign.

(f) Business License. The applicant and the sign builder must have a current outdoor advertising sign business license as required under ORS 377.730.

(g) Relocation permit application. For a relocation application, if the zoning was first commercial or industrial after 1/1/1973, or if the local jurisdiction cannot determine the date, the applicant must submit a sketch or other document showing the site is within 750 feet of a commercial or industrial area to comply with ORS 377.767(3).

(h) Pre-existing sign permit application. For an application for a new pre-existing sign under ORS 377.712 the following additional items are required:

(A) Complete the application form "Supplement for Pre-existing Sign Permit" and sign it before a notary public;

(B) Submit documents demonstrating each of your claims, such as a lease showing the sign was posted for compensation; and

(C) Pursuant to ORS 377.712(1), include documentation demonstrating how applicant was ignorant of the permit requirement for outdoor advertising signs as of May 30, 2007.

(5) Digital Billboard applications must also include the following information:

(a) When being reconstructed or relocated for the first time as a digital billboard the applicant must provide the eligible permit(s) or relocation credit(s) being retired pursuant 377.700 to 377.840 and OAR 734-060-0007.

(b) Whether the proposed sign is a "Poster," "Bulletin," or other sign as described in OAR 734-060-0007(2).

(c) Emergency malfunction contact information including name, phone number along with proposed response procedure to possible malfunction.

(d) Whether or not a renewable energy resource is available and being utilized. If none, then the applicant must complete the affidavit attesting that no renewable resource is available.

(6) Transit Bench or Shelter Application. A transit shelter or bus bench application must provide documentation demonstrating that the site is at an official bus or transit stop on a city or urban transit system route.

(7) Complete Applications.

(a) The Outdoor Advertising Sign Program's mailing address is: Oregon Department of Transportation, Right of Way Section – Sign

Program, 4040 Fairview Industrial Drive SE, MS #2, Salem OR 97302. The Sign Program receives hand deliveries at 4040 Fairview Industrial Drive SE, Salem Oregon. The Sign Program receives facsimiles at 503-986-3625. The Sign Program receives electronic mail at OutdoorAdvertising@odot.state.or.us.

(b) The Department requires original signatures and original initials to any changes on the application form. Therefore the Department will not accept the application form by electronic transmission (including facsimile). The Department may accept other documents by electronic transmission. The Department will not accept any changes made verbally; all changes must be in writing.

(c) The Department will indicate on each application document the date and time received. Application materials received by mail will be treated as received at the time a representative of the sign program physically receives the program's mail for that day. Application materials received in person, by fax, or by electronic transmission will be treated as received when a representative of the sign program physically receives those materials.

(d) The Department will only process applications that are complete. An application is complete when the Outdoor Advertising Sign program receives the signed application form including all necessary information, all documents necessary for issuance of a permit, and the correct application fee.

(A) Within 15 calendar days of receiving an application the Department will provide to the applicant written notice whether the application is complete. If the Department determines the application is complete, the notice will state the application's priority among all pending, complete applications.

(B) If the Department determines any information provided is incorrect, the application is not complete. The Department may rescind a notice of completeness and priority date if it later determines that information provided by applicant is not correct.

(e) If an application is not complete, within 15 calendar days of receiving the application the Department will return the entire application with written instructions on what is needed to complete it. The applicant must initial any subsequent changes and, if the changes are substantive to the local jurisdiction, must obtain a new certification from the local jurisdiction.

(A) If an application form is complete but the application is considered incomplete due to insufficient supporting documents or failure to submit the fee, the Department may return the entire application with written instructions on how to complete it or the Department may hold the application and notify the applicant in writing of what is needed and when it must be provided.

(B) Within 15 days of receiving the corrected form or additional materials the Department will provide the applicant written notification whether the application is complete and, if complete, the priority among all pending, complete applications.

(C) If the applicant makes any change to the application after it is deemed complete, the Department will change the priority date to the date of that change.

(D) If the Department has held an incomplete application for 60 days from the date of initial receipt, the application is deemed withdrawn by the applicant. The Department will return a copy of the application and may refund any eligible deposited fee. The Department will retain the original application for our records.

(8) Processing of complete permit application.

(a) The Department will approve or deny a permit within 60 days of the complete application's priority date as determined under section (7)(d) or (e) of this rule if the application clearly does not conflict with another complete application.

(b) An application for a permit that conflicts with the location of an expired or canceled permit will not be processed until the time for any hearing or appeal on the latter permit has passed, unless the permit is being canceled as a condition for issuance of the new permit.

(c) When a complete application might conflict with another complete application due to spacing or any other reason, the application with the earliest priority date and time takes precedence over later applications. Subject to all other requirements of the OMIA, the Department will issue the permit to the earlier applicant.

(d) If multiple complete applications have the same priority date and time, and are determined by the Department to compete for the same spot, the Department shall notify the applicants of the circumstances within seven days of the Department's determination. If an affected applicant requests a contested case hearing, the matter will be determined by a single

ADMINISTRATIVE RULES

contested case hearing under Oregon's Administrative Procedures Act. The Department shall refer the matter to the Office of Administrative Hearings within seven days of an applicant's written hearing request.

(e) If the Department does not approve or deny a permit application within the time allowed under section (8)(a) of this rule, such actions do not require the Department to issue a permit or require any remedy except as provided otherwise in law.

(9) Field checks; applicant requirements and Department method.

(a) When the Department determines an application is complete, the Department will perform a field check to determine the milepoint and all other information necessary to process the application.

(b) The applicant must place a marking at the site to show the proposed location for the sign permit. The applicant may use a stake, ribbon, paint, or any method or material that will allow the Department to easily locate the site and attribute it to the applicant. If the marked site is other than that represented to the local authority in obtaining its signature on the application form, or is other than where the applicant actually builds the sign, the Department may consider that a violation of ORS 377.725(10).

(c) If the Department can not locate the site it will notify the applicant pursuant to (5)(e) above that the application is incomplete due to incorrect information and may request reasonable action by the applicant to identify the site.

(d) The Department will conduct a field check by traveling to the proposed site and calculating the milepoint to the one-hundredth of a mile or, when necessary, to the one-thousandth of a mile. The Department may also determine the engineering station. The Department may also make any other determination regarding the site that is relevant to the application, such as proximity to the right of way and to a commercial or industrial area. Once a field check has been conducted the application fee is non-refundable.

(e) The Department may use intersections, highway structures, or other highway feature and its corresponding milepoint or engineering station, to measure and calculate the milepoint of the proposed site. Milepost markers are for the convenience of motorists and are not precise indications of the milepoint, therefore the Department will not use milepost markers for these calculations without other indication of accuracy.

(10) Denied Permit Applications. If the Department denies an application, it will consider that site as conflicting with other applications:

(a) Until the time to request a hearing elapses without a hearing request from the applicant; or

(b) If a hearing is requested, until the time to request an appeal on the final order has elapsed or until the final appellate court enters a judgment on the matter, whichever is later.

(c) The Department will keep the original application and any accompanying documents and return a copy after an application is denied.

(11) Issued Permits.

(a) The permit will specify the 180th day by which the sign must be constructed.

(b) Within 190 days of permit issuance, the permittee must notify the Department in writing if the action described in the permit has been completed, and include at least one photograph demonstrating that completion. For a reconstruction permit or a relocation permit based on a relocation credit, the notice must state that the new sign has been constructed. For a direct relocation the notice must state that the new sign has been constructed and the former sign on which the permit was based has been removed. If the Department has not received the notification within 180 days the Department will alert the permittee about the upcoming 190-day deadline. If the permittee fails to submit the written notice and photograph within the time allowed, the Department will cancel the permit to relocate or reconstruct, and the permit will revert to its prior status. No fees will be refunded.

(c) "Constructed" means that the structure and all sign faces are permanently in place and the permit plate is attached. "Removed" means the taking down, removing, or eliminating all sign structure elements that are visible from the state right of way

Stat. Auth.: ORS 184.616, 184.619, 377.715, 377.725

Stats. Implemented: ORS 377.715, 377.725

Hist.: HWD 2-2009, f. 3-20-09, cert. ef. 3-23-09; HWD 9-2011(Temp), f. 8-24-11, cert. ef. 9-29-11 thru 3-26-12; HWD 6-2012, f. & cert. ef. 3-26-12

734-060-0007

Digital Billboard Procedures

(1) This rule describes the process for applying for a permit for a digital billboard.

(2) Definitions for the purposes of this rule:

(a) "Sign" means the sign structure, the display surfaces of the sign, and all other component parts of the sign.

(b) "Retire" means to use a relocation credit such that it no longer exists or to remove an existing sign.

(c) "Bulletin" means an outdoor advertising sign with a display surface that is 14 feet by 48 feet.

(d) "Poster" means an outdoor advertising sign with a display surface that is 12 feet by 25 feet.

(e) "Digital Billboard" means an outdoor advertising sign that is static and changes messages by any electronic process or remote control, provided that the change from one message to another message is no more frequent than once every eight seconds and the actual change process is accomplished in two seconds or less.

(3) Qualifications for receiving a digital billboard state sign permit:

(a) The proposed site and digital billboard must meet all requirements of the OMIA including, but not limited to, the following:

(A) The digital billboard is not illuminated by a flashing or varying intensity light.

(B) The display surface of the digital billboard does not create the appearance of movement.

(C) The digital billboard must operate at an intensity level of not more than 0.3 foot-candles over ambient light as measured by the distance to the sign depending upon its size.

(D) The distance measurement for ambient light is: 150 feet if the display surface of the sign is 12 feet by 25 feet, 200 feet if the display surface is 10.5 by 36 feet, and 250 feet if the display surface is 14 by 48 feet.

(b) Applicant must submit a completed application for a digital billboard state sign permit using the approved form that may be obtained by one of the following methods:

(A) Requesting from Sign Program Staff by phone at 503-986-3656;

(B) Email: OutdoorAdvertising@odot.state.or.us;

(C) Website http://www.oregon.gov/ODOT/HWY/SIGNPROGRAM/contact_us.shtml

(c) The Department shall confirm that any existing permitted Outdoor Advertising Sign or relocation credit being retired for the purpose of receiving a new digital billboard state sign permit has been removed within the 180 days allowed to construct the new permitted sign. The Department will not charge a Banking Permit Fee for the cancellation of state sign permits retired for the purpose of receiving a new digital billboard permit.

(4) This section sets forth the criteria for determining the required relocation credits or existing permitted signs that an applicant shall retire to receive one new digital billboard state sign permit:

(a) Applicants who own 10% or less of all active relocation credits at the time the application is submitted shall either remove one existing state permitted outdoor advertising sign with a display area of at least 250 square feet or provide one active relocation credit of at least 250 square feet and retire that permit. Applicants meeting these criteria are not limited to either "Bulletin" or "Poster" billboards.

(b) Applicants who own more than 10% of all active relocations credits shall apply for a new digital billboard state sign permit as follows:

(A) For a digital billboard that is intended to be a bulletin, the applicant has three options:

(i) Remove two existing bulletins, retire the permits for those signs, and retire three relocation credits; or

(ii) Remove one existing bulletin and two existing posters, retire those permits and retire three active relocation credits; or

(iii) Remove four existing posters, retire the permits for those signs, and retire three relocation credits.

(B) For a digital billboard that is intended to be a poster, the applicant has two options:

(i) Remove two existing posters, retire the permits for those signs, and retire three relocation credits;

(ii) Remove one existing bulletin, retire the permit for that sign, and retire three relocation credits.

(c) For an active relocation credit to be eligible it must be at least 250 square feet. All permits and relocation credits submitted under these procedures will be permanently cancelled and are not eligible for renewal.

(d) Any state sign permits submitted for retirement must include the written statement notifying the Department that the "lease has been lost or cancelled."

(5) The Department will determine the percentage of relocation credits owned by an applicant by dividing the total number of unused relocation credits by the total number of unused relocation credits owned by the applicant on the day the application is received.

ADMINISTRATIVE RULES

(6) Two digital billboard state sign permits are required for any back to back or V-type digital sign. A separate application is required for each digital sign face.

(7) The first time a digital billboard is permitted it is not subject to the 100-mile rule in ORS 377.767(4). The site of the newly permitted billboard will become the established location for future reference.

(8) Relocation of permitted digital billboards. The Department will issue one digital relocation credit for each permitted digital sign that is removed. The digital relocation credit issued will be for the same square footage as the permitted digital sign that was removed. A digital relocation credit can only be used to relocate a digital billboard. A permitted digital sign can only be reconstructed as a digital billboard.

(9) Use of renewable energy resource. The applicant must provide a statement with the application that clarifies what, if any, renewable energy resources are available at the site and are being utilized. If none, then a notarized statement to that effect must be included with the application.

(10) All permitted digital billboards must have the capacity to either freeze in a static position or display a black screen in the event of a malfunction.

(a) The applicant must provide emergency contact information that has the ability and authority to make modifications to the display and lighting levels in the event of emergencies or a malfunction.

(b) The Department will notify the sign owner of a malfunction that has been confirmed by ODOT in the following instances:

- (A) The light impairs the vision of a driver of any motor vehicle; or
- (B) The message is in violation of ORS 377.710(6) or 377.720(3)(d).

(11) All digital billboard signs must comply with the light intensity and sensor requirements of ORS 377.720(3)(d).

(a) The Department will take measurements of the permitted digital billboard when notified that the sign has been constructed and the permit plate has been installed.

(b) The Department will use an approved luminance meter designed for use in measuring the amount of light emitted from digital billboards using the industry standard for size and distance as follows:

- (A) 150 feet for 12'x 25.'
- (B) 200 feet for 10.5'x 36.'
- (C) 250 feet for 14'x 48.'

Stat. Auth.: ORS 184.616, 184.619, 377.710, 377.729, 377.753

Stats. Implemented: ORS 377.710, 377.720, 377.750, 377.767

Hist.: HWD 9-2011(Temp), f. 8-24-11, cert. ef. 9-29-11 thru 3-26-12; HWD 6-2012, f. & cert. ef. 3-26-12

734-060-0010

Criteria for Issuance of New Permits for Benches Utilized as Outdoor Advertising Signs

(1) New permits may be issued for a bus or transit bench utilized for an outdoor advertising sign (bench signs) and such signs may only be erected after a permit has been obtained from the Department of Transportation. These rules do not authorize the placement of any new bench, only the addition of an outdoor advertising sign to an already existing bench structure.

(a) Bench signs are prohibited where the sign would be visible to:

- (A) An interstate highway;
- (B) A full control access highway;
- (C) Any state highway where the area adjacent to the highway is a designated scenic area under ORS 377.505 to 377.540; or

(D) Any state highway designated as a scenic byway, unless the sign was legally in place before the byway designation.

(b) Size. The maximum allowable size for a bench sign is 16 square feet and the sign shall not exceed two feet in height or eight feet in length excluding supports.

(c) Height. The maximum allowable height is four feet including supports.

(d) Special Requirements:

(A) Bench signs may only be located in a commercial or industrial zone or, if located in unzoned city street right of way, only where such right of way is adjacent to a commercial or industrial zone;

(B) Bench signs may only be located inside incorporated city limits or within an urban growth boundary;

(C) Bench signs may only be located at a bus or transit stop on an official city or urban transit system route. The applicant must provide official documentation, such as a route map produced by the transit system, showing that the site meets this requirement;

(D) Bench signs shall not be located on state highway right of way.

(f) These rules do not apply to any bench sign for which a preexisting outdoor advertising sign permit has already been issued under ORS 377.725.

(2) All signs subject to these regulations are also subject to the provisions of ORS 377.700 to 377.840 and 377.992 and to all applicable federal laws, regulations and agreements entered into by the Transportation Commission and the Federal Highway Administration.

(3) All signs erected under these regulations are also subject to any city or county ordinance or regulation.

(4) All bench signs granted permits under these rules are subject to removal in accordance with ORS 377.775.

Stat. Auth.: ORS 184.616, 184.619, 377.753

Stats. Implemented: ORS 377.753

Hist.: 1 OTC 17-1979(Temp), f. & ef. 7-19-79; 1 OTC 26-1979, f. & ef. 10-30-79; HWY 5-1993(Temp), f. & cert. ef. 7-23-93; HWY 6-1993, f. & cert. ef. 10-21-93; HWD 1-2009, f. & cert. ef. 2-20-09; HWD 6-2012, f. & cert. ef. 3-26-12

734-065-0015

Construction of Shelters

These rules do not grant authority to construct new shelters or maintain existing shelters but pertain solely to the placement of outdoor advertising signs on shelters visible from a state highway.

Stat. Auth.: ORS 184.616, 184.619, 377.729

Stat. Implemented: ORS 377.725

Hist.: 2 HD 19-1981, f. & ef. 11-24-81; HWD 9-2009, f. & cert. ef. 11-17-09; HWD 6-2012, f. & cert. ef. 3-26-12

734-065-0020

Sign Location

(1) Shelter signs are prohibited on state highway right-of-way.

(2) Shelter signs are prohibited where visible from an interstate highway or a full-control access highway.

(3) Shelter signs are prohibited in a designated scenic area. No new shelter signs are allowed in a scenic byway.

(4) The shelter on which a sign is placed must be located within a commercial or industrial zone or, if in unzoned city street right-of-way, only where such right of way is adjacent to a commercial or industrial zone.

(5) Each shelter may have no more than one sign visible from each direction of travel of the highway.

(6) Shelter signs may only be located at a bus or transit stop on an official city or urban transit system route. The applicant must provide official documentation, such as a route map produced by the transit system, showing that the site meets this requirement.

Stat. Auth.: ORS 184.616, 184.619, 377.729

Stat. Implemented: ORS 377.725

Hist.: 2 HD 19-1981, f. & ef. 11-24-81; HWY 5-1993(Temp), f. & cert. ef. 7-23-93; HWY 6-1993, f. & cert. ef. 10-21-93; HWD 9-2009, f. & cert. ef. 11-17-09; HWD 6-2012, f. & cert. ef. 3-26-12

734-065-0025

Size and Construction of Sign

(1) The maximum allowable size of a shelter sign is 24 square feet each side.

(2) The maximum distance between advertising panels placed back-to-back is one foot.

(3) The sign must not extend beyond the outer edges of the shelter.

Stat. Auth.: ORS 184.616, 184.619, 377.729

Stat. Implemented: ORS 377.725

Hist.: 2 HD 19-1981, f. & ef. 11-24-81; HWD 9-2009, f. & cert. ef. 11-17-09; HWD 6-2012, f. & cert. ef. 3-26-12

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Update statutory reference and add description to similar violations.

Adm. Order No.: MCTD 3-2012

Filed with Sec. of State: 3-26-2012

Certified to be Effective: 3-26-12

Notice Publication Date: 2-1-2012

Rules Amended: 740-300-0060

Subject: This rule describes the general penalties for violations of statutes and rules related to motor carrier safety and describes the progressive levels of penalties. The level of penalties assessed is based on the motor carrier's compliance history. A motor carrier that repeats similar violations is subject to a suspension of operating authority in addition to any authorized monetary penalties. The rule previously described "similar violations," but the list was not complete. The amendment adds violations of drug and alcohol testing or use to the classifications for which similar violations are determined.

ADMINISTRATIVE RULES

Previously, a violation related to drug and alcohol testing or use was described as a similar violation under the description of "Records and reports not included in subsections (a), (b) or (c) of this section." In order to clarify, the amended rule gives drug and alcohol testing or use its own "similar violation" description. In addition, the amendment updates a statutory change made to ORS 825.955.

Rules Coordinator: Lauri Kunze—(503) 986-3171

740-300-0060

Violation of Statutes and Rules Related to Safety (Except Hazardous Materials) – General Penalties

Except as otherwise ordered by the Department in a particular case, any person who violates a provision of ORS 825.210, 825.250, 825.252, 825.254, 825.410, and related rules, in addition to any other penalties authorized by law will be subject to penalties in sections (2), (3) and (4) of this rule.

(1) As used in this rule, "similar violation" means a violation that is similar to the violation alleged in the notice of proposed civil penalty. For the purpose of determining similarity, violations will be classified as those relating to:

- (a) Driver qualifications;
- (b) Driver hours of service;
- (c) Vehicle maintenance;
- (d) Drug and alcohol testing or use; and
- (e) Records and reports not included in subsections (a), (b), (c) or (d)

of this section.

(2) Level I finding of violation(s) apply if no penalty order, cease and desist order or finding of violation(s) has been entered against the defendant within the preceding five years for violations of statutes or rules described in this rule. If such violations have been found within the last five years or a cease and desist order has been issued, the penalties will be assessed at Level II. At Level I, the Department will issue an order finding such violation(s).

(3) Level II penalties, except as provided in section (4) of this rule apply to a defendant who does not meet the criteria in section (2) of this rule.

(a) Level II penalties for all safety violations other than those specified in ORS 825.955(1)(c) are \$100 per violation;

(b) Level II penalties for each violation specified in ORS 825.955(1)(c) related to drug and alcohol testing are \$500 per violation; and

(c) Penalties assessed under subsections (a) and (b) of this section include suspension of operating authority for five working days.

(4) Level III penalties apply to a defendant who has been penalized at Level II within the 12 months preceding the violation.

(a) Level III penalties for all safety violations other than those specified in ORS 825.955(1)(c) are \$100 per violation;

(b) Level III penalties for each violation specified in ORS 825.955(1)(c) related to drug and alcohol testing are \$1,000 per violation;

(c) Penalties assessed under subsections (a) and (b) of this section include imposition of suspended penalties under prior orders for similar violations, unless suspensions have become permanent; and

(d) Suspension of operating authority for five working days or cancellation of authority, if warranted by the circumstances of the particular case.

(5) For purposes of determining which penalty level is applicable, a corporate carrier will not be held responsible for orders entered against it while under a different controlling interest.

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

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

Stats. Implemented: ORS 825.250, 825.410, 825.950 & 825.955

Hist.: PUC 14-1992, f. & cert. ef. 11-9-92 (Order No. 92-1560); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 12-1995, f. & cert. ef. 11-27-95 (Order No. 95-1218);

MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-061-0040; MCT 3-1997, f. & cert. ef. 5-9-97; MCTB 1-2001, f. & cert. ef. 1-17-01; MCTB 4-2001, f. & cert. ef. 11-9-01;

MCTD 3-2012, f. & cert. ef. 3-26-12

Landscape Contractors Board Chapter 808

Rule Caption: Extend deadline from 30 days to 180 days for post approval of CEH courses.

Adm. Order No.: LCB 1-2012(Temp)

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-1-12 thru 9-28-12

Notice Publication Date:

Rules Amended: 808-040-0050

Subject: This rule is being amended to allow more time to submit documentation for approval of CEH courses after they have been completed.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-040-0050

Program Approval Process

(1) Pre-approval Process. Programs offered by any institution, agency, professional organization or association, which conducts educational meetings, workshops, symposiums, seminars and other such activities where a CEH credit is desired must be approved by the Board prior to the presentation of the program and prior to the attendance by a licensee. The written request for the issuance of CEH credit must:

(a) Be received on a form provided by the Board at least 30 calendar days prior to the presentation date (unless otherwise approved by the agency Administrator) and include:

- (A) Name of sponsoring institution, association or organization;
- (B) Title of the presentation;
- (C) Date of presentation;
- (D) Topic covered from list in 808-040-0040;
- (E) A written outline of the program;
- (F) The length of the program in hours;
- (G) Name of instructor or presenter;
- (H) Type of CEH requested;

(I) Copy of the certificate to be given to each attendee with the signature of the instructor or presenter or the official stamp of the sponsor on the certificate. If more than one presenter is authorized to sign, then the signatures of each presenter must be on the certificate or on copies of the certificate; and

(J) Contact information for the provider which must include the address, phone number, fax number and email (if available) for the provider.

(b) Upon receipt of all documentation required in subsection (1) of this rule the board will review the request and notify the provider by either email or regular mail the determination of the CEH allowed by the board.

(2) Other Approval Process. In the event a landscape construction professional attends a program that is not pre-approved as outlined in section (1) above,

(a) The landscape construction professional may request approval of the attended program by submitting written documentation no later than 180 days after the date the program was attended that includes:

- (A) Name of sponsoring institution, association or organization;
- (B) Topic of the presentation;
- (C) Title of the presentation;
- (D) Name of instructor or presenter;
- (E) Date of presentation;
- (F) Length of presentation in hours;
- (G) Type of CEH; and
- (H) Number of CEH claimed.

(I) Signature of the instructor or presenter or official stamp of the sponsor signifying attendance and completion of the course.

(b) The board, after reviewing the submitted documentation, will determine:

- (A) If the program meets the conditions for the CEH requirement; and
- (B) The number of CEH allowed for the program, if any.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.676

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2009(Temp), f. & cert. ef. 5-13-09 thru 11-9-09; LCB 10-2009, f. & cert. ef. 10-28-09; LCB 1-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 9-28-12

Rule Caption: Eliminates the minimum hours in each category and clarifies volunteer hours.

Adm. Order No.: LCB 2-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-1-12

Notice Publication Date: 11-1-2011

Rules Amended: 808-040-0020, 808-040-0025, 808-040-0080

ADMINISTRATIVE RULES

Subject: 808-040-0020 – Eliminates the minimum hours in each category.

808-040-0025 – Clarifies volunteer hours.

808-040-0080 – Removes old references.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-040-0020

Continuing Education Biennial and Reporting Requirement

(1) Biennial CEH requirement. To maintain licensing, a landscape construction professional must complete 16 hours of continuing education hours (CEH) every two years unless such requirement is waived by the Board under ORS 671.676(4)) and OAR 808-040-0070:

(a) The 16 CEH must be completed during the two-year period immediately preceding the renewal date of the landscape construction professional license.

(b) The 16 CEH must conform to OAR 808-040-0040.

(2) Reporting Requirement at Renewal. As a requirement of renewal of an active landscape construction professional license, licensees are required to certify that the licensee has fulfilled the CEH requirement.

(3) Licensees with even numbered licenses must report the CEH requirement by the license expiration date in even numbered years.

(4) Licensees with odd numbered licenses must report the CEH requirement by the license expiration date in odd numbered years.

(5) New Licensees. CEH requirements for new licensees are as follows:

(a) New licensees who receive an even numbered license in an odd numbered year must report 8 CEH and then report the full 16 CEH with the renewal every even numbered year thereafter. An example of this is an individual who receives an even numbered license in 2011 must report 8 CEH in 2012 and then 16 CEH in 2014.

(b) New licensees who receive an even numbered license in an even numbered year must report the 16 requirement every even numbered year thereafter.

(c) New licensees who receive an odd numbered license in an even numbered year must report 8 CEH and then report the full 16 CEH with the renewal every odd numbered year thereafter. An example of this is an individual who receives an odd numbered license in 2012 must report 8 CEH in 2013 and then 16 CEH in 2015.

(d) New licensees who receive an odd numbered license in an odd numbered year must report the 16 CEH requirement every odd numbered year thereafter

(e) CEH obtained by new licensees during the two-year period immediately preceding the renewal date of the landscape construction professional license will be eligible to meet the initial CEH requirement.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: 2007 OL Ch. 550

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2009(Temp), f. & cert. ef. 5-13-09 thru 11-9-09; LCB 10-2009, f. & cert. ef. 10-28-09; LCB 1-2010, f. & cert. ef. 1-27-10; LCB 18-2011, f. 12-29-11, cert. ef. 1-1-12; LCB 2-2012, f. 3-30-12, cert. ef. 4-1-12

808-040-0025

Continued Education Programs

In order to qualify for CEH credit under these rules, a CEH program must be a formal program or board approved program of learning that contributes directly to the professional competence of the licensee

(1) Eligible Programs and Activities. The following programs will qualify for CEH credit provided they also meet the requirements of section (2) through (5) of this rule:

(a) Programs presented by national, state or local landscape industry organizations.

(b) Programs offered by a business to licensees.

(c) Programs sponsored by organizations that provide professional educational programs.

(d) Correspondence courses or other individual independent study programs and activities do not qualify for CEH credit unless both the CEH sponsor and the specific CEH program or activity are approved by the Board prior to the offering of, presentation of, attendance of, or participation in the program or activity.

(e) Volunteering activities for industry related boards, commissions, and designated committees.

(f) Making presentations or teaching courses related to approved subjects for the CEH credit.

(2) Sponsored Program and Activity requirements. Sponsored CEH programs must meet the following requirements to qualify for CEH credit:

(a) An outline of the program is prepared in advance and preserved;

(b) The program must cover at least one of the topic areas listed in 808-040-0040;

(c) The program is at least one hour (fifty-minute period) in length;

(d) A record of attendance is maintained by the provider;

(e) The program is conducted by a qualified instructor or presenter whose background, training, education or experience qualifies the person to teach or lead a discussion on the subject matter of the particular program.

(f) Evidence of completion is provided to participating licensees in the form of a certificate that must include:

(A) Name of sponsoring institution, association or organization;

(B) Title of the presentation;

(C) Name of instructor or presenter;

(D) Date of presentation;

(E) Type of CEH;

(F) Number of approved CEH; and

(G) Signature of the instructor or presenter or official stamp of the sponsor signifying attendance and/or completion of the course.

(3) Correspondence and Independent Study courses. Correspondence courses or other individual independent study programs and activities must meet the following requirements to qualify for CEH credit:

(a) An outline of the program is prepared in advance and preserved;

(b) The program must cover at least one of the topic areas listed in 808-040-0040;

(c) The program is at least one hour (fifty-minute period) in length;

(d) A record of attendance is maintained by the provider; and

(e) The provider of the correspondence or independent study course is a qualified instructor or presenter whose background, training, education or experience qualifies the person to teach or lead a discussion on the subject matter of the particular course.

(4) Volunteering. Education opportunities that engage the licensee in volunteering must meet the following requirements to qualify for CEH credit.

(a) One CEH credit is allowed for every three hours of qualifying volunteer work

(b) The maximum CEH credit allowed for volunteering under this section may not exceed 4 hours in a two year period;

(c) The volunteer activity must be directly related to the landscape construction industry, such as, but not limited to:

(A) serving on industry related boards, commissions or committees; or

(B) Providing a not-for-profit service to local or state entities for the enhancement and preservation of the environment or natural resources through landscape planning, installation and maintenance.

(5) Teaching and Presenting. Activities that engage the licensee in teaching and presenting courses must meet the following criteria to qualify for CEH credit:

(a) The licensee must be an actively licensed landscape construction professional;

(b) The licensee must have been actively licensed for a period of not less than five (5) years;

(c) An outline of the course is prepared in advance and preserved;

(d) The course must cover at least one of the topic areas listed in 808-040-0040;

(e) The course is at least one hour (fifty-minute period) in length;

(f) A record of attendance is maintained by the licensee;

(g) The course is presented for an education provider; a school, university or college; a landscape contracting business, or any industry related organization or association

(h) CEH credit is allowed for each 50 minute period completed as an instructor or discussion leader for the first presentation of the subject material;

(i) CEH credit for preparation and research time allowed for an instructor, discussion leader, or a speaker shall be calculated on the basis of two CEH hours of preparation and research in the CEH type of the presentation for each hour of presenting or teaching.

(j) The maximum CEH credit allowed for preparation and research under this section must not exceed one-half of the total number of CEH hours required for the renewal period;

(k) Preparation and research CEH may be available only for teaching a course or making a presentation in its initial presentation. CEH credit may be allowed for additional preparation and research if the substantive content of the program was substantially changed and the licensee provides evidence that such change required significant additional study or research.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: Ch. 550 OL 2007

ADMINISTRATIVE RULES

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 7-2011, f. & cert. ef. 6-17-11; LCB 2-2012, f. 3-30-12, cert. ef. 4-1-12

808-040-0080

CEH Requirement for Reinstatement to Active Status

(1) Except as provided for in subsection (2) of this section any licensee that reinstates an inactive or expired landscape construction professional license to active status must:

(a) Comply with OAR 808-003-0255;

(b) Submit documentation as per the audit requirements of OAR 808-040-0060 for the 16 CEH obtained within the two years immediately preceding the renewal date of the landscape construction professional license; and

(c) Meet the CEH requirement for each subsequent renewal period.

(2) Any licensee that reinstates an expired landscape construction professional license to active status more than 14 days after the expiration of the license and the license was subject to audit prior to its expiration, the licensee must submit documentation as per the audit requirement of OAR 808-040-0060.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: 2007 OL Ch. 550

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2009(Temp), f. & cert. ef. 5-13-09 thru 11-9-09; LCB 10-2009, f. & cert. ef. 10-28-09; LCB 18-2011, f. 12-29-11, cert. ef. 1-1-12; LCB 2-2012, f. 3-30-12, cert. ef. 4-1-12

Mortuary and Cemetery Board Chapter 830

Rule Caption: Implements statutory requirements related to dissolution, alternative disposition facilities; updates industry practice, uses plain language.

Adm. Order No.: MCB 1-2012

Filed with Sec. of State: 3-27-2012

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Subject: The rules implement changes to the Agency's statutory authority from 2009 Or Laws c. 706, including changes that allow it to license and regulate alternative disposition facilities. The rules clarify recordkeeping requirements for licensed facilities. The rules describe the scope of practice for an immediate disposition company. The rules use plain language.

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830-011-0000

Definitions

(1) "Alkaline hydrolysis" is a final disposition process involving dissolution of human remains by placing the remains in a dissolution chamber containing water and chemical solution including potassium hydroxide or sodium hydroxide, or a combination of both, and introducing heat to break down the remains until bone fragments that may be pulverized and liquid remain.

(2) "Alternative Disposition" Alternative disposition is a board-authorized method of final disposition of human remains other than burial, entombment, burial at sea, cremation or removal from the state, and includes dissolution.

(3) "Alternative Disposition Facility" An alternative disposition facility is a facility containing equipment designed for the final disposition of human remains through alternative methods authorized by the board including, but not limited to, dissolution.

(4) "Alternative Disposition Facility Authority" An Alternative Disposition Facility Authority is any person, partnership or corporation with a Certificate of Authority to operate a dissolution chamber or other alternative disposition equipment as authorized by the Board by rule.

(5) "At Need" As used in this chapter, means arrangements entered into after a death has occurred, "at the time of need."

(6) "Authorizing Agent" An authorizing agent is a person legally entitled to order the arrangements and disposition of human remains and cremated remains.

(7) "Burial Vault" A burial vault is a container designed to protect the contents from the intrusion of outside elements, and support the weight of the surrounding earth and maintenance equipment.

(8) "Certificate of Authority" A Certificate of Authority is a certificate issued to an entity responsible for the operation of a cemetery, crematory, or alternative disposition facility.

(9) "Cremated Remains" and "Alternative Disposition Remains" Cremated remains or alternative disposition remains are the remaining bone fragments after the act of cremation or alternative disposition is completed.

(10) "Cremated Remains Container" and "Alternative Disposition Remains Container" A cremated remains or alternative disposition remains container is a container in which processed cremated remains can be placed and closed to prevent leakage.

(11) "Cremation" Cremation is the technical heating process that reduces human remains to ash and bone fragments.

(12) "Cremation Chamber" A cremation chamber is the enclosed space in which the cremation process takes place.

(13) "Cremation Container" A cremation container is the container, if any, in which the human remains are placed for a cremation. The container must meet all the requirements of the crematorium.

(14) "Crematory Authority" The Crematory Authority is the legal entity or the authorized representative of the legal entity who conducts the cremation.

(15) "Crematory or Crematorium" A crematory or crematorium is any person, partnership, or corporation with a Certificate of Authority to operate a cremation chamber.

(16) "Death Care Consultant" A death care consultant is an individual who, for payment, provides consultations related to funeral or final disposition arrangements to the person or persons who are acting as a funeral service practitioner under ORS Chapter 432. For purposes of this definition, the consultations include any conference, information, guidance or advice either at the time of death or when the death is soon to occur.

(17) "Death Care Industry" Death care industry means funeral service and final disposition practitioners and facilities.

(18) "Disinfectant Solution" A disinfectant solution is a chemical agent capable of destroying pathogens or their products when applied with sufficient time and concentration.

(19) "Disposition" Disposition is final disposition by burial, entombment, burial at sea, cremation, removal from the state, dissolution or other alternative disposition as authorized by board rule.

(20) "Dissolution" Dissolution includes, but is not limited to, alkaline hydrolysis.

(21) "Dissolution Chamber" A dissolution chamber is a purpose-built vessel that is closed and sealed on all sides when human remains are placed inside and the dissolution process takes place.

(22) "Dissolution Container" A dissolution container is the container, if any, in which human remains are placed for the purpose of placement in the dissolution chamber.

(23) "Embalmed" Human remains are considered embalmed when sufficient disinfectant solution or preservative fluid has been injected into the circulatory system or applied externally, or both, to help eliminate the danger of spreading disease or infection.

(24) "Final Processing" Final Processing is the processing of bone fragments to an unidentifiable dimension following the cremation or dissolution process.

(25) "Grave Liner" A grave liner is a burial container either in sectional or box form, built and designed to be installed in a grave to support the weight of the earth and maintenance equipment.

(26) "Holder of a Certificate of Registration" A "Holder of a Certificate of Registration" means the same as "Certified Provider" as defined in ORS 97.923(2).

(27) "Holding Room" A holding room is a suitable room constructed in accordance with OAR 830-040-0020(2), (4), and (5) which licensed funeral establishments use for the care, storage, or holding of human remains prior to effecting disposition. This room must be of sufficient size to accommodate at least one table for a casketed remains and an attendant. The room may be used by the funeral establishment to care for or repair remains in those facilities that do not offer on premises embalmings. This room would be other than a chapel, viewing or visitation room, office supply room, closet or a room normally open to the public.

(28) "Human Remains" Human remains means a dead human body.

(29) "Identification Viewing" Identification viewing means viewing human remains for the purpose of identifying the remains, regardless of whether the remains have been washed or otherwise prepared.

(30) "Identifying Metal Disc" An identifying metal disc is a metal disc, approximately one inch in diameter with a number assigned by the State Registrar's Office, each with a different number, for the purpose of

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accompanying human remains through the disposition process and to serve as a means of permanent identification of those remains.

(31) "Intern Apprentice" An intern apprentice is any student enrolled in an accredited funeral service education program who is serving his/her three-month internship under the supervision of a combination-licensed funeral service practitioner/embalmer at a participating funeral establishment.

(32) "Licensed Facility" A licensed facility is any licensed business governed by ORS Chapter 692.

(33) "Licensee" Licensee means any individual or facility licensed under ORS Chapter 692 and any preneed salesperson registered under ORS 97.931.

(34) "Minimum Preparation of Human Remains" Minimum preparation of human remains means the human remains are completely washed as defined in this section.

(35) "Offensive Treatment of Human Remains" As used in this rule and in ORS Chapter 692, offensive treatment of human remains is treatment offensive to the generally accepted standards of the community.

(36) "Prearrangement" As used in this chapter, prearrangement has the same meaning as used in ORS 97.923.

(37) "Preneed Funds" Preneed funds are specified amounts paid for funeral, cemetery or cremation goods and/or services that are sold in advance of need but not delivered.

(38) "Preneed Salesperson" As used in these rules, "preneed salesperson" means an individual registered under ORS 97.931 and employed by a certified provider authorized by the Department of Consumer & Business Services to engage in the sale of prearrangement or preconstruction sales contracts on behalf of the certified provider.

(39) "Preparation Room" As used in these rules, preparation room means the same as embalming facility as used in ORS Chapter 692.

(40) "Principal" Principal means a person who has controlling authority over the licensed facility, including but not limited to:

(a) Managers or other persons who have decision-making authority and whose primary duties include control over the operation of the licensed facility;

(b) Officers or directors who have some degree of responsibility for the operation of the licensed facility;

(c) General Partners, limited and joint ventures;

(d) Sole proprietors;

(e) Stockholders holding a majority of outstanding shares of stock; and

(f) Members of a Limited Liability Company.

(41) "Processed Cremated or Alternative Disposition Remains" As used in this chapter, processed cremated or alternative disposition remains are the result of pulverization, where the residual from the cremation or alternative disposition, such as dissolution, process is reduced to unidentifiable dimensions.

(42) "Public Viewing" Public viewing means the human remains have, at minimum, been washed, as defined in this section, and the remains are placed in a viewing room, church, chapel or other suitable place for viewing of the remains.

(43) "Receptacle" As used in this chapter, a receptacle means a container for human remains including but not limited to a casket, alternative container, or cloth or plastic container.

(44) "Refrigeration Unit" As used in this chapter, a refrigeration unit is one used in licensed facilities to store dead human remains that meets commercial standards.

(45) "Registration" Registration may refer to the registration of a cemetery that does not fall under the category of "Operating Cemetery" as defined in ORS 692.010(7) or it may refer to the "registration" of preneed salespersons. Registration of non-operating cemeteries and preneed salespersons is required for compliance with Oregon Laws.

(46) "Sanitary Condition" Sanitary includes, but is not limited to, being clean from dirt, foreign particles, bloodstains, offensive odors or insects.

(47) "Sealed Casket" A sealed casket is one that is designed by a manufacturer to be sealed prior to final disposition.

(48) "Solicitation" Solicitation is defined as actively endeavoring to obtain business or clientele through means such as telephone or personal contact.

(49) "Visitation" Visitation means a specific time and place to gather where the human remains are present, except for graveside service.

(50) "Washed" Human remains are considered washed and brought to a sanitary condition when the entire surface of the human remains has been bathed with a disinfectant solution and the mouth, nose, and other body ori-

fices have been washed and, when necessary, packed with cotton saturated with a disinfectant solution.

Stat. Auth.: ORS 97.931 & 692.320

Stats. Implemented: ORS 97.931 & 692.320

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1988, f. & cert. ef. 2-10-88; MCB 1-1989, f. & cert. ef. 2-6-89; Renumbered from 830-030-0010(1)(a) - (k) & 830-030-0020; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2001(Temp), f. 12-12-01, cert. ef. 1-1-02 thru 6-29-02; MCB 1-2002, f. 5-30-02, cert. ef. 6-30-02; MCB 1-2009, f. & cert. ef. 7-1-09; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-011-0020

Apprenticeship – Generally

(1) Apprenticeship for embalmer, funeral service practitioner, or intern apprentice must be served under persons who are and have been licensed and working in Oregon for at least one year.

(a) A funeral service practitioner may supervise one apprentice at a time and an embalmer may supervise one apprentice at a time.

(b) Notwithstanding (a), a combination embalmer/funeral service practitioner may supervise up to three intern apprentices from an accredited funeral service education provider in addition to an apprentice embalmer; or may supervise an apprentice funeral service practitioner and an apprentice embalmer.

(c) The licensee who supervises an apprentice must be working and located in the same licensed facility or facilities as the apprentice he or she is supervising.

(2) To qualify for a license as an embalmer, an apprentice embalmer must assist in the embalming of at least 35 human remains during the apprenticeship period under the personal supervision of a licensed embalmer.

(a) An apprentice embalmer must maintain a log book of embalmings under supervision, with accurate and current entries, and the apprentice and his or her supervisor must furnish this record to the Board upon request. The log book must be retained for a period of one year after full licensure as an embalmer, or, if not licensed as an embalmer, for six years after the last log entry and must include the following:

(A) Name of the deceased;

(B) Date of death;

(C) Date and place of embalming;

(D) Name of licensed facility making the embalming arrangements;

(E) Supervisor's written confirmation for each embalming performed by their apprentice; and

(F) Number of hours worked per week.

(b) Apprentice embalmers must work a minimum of 1440 hours within a calendar year.

(3) To qualify for a license as a funeral service practitioner, an apprentice funeral service practitioner must work a minimum of 1440 hours within a calendar year and must assist in the planning of at least 25 funerals or dispositions per year through some form of direct contact with the family or representative of the deceased.

(a) Apprentice funeral service practitioners will not be accredited for time served in their funeral service practitioner apprenticeship while enrolled in a full-time funeral service education program. For the purpose of this chapter, full-time is considered 12 or more credit hours per quarter. If the apprentice is enrolled in 11 or less credit hours per quarter, he or she will be considered a part-time student and could qualify for a funeral service practitioner apprenticeship providing he or she can meet the minimum requirements set forth above. Apprentice funeral service practitioners who are planning to become part-time students must submit a letter to the Board clearly explaining their ability to attend classes and still meet the minimum requirements of this section. The board will review each request individually based on the submission of all appropriate paperwork, fees and letters of explanation. No credit will be granted for apprenticeship time served unless prior approval by the Board has been granted.

(b) An apprentice funeral service practitioner must keep a log book on the premises of the licensed facility where he or she is supervised, showing all arrangements made or participated in by the apprentice. The apprentice, under supervision, must make accurate and current entries. The apprentice and his or her supervisor must furnish the log book to the Board upon request.

(c) The log book must be retained for a period of one year after licensure as a funeral service practitioner, or, if not licensed, for six years from the last log entry, and must include the following:

(A) Name of deceased and person authorizing final disposition arrangements;

(B) Date of death;

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- (C) Date and place arrangements were made;
- (D) Description of apprentice's direct participation with family;
- (E) Number of days and hours worked per week;
- (F) Supervisor's written confirmation for each arrangement made by their apprentice; and
- (G) Name of the licensed facility responsible for the final disposition arrangements.

(4) Intern apprentices must serve their apprenticeships in accordance with the internship guidelines established by an accredited funeral service education program. A copy of the guidelines is available from the Board upon request.

(a) Intern apprentices are required to intern at a funeral home for a minimum of 15 hours per week.

(b) An intern apprentice funeral service practitioner who completes the three-month internship earns 180 hours toward the 1440 hours per calendar year requirement of a funeral service practitioner apprenticeship. If the intern apprentice is also serving an embalmer apprenticeship and is meeting the 1440 hours per calendar year requirement set forth in section (2) and in section (4) of this rule then full credit (360 hours) will accrue toward completion of the embalmer apprenticeship.

(c) If the intern is performing the functions of an intern funeral service practitioner in addition to an intern apprentice, then the apprentice must also receive credit of 180 hours for the three-month period toward the 1440 hours per calendar year requirement for a funeral service practitioner license.

(5) Applicants for an apprentice certificate must make application in accordance with ORS Chapter 692. The application must be made on the most current form provided by the Board and be accompanied by the fee prescribed by OAR 830-020-0040, a certified copy of the applicant's birth certificate, and satisfactory proof of high school graduation or equivalency. If an applicant for an apprentice certificate does not have a high school diploma, he or she must present satisfactory evidence that he or she possesses the equivalent of a high school education received in a private, public, or trade school, or he or she must successfully pass the high school equivalency test (General Education Development Test) given by the local high school, or some similar equivalency test conducted by a similar agency. Prior to becoming licensed as a funeral service practitioner, apprentices must provide a certified copy of a transcript from a school accredited by an Association of Schools and Colleges demonstrating completion of an Associate's degree or higher degree. Prior to becoming licensed as an embalmer, apprentices must provide proof of completion of an accredited course of funeral service education.

(6) The effective date of the apprenticeship will be the date the completed application, fee, and the required certificates are received and validated in the office of the Board and the application is approved by the Board. A letter will be sent notifying the apprentice of the status of his or her apprenticeship or application.

(7) The certificate of apprenticeship must be issued to the applicant as an apprentice to a specified licensee. If the apprentice intends to change the licensee to whom apprenticed, he or she must immediately file a request for approval of the transfer with the Board and pay the required fee. A certificate must be reissued upon payment of an administrative charge. When an apprentice ceases to work under a specific licensee, the apprenticeship certificate becomes null and void. It is the responsibility of the supervising licensee to notify the Board's office of any termination in employment or supervision of the apprentice.

(8) Apprentice funeral service practitioner and embalmer certificates will not be granted to any person for a period longer than 48 aggregate months. When an apprentice has completed his or her apprenticeship, he or she will no longer be licensed as an apprentice, but must qualify either as a licensed embalmer or licensed funeral service practitioner.

(9) Apprentice supervisors are responsible for any arrangements made by the apprentice.

(10) In lieu of meeting apprenticeship requirements, an applicant for Oregon funeral service practitioner or embalmer licensure is deemed to have satisfied the respective apprenticeship requirement upon submitting satisfactory proof to the Board that the person has practiced, respectively, as a funeral service practitioner or embalmer licensed in good standing in this state or another state:

- (a) For three years of the past five years; or
- (b) For a total of ten years.

(11) Embalmer applicants who meet the requirements set forth in section (10) of this rule may be required to demonstrate competency by way of a practical examination at a time and place designated by the Board.

(12) Funeral service practitioner applicants who meet the requirements set forth in section (10) of this rule must successfully complete a written examination and receive a score of not less than 75 percent, based on the total number of questions.

(13) An applicant or licensee whose application for license has been denied or revoked or who voluntarily surrendered the license may not reapply for a minimum period of three years unless otherwise specified in a Board order denying, revoking or accepting a voluntarily surrender of the application or license.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 692.045, 692.070, 692.105, 692.130 & 692.190

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0050; MCB 2-1988, f. & cert. ef. 9-9-88; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1992, f. & cert. ef. 2-11-92; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-011-0070

Registration of Preened Salespersons and Endowment Care Cemetery Salespersons

(1) Applicants for registration as a preneed salesperson must apply on the most current form provided by the Board, pay the preneed salesperson fees set forth in OAR 830-020-0040 and submit to a background investigation. The background investigation may include, but is not limited to, information solicited from the Department of State Police, Law Enforcement Data System, Oregon Department of Motor Vehicles, other government agencies including local law enforcement agencies, the courts and prior employers.

(2) A certificate of registration will be issued to an approved preneed salesperson applicant. An applicant may not make preneed sales or engage in preneed sales activity, including, but not limited to, marketing and participating in sales presentations, other than as an observer, until a certificate of registration has been issued to the applicant by the Board. It is the responsibility of the salesperson to provide written notice to the Board of any address changes within 30 days of the change.

(3) All preneed salesperson certificates of registration will expire on March 1 in even-numbered years unless renewed as provided in this section.

(4) On or before December 31 of each odd numbered year, the Board will mail to each registered preneed salesperson a form containing notice that the renewal fee is due and payable. The renewal form will be mailed to the most current address filed with the Board by the preneed salesperson. If the renewal form is not returned and the renewal fee is not paid by the renewal date the certificate of registration will lapse.

(5) Upon lapse of a preneed salesperson certificate of registration, the Board will send notice of the lapse by registered or certified mail to the most current address filed with the Board by the preneed salesperson.

(6) The Board may reinstate a certificate of registration if the preneed salesperson applies for reinstatement on a form provided by the Board not later than the 90th day after the lapse and pays the renewal fee as well as the reinstatement fee established in OAR 830-020-0040.

(7) The Board will not issue or renew the registration for a preneed salesperson that owes outstanding civil penalties to the Board.

Stat. Auth.: ORS 97.931

Stats. Implemented: ORS 97.931

Hist.: MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-2001(Temp), f. 12-12-01, cert. ef. 1-1-02 thru 6-29-02; MCB 1-2002, f. 5-30-02, cert. ef. 6-30-02; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-020-0030

Reciprocal Licensure

(1) An applicant for reciprocal licensure must apply to the Board on the most current form provided by the Board. The application must be accompanied by the following:

- (a) The reciprocal fee as prescribed by OAR 830-020-0040;
- (b) A certified copy of the applicant's birth certificate;

(c) A certified copy of transcripts from a school accredited by an Association of Schools and Colleges demonstrating completion of an Associate's degree or higher degree (for funeral service practitioner licensure) or proof of passing an accredited course of funeral service education (for embalmer licensure);

(d) A certification from the state(s) the applicant is or was licensed in that includes: length of apprenticeship, if any, examination score, date licensed, status of license at the present time, and whether the applicant's license has ever been suspended or revoked or other disciplinary action taken;

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(e) Proof that the applicant is or was licensed and has practiced, respectively, as a funeral service practitioner or an embalmer in another state for three of the past five years immediately preceding the respective application date; and

(2) An applicant for reciprocal funeral service practitioner license must pass the Board's funeral service practitioner examination as a means of providing satisfactory proof to the Board that the applicant has the requisite qualifications for licensing as a funeral service practitioner in this state. The examination must include questions related to:

(a) Oregon and federal laws, rules and regulations relating to the care, preparation, disposition and transportation of human remains; and

(b) survivor death benefits. Reciprocal applicants for funeral service practitioner license must receive a score of not less than 75 percent, based on the total number of questions, in order to pass the examination. Reciprocal applicants are eligible to take the examination at the regularly scheduled examination dates if their examination application is received at least 14 days prior to the examination date.

(3) Applicants for reciprocal embalmer licensure must show evidence satisfactory to the Board that the applicant has successfully passed the National Board Examination as administered by the Conference of Funeral Service Examining Boards or an equivalent examination written by the Conference of Funeral Service Examining Boards. The examination must include two sections, funeral service arts and funeral service sciences, and the applicant must receive a cumulative average score of at least 75 percent on the sections with not less than 70 percent on either of these two sections.

(4) A license must not be issued to a reciprocal applicant before a complete background check has been performed and Board approval has been received.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 692.140

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-020-0040

License, Certificate and Registration Fees

(1) Initial application fees:

(a) Funeral establishment, immediate disposition company, crematory, alternative disposition facility or a cemetery that performs more than ten interments annually – \$150 (includes first principal) plus \$50 for each additional principal;

(b) Cemetery that performs ten or fewer interments annually – an initial fee of \$100 and a fee not to exceed \$50 for registration of all principals regardless of the total number of principals

(c) Change of principal – \$50 per licensed facility;

(d) Apprentice funeral service practitioner or apprentice embalmer – \$50;

(e) Reciprocal funeral service practitioner or reciprocal embalmer – \$160;

(f) Intern Apprentice – \$25;

(g) Preneed Salesperson – \$150;

(h) Certificate of Removal Registration – \$30;

(i) Funeral Service Practitioner – \$80 per year;

(j) Embalmer – \$80 per year;

(k) Death Care Consultant – \$80 per year.

(2) Renewal application fees:

(a) Funeral establishment or immediate disposition company – \$350 per year, payable biennially;

(b) Crematory or Alternative Disposition Facility – \$100 per year plus \$2 per disposition performed during the two calendar years preceding the year in which the current license expires, payable biennially;

(c) Cemetery – \$4 per interment performed during the two calendar years preceding the year in which the current license expires up to a maximum of 150 interments or \$600 per year, payable biennially; (Cemeteries with ten or fewer interments annually are not required to pay a renewal fee in accordance with ORS 692.275.)

(d) Funeral service practitioner – \$80 per year, payable biennially;

(e) Embalmer – \$80 per year, payable biennially;

(f) Combination funeral service practitioner/embalmer – \$160 per year, payable biennially;

(g) Apprentice funeral service practitioner – \$25 per year, payable annually;

(h) Apprentice embalmer – \$25 per year, payable annually;

(i) Preneed salesperson – \$25 per year, payable biennially;

(j) Death care consultant – \$80 per year, payable biennially.

(3) Exam fees:

(a) Funeral service practitioner exam – \$100;

(b) Embalmer exam (written or practical) – \$130 to \$400 (depending on the cost to the Board).

(c) Death care consultant exam – \$100.

(4) License, certificate and registration reissue fees:

(a) Transfer of apprenticeship, replacement license, name change or manager change – \$25;

(b) Licensed facility location change – \$250.

(5) Reinstatement of lapsed license, certificate or registration – \$50 each.

(6) Funeral service practitioners, embalmers, and preneed salespersons must renew their licenses on even numbered years. Facilities must renew on odd numbered years.

(7) Fees paid under this section are not refundable or transferable. Notwithstanding the above, a registrant for the funeral service practitioner examination may notify the Board in writing that he or she is withdrawing and request a fee refund at any time before the date of the examination.

Stat. Auth.: ORS 692.160, 692.320 & 97.931

Stats. Implemented: ORS 692.160 & 97.931

Hist.: SMB 1-1984, f. & ef. 10-22-84; MCB 1-1985(Temp), f. & ef. 7-3-85; MCB 2-1985(Temp), f. & ef. 11-5-85; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0110; MCB 2-1989(Temp), f. 10-2-89, cert. ef. 11-1-89; MCB 3-1989, f. 12-4-89, cert. ef. 12-1-89; MCB 1-1992, f. & cert. ef. 2-11-92; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 3-1993, f. 10-28-93, cert. ef. 11-1-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2001(Temp), f. 12-12-01, cert. ef. 1-1-02 thru 6-29-02; MCB 1-2002, f. 5-30-02, cert. ef. 6-30-02; MCB 1-2004, f. 9-30-04, cert. ef. 11-1-04; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-020-0050

Administrative Fees

(1) The Mortuary and Cemetery Board may charge a fee reasonably calculated to reimburse the agency for costs of providing and conveying copies of public records. A schedule of administrative fees will be approved as necessary by the Board and will be made available to the public.

(2) All fees and charges must be paid before public records may be made available for inspection or copies provided.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 692.160

Hist.: MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0000

In General

(1) No licensee, operator of a licensed facility, or their agent may interfere with another licensee, operator of a licensed facility, or their agent who has been legally called to take care of human remains, or perform services relating to the disposition of human remains. The choice of licensed facility or licensed person must be left entirely to the individual with the legal right to control final disposition

(2) Alternative Disposition Facility Authorities must comply with the requirements in this division (Division 30) for the handling and tracking of human remains prior to, during, and after cremation as if the Alternative Disposition Facility Authority is a Crematory Authority, the alternative disposition remains are cremated remains and the dissolution chamber is a cremation chamber.

(3) Alternative Disposition Facility Authorities using alkaline hydrolysis for dissolution must comply with the following requirements:

(a) The Alternative Disposition Facility Authority must only employ a purpose-built vessel as a dissolution chamber.

(b) Dissolution systems which operate above atmospheric pressure must only employ an American Society of Mechanical Engineers' (ASME) certified pressure vessel as a dissolution chamber.

(c) The dissolution system must use parameters of heat, time and solution circulation sufficient to achieve complete dissolution of all tissue remains.

(d) The Alternative Disposition Facility Authority must ensure that the discharge liquid that is a byproduct of the dissolution process meets the facility's sewage collection and treatment facility requirements regarding acceptable temperature and pH level.

(4) It is the responsibility of the funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11) to ensure that an identifying metal disc with a number assigned by the State Registrar's Office imprinted on the disc is attached to the casket or other receptacle containing human remains, or is attached to the remains if there is no receptacle.

(a) When human remains are to be cremated the identifying metal disc must be secured to the head end of the receptacle, or to the remains if no

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receptacle is used, at all times until the remains are placed in the cremation chamber.

(b) When human remains are going to be buried or entombed, the identifying metal disc must be attached to the head end of the casket or receptacle, or to the remains if no receptacle is used.

(c) The number on the identifying metal disc must be written or typed on the certificate of death and final disposition permit by the responsible funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11).

(5) It is the responsibility of the Crematory Authority to see that the identifying metal disc accompanies human remains through the cremation process.

(6) It is the responsibility of the Cemetery Authority or Crematory Authority to see that the identifying metal disc is properly secured to each receptacle containing human remains, or, when no receptacle is used, to the remains, when remains are delivered to the facility and that the number on the identifying metal disc is the number recorded on the final disposition permit. The Cemetery Authority or Crematory Authority must sign the final disposition permit verifying this fact prior to accepting the remains. The Cemetery Authority or Crematory Authority may not accept remains without the proper identifying metal disc unless death occurred in a state other than Oregon.

(7) If, when the human remains are delivered to the crematory, cemetery or alternative disposition facility, no metal disc is attached to the receptacle or remains as required, or the disc number does not match the permit number as required, the funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11) must retain responsibility for the proper care and storage of the remains until the correct disc is obtained and ensure it is affixed to the receptacle or remains. If the discrepancy cannot be resolved prior to any scheduled service, the funeral service practitioner or person acting as a funeral service practitioner as that term is defined in ORS Chapter 432.005(11), must take responsibility for notifying the person with the legal right to control final disposition that the disposition is postponed.

(8) When a licensee arranges for the scattering of cremated remains, the licensee must include in their records the final location of the cremated remains and make the identifying metal disc a part of the licensee's permanent record.

(9) It is the responsibility of the funeral establishment or immediate disposition company licensee handling the disposition of human remains to pay the death certificate filing fee as required in ORS 432.312(1). This fee must be paid within 30 days after the billing and, in no case longer than 90 days after the billing. Failure to pay death certificate filing fees is cause for disciplinary action by the Board.

(10) It is the responsibility of each licensed facility to assign a manager for each facility and to notify the Board in writing within 30 days of the assignment. In the case of funeral establishments and immediate disposition companies, the manager must be an Oregon licensed funeral service practitioner.

(11) Upon providing written notification to the Board, a funeral service practitioner may be permitted to manage two funeral establishments or two immediate disposition companies, or one of each. A funeral service practitioner may be authorized by the Board to manage more than two funeral establishments or immediate disposition companies, or a combination of same, upon providing a written request to the Board that describes the basis for the request. The Board may approve the request after consideration of relevant facts or circumstances including, but not limited to, information that the Board may request from the funeral service practitioner.

Stat. Auth.: ORS 692.160 & 692.320
Stats. Implemented: ORS 692.180 & 692.405
Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0150; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0008

Scope of License

The purpose of this rule is to establish an acceptable scope of license for funeral establishments and immediate disposition companies.

(1) Only a licensed funeral establishment may:

(a) Have facilities for the care and preparation, processing and handling of human remains before the remains undergo disposition;

(b) Offer embalming, employ a licensed embalmer, have on premises either a preparation room or holding room to care for and prepare human remains; and

(c) Offer viewing of human remains.

(2) An Immediate Disposition Company may only arrange for immediate final dispositions without viewing or visitation, or a ceremony with the human remains present except for a graveside service.

Stat. Auth.: ORS 183.341 & 692.320

Stats. Implemented: ORS 692.025

Hist.: MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0010

Care of Human Remains

(1) All human remains that will be embalmed must be disinfected by approved disinfecting solutions in such manner to help eliminate the danger of spreading diseases or infection. All human remains that are not going to be embalmed must be wrapped in a sheet. If human remains are to be held longer than 24 hours, the remains must, at minimum, either be embalmed or refrigerated at 36 degrees F. or less until final disposition.

(2) It is the duty of funeral service practitioners and embalmers to see that every precaution is taken to prevent the spread of infections from persons who have died of or with communicable diseases.

(3) An embalmer must not embalm human remains without obtaining written or oral permission of a person who has the right to control the disposition of the remains. When oral permission is received to embalm, the licensee obtaining the oral permission must document the oral permission in writing. Documentation must include the name and phone number of the authorizing agent, relationship to the deceased, date and time oral permission was obtained, and printed name and signature of the licensee or facility representative acquiring the oral authorization. An authorizing agent must confirm the oral permission on a written, signed embalming authorization form as outlined in OAR 830-040-0000(7).

(4) All human remains must undergo final disposition within ten days after a licensed funeral establishment takes possession of the remains. If human remains are going to be kept longer than a ten-day period due to exigent circumstances, it is the responsibility of the licensee responsible for those human remains to notify the Board's office.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 97.130 & 692.025

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; FDB 1-1979, f. & ef. 2-21-79; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0155; MCB 1-1989, f. & cert. ef. 2-6-89; Renumbered (1)(a) thru (k) to 830-011-0000; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1994, f. 6-28-94, cert. ef. 8-1-94; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0030

Removal and Identification of Human Remains

(1) In accordance with the identifying requirements established in ORS 692.405, the Crematory Authority must, immediately upon taking custody of human remains, verify that the human remains bear a means of identification attached as described in OAR 830-030-0000(4), (5), (6) and (7). A Crematory Authority must not cremate human remains without an identifying metal disc unless death occurred in a state other than Oregon.

(2) Documents identifying the human remains placed in the custody of a Crematory Authority prior to cremation must contain the following information:

(a) Name of deceased;

(b) Date of death;

(c) Place of death;

(d) Name and relationship of authorizing agent; and

(e) Name of authorizing agent or firm engaging crematory services.

(3) If the Crematory Authority takes custody subsequent to the human remains being placed within a cremation container, the Crematory Authority must satisfy itself that identification has been made as described in section (2) of this rule, and thereafter must place a similar appropriated identification upon the exterior of the cremation container.

Stat. Auth.: ORS 692.320

Stats. Implemented: ORS 692.405

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0040

Holding Human Remains for Cremation and Cremation of Human Remains

(1) All persons operating cremation or dissolution equipment must be properly trained on the operation of the equipment. If relevant, each operator must obtain and maintain all required permits or certifications for operating the equipment.

(2) The Crematory Authority must not proceed with disposition of human remains without obtaining written permission of the person who has right to control the disposition of the remains.

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(3) When the Crematory Authority is unable to proceed with disposition of the human remains immediately upon taking custody, the Crematory Authority must place the remains in a room that must be marked as "Private" or "Authorized Entry Only".

(4) Human remains held at a crematory that are not embalmed must be held only within a refrigerated facility in accordance with OAR 830-030-0010(1) and 830-030-0060(1).

(5) The unauthorized simultaneous cremation of more than one human remains within the same cremation chamber is specifically forbidden. It may be done only when authorized as provided in section (7) of this rule.

(6) Immediately prior to being placed within the cremation chamber, the identification of the human remains must be verified by the Crematory Authority staff. For Oregon deaths, confirmation includes verification that the number on the identifying metal disc is the number recorded on the final disposition permit. The identifying metal disc must be attached to the outside of the cremation chamber where it must remain until the cremation process is complete.

(7) A Crematory Authority may only permit the simultaneous cremation of more than one human remains within the same cremation chamber upon having received such written authorization to do so from the authorizing agent of each human remains. A written authorization exempts the Crematory Authority from all liability for commingling the remains.

Stat. Auth.: ORS 692.320

Stats. Implemented: ORS 692.025, 692.275 & 692.405

Stat. Auth.: ORS 692.320

Stats. Implemented: ORS 692.025, 692.275 & 692.405

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1988, f. & cert. ef. 2-10-88; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0050

Processing of Cremated Remains

In order to protect the public's interests and to prevent any misrepresentation in the conduct of doing business, the crematory authority must process cremated remains in the following manner:

(1) Upon completion of the cremation, insofar as is possible, all residual of the cremation process must be removed from the cremation chamber and the chamber swept clean. The residual must be placed within a container or tray that will prevent commingling with other cremated remains and the identification removed from the cremation chamber and attached to the container or tray to await final processing;

(2) All residual of the cremation process must undergo final processing;

(3) The entire processed cremated remains must be placed in a cremated remains container. The identifying metal disc must be placed on or in the container. The cremated remains must not contain any other object unrelated to the cremation process unless specific authorization has been received from the authorizing agent;

(4) If the entire processed cremated remains will not fit within the dimensions of the cremated remains container, the remainder must be returned either in a separate container, or, upon written permission of the authorizing agent, be disposed of according to the established procedures of the Crematory Authority; and,

(5) The following information will be affixed to the temporary receptacle or attached to the permanent receptacle for cremated remains: deceased name, date of death, identifying metal disc number, name of funeral home, and name of crematory.

Stat. Auth.: ORS 183.341, 183.545 & 692.320

Stats. Implemented: ORS 692.025 & 692.275

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-2009, f. & cert. ef. 7-1-09; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-030-0090

Standards of Practice

Every licensee or agent of a licensed facility of the Oregon Mortuary and Cemetery Board (Board) must abide by the accepted standards of the Death Care Industry and the minimum standards, including but not limited to the following standards of practice set forth by the Board. Violations of the following may be cause for Board action.

(1) Every licensee or agent of a licensed facility must:

(a) Comply with Oregon Revised Statutes relating to death care in ORS Chapters 97, 432 and 692; and comply with the Oregon Public Health Laws;

(b) Implement and follow through with contractual arrangements with the person with the legal right to control final disposition;

(c) Assign persons to perform functions for which they are licensed and which are within their scope of practice/scope of duties;

(d) Supervise apprentices and unlicensed persons to whom tasks regulated by this Board are assigned;

(e) Report conduct violating paragraphs (1)(a) by any death care industry licensee to the Board or the appropriate law enforcement agency;

(f) Respect the dignity and rights of clients, regardless of social or economic status, age, race, religion, gender, gender identity, sexual orientation, national origin, nature of health problems or disability; and

(g) Respect the dignity of dead human remains by appropriate handling, including but not limited to, transporting, refrigerating, embalming, dressing or performing final disposition.

(2) Principals are responsible for the actions of employees related to the operation of a licensed facility;

(3) A licensed embalmer or embalmer apprentice must supervise and be responsible for the required sanitizing of the preparation room or holding room including, but not limited to, embalming tables, work surfaces, sinks, floors, instruments, and disposal of contaminated waste. A preparation room or holding room must be sanitized after the use of the room.

(4) Unacceptable conduct by a licensee or agent of a licensed facility includes:

(a) Abusing a corpse, as defined in ORS 166.085 and 166.087;

(b) Abusing a client. The definition of abuse includes, but is not limited to, causing physical or emotional discomfort or intimidating, threatening or harassing a client;

(c) Failing to report actual or suspected incidents of client or corpse abuse through the proper channels in the work place and to the Board or appropriate law enforcement agencies;

(d) Using the death care industry practitioner/client relationship to exploit the client by gaining property or items of value from the client for personal gain beyond the compensation for services;

(e) Aiding, abetting, or assisting any individual to violate or circumvent any law, rule or regulation intended to guide the conduct of the death care industry;

(f) Failing to perform death care services for the living or the deceased without discrimination on the basis of social or economic status, age, race, religion, gender, gender identity, sexual orientation, national origin, nature of health problems or disability;

(g) Inaccurate or incomplete record keeping as required by the Board;

(h) Providing false information on facility records including, but not limited to, filling in another person's omissions without consent, signing another person's name or on their behalf without authority, recording services or merchandise not provided or that a party did not agree to, or falsifying data;

(i) Altering a facility record including but not limited to changing the words, letters, or numbers from the original document except in the case of a contract modified in accord with the terms of the contract;

(j) Destroying any document related to a death care service that must be preserved by law; or

(k) Directing another person to modify, alter or destroy any document related to death care without legal authority to do so.

(5) No licensee may:

(a) Practice without an appropriate Oregon license/certificate or registration;

(b) Allow another person to use one's license, certificate or registration;

(c) Use another's license, certificate or registration;

(d) Make false or misleading statements or use fraud or misrepresentation in communications with the Board.

(e) Disclose the contents of the licensure examination or solicit, accept or compile information regarding the contents of the examination, before, during or after its administration.

(f) Fail to provide the Board with requested documents or information within the Board's jurisdiction;

(g) Fail to cooperate or answer truthfully or completely inquiries regarding matters within the Board's jurisdiction; or

(h) Have an impairment as defined in ORS 676.303.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 692.320

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0170; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

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830-030-0100

Misleading Business Practices

The following practices are prohibited and are considered misrepresentation in the conduct of doing business:

(1) Any sales presentation or practice that conceals or misstates a material fact is considered a misrepresentation in the conduct of doing business.

(2) Any guarantee or representation that the prospective purchase would realize a profit by reselling at a later date.

(3) Any use of interment space used for the interment of human remains including cremated remains, other than those of the owner of that space or interment rights thereto, or placement of other materials belonging to a person other than the owner, without the prior written authorization by the owner of such space or interment rights. If the person authorizing such interment or placement of materials represents that he or she has authority to direct the interment or placement, a licensee is not in violation of this rule if, after due diligence, the licensee reasonably believes such person may direct the interment or placement of materials.

(4) Any failure to comply with the terms of the sales contracts or state or local law requirements, with respect to irrevocable permanent care, and failure to comply with any other applicable laws and regulations relating to cemeteries.

(5) Any advertising or other presentation or indication that a licensee is in any way connected with the federal government, any other government agency, or any veterans' or other organization. If a veterans' organization or government agency is referred to in any advertisement, sales program or presentation the licensee must include a disclaimer in bold type to the effect that "This facility is not financed or connected in any manner with any government agency or veteran's or other organization".

(6) Any use of advertisements, printed materials, forms, or any other materials that resemble or suggest official government documents or publications.

(7) Licensees must, in their sales contracts, include a reasonable period of not less than five business days during which purchasers may cancel their funeral or cemetery contracts for undelivered goods and services and for delivered goods that are unused or undamaged, or any contract for interment rights.

Stat. Auth.: ORS 692.320

Stats. Implemented: ORS 692.025 & 692.180

Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-040-0000

General Principles

(1) Every licensee is responsible for complying with the provisions of ORS Chapter 692 and rules adopted thereunder, and any other law pertaining to the duties and responsibilities of the funeral service practitioner or the operation or licensing of funeral establishments, immediate disposition companies, cemeteries, crematoriums and alternative disposition facilities.

(2) Alternative Disposition Facility Authorities must comply with the requirements in this division (Division 40) for Crematory Authorities and cremated remains, as if alternative disposition remains are cremated remains, as if the facility is a Crematory Authority, and as if dissolution is cremation.

(3) The Board may refuse to allow use of any facility name that is misleading as to the nature of the facility's purpose.

(4) When a person, firm, partnership or corporation applies to the Board for a facility license, the name on the application must identify the primary activity of the facility. This name must be the registered name with the Board and must also be used as the advertised name of the facility.

(5) Each licensed facility must provide the Board with its true corporate, firm or individual name. Applications for all licensed facilities must be made on the most current application and specify the names of all principals. If the principal is a corporation, the application must include the names of all principals of that corporation.

(6) When there is a change in any principal of the licensed facility, the licensee must provide the Board with the name of the new principal(s) on the most current form provided by the Board within 30 days of the change. If the new principal is a corporation, the licensee must provide the names of the principals of that corporation to the Board on the most current form provided by the Board.

(7) All licensees and licensed facilities must keep a detailed, accurate, and permanent record of all transactions that are performed for the care, preparation and final disposition of human remains. The record must set forth as a minimum:

(a) Name of decedent and, when applicable, the identifying metal disc number provided by the State Registrar's office;

(b) Date of death;

(c) Name of person arranging for delivery of goods and services and the person authorizing the final disposition;

(d) Name of place of disposition. In cemetery records, the "name of place" means exact location of the interment of human remains by crypt, niche, or by grave, lot and plot;

(e) The name of the funeral service practitioner, cemetery, crematory or alternative disposition facility personnel responsible for making and executing the arrangements pertaining to the delivery of goods and services;

(f) The name of the embalmer and funeral establishment responsible for embalming (applies only to funeral establishment records); and

(g) Written permission for embalming, final disposition and scattering services from the person who has the right to control disposition of the human remains pursuant to ORS 97.130(1) and (2). The record of such authorization must include at a minimum: printed name, signature and phone number of the authorizing agent and relationship to the deceased, date and time permission was obtained, and printed name and signature of the licensee or facility representative acquiring the authorization.

(8) In the case of cremation, the licensee responsible for making the cremation arrangements must require the authorizing agent making the cremation arrangements to provide the licensee with a signed statement specifying the action to be taken regarding delivery of the cremated remains. A copy of this statement must be retained in the permanent records of the responsible licensee.

(9) If cremated remains are not retained by the licensee accepting initial responsibility for the remains, the licensee must, upon delivery of such cremated remains to another individual, obtain a signed receipt from that individual. The receipt must include as a minimum: printed name of the individual receiving the cremated remains, the name of the deceased, and the date of delivery of the cremated remains, the receiving individual's signature and the printed name and signature of the licensee or the licensee's representative releasing the cremated remains.

(10) No licensee or operator of a licensed facility or a licensee's agent may:

(a) Fail to preserve required records for inspection by the Board; or

(b) Alter, cancel or obliterate entries in records required by law to be made, maintained or preserved.

(11) After human remains are released to the Cemetery Authority, they must be placed in their designated grave, crypt or vault within 24 hours after taking possession unless exigent circumstances exist. After human remains are released to the Crematory Authority, those remains must be cremated and processed within 48 hours unless exigent circumstances exist. In such exigent circumstances, the facility must notify both the funeral service practitioner responsible for the arrangements and the office of the Board. The licensed facility, funeral service practitioner, or person acting as the funeral service practitioner under ORS Chapter 432, responsible for the arrangements for that deceased, must notify the family of such exigent circumstances and, at the request of the cemetery or crematory, pick up and arrange for proper storage of the remains within 24 hours of notification.

(12) No licensee or employee or agent of a licensed facility, may pay, cause to be paid or offer to pay, and no person, firm or corporation may receive, directly or indirectly, any commission, bonus, rebate or other thing of value in consideration for recommending or causing human remains to be taken to any specific funeral establishment.

(13) Facilities must post their facility license and certificates of apprenticeship in a conspicuous location for public viewing. Other individual licenses will be available for inspection upon request.

(14) Every Cemetery Authority, Crematory Authority and Alternative Disposition Facility Authority must keep the Board's office informed of the location of their permanent records. These records must be made available for random inspections by the Board at any reasonable time.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 692.025 & 692.160

Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0200; MCB 1-1988, f. & cert. ef. 2-10-88; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1997, f. 6-18-97, cert. ef. 7-1-97; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-040-0010

Inspection of Licensed Facilities or Location Where Records Are Kept: Investigations

(1) Facilities must keep their premises sanitary at all times.

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(2) Every licensee must accommodate the inspector or investigator of the Board in making his or her inspections unless the licensee can clearly demonstrate that such accommodations will negatively impact the ability to provide scheduled services to consumers or that exigent circumstances exist. In such cases and upon the request of the Board, the licensee must make the reasons known to the Board in writing within ten days following the attempted inspection. When entry is refused under this section, the Board may obtain and execute warrant for inspection.

(3) No licensee or employee of a licensed facility may give false or misleading information to an inspector, investigator or any other member of the Board while investigating a possible violation of law or administrative rules.

(4) Every licensee must provide the Board inspector or investigator a copy of all documents as requested relevant to the inspection or investigation.

(5) No person, licensee, or any agent of a licensee, may interfere with any inspection or investigation conducted by an agent of the Board.

(6) The Board may inform a licensee of the nature of any complaint against the licensee that is being investigated except when the Board finds that disclosure of the potential violation would impede the effectiveness of the investigation, or that a serious danger to the public health or safety exists.

Stat. Auth.: ORS 692.160 & 692.320
Stats. Implemented: ORS 692.180
Hist.: MCB 1-1986, f. & ef. 10-21-86; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-040-0020

Requirements and Specifications for Preparation Rooms

(1) The preparation room must be of sufficient size to accommodate an operating or embalming table, a sink with running water and proper sewerage connections or systems, an instrument table, and a cabinet or shelves.

(2) The following is required of preparation and holding rooms:

(a) The interior of the room, all furnishings, and equipment must be finished with materials that are impervious to hazardous materials.

(b) Outside ventilation must be provided for by windows or transoms or forced air ventilation. The installation must be so arranged that it is not be a menace to public health or offensive to the public.

(c) The room must be private and the entry door must be locked at all times. The entry door must be labeled as "private" or "authorized entry only". This sign must be conspicuous and readable and must be permanently affixed to the door. The lettering on the sign must not be smaller than one inch high.

(d) All windows and exterior doors are to be screened or permanently closed and must be installed in such a manner that the room must be obstructed from view from the outside and so that fumes and odors are prevented from entering other parts of the building.

(3) The equipment for preparation rooms must include the following:

(a) An embalming table which provides suitable drainage;

(b) A covered waste can, a sink with running water and sewerage connections, disinfectants and antiseptics;

(c) A first aid emergency kit for personnel use which must contain the minimum first aid supplies as specified under the Oregon Safe Employment Act and implementing regulations; and

(d) At least one eye wash station meeting the requirements of the Oregon Safe Employment Act and implementing regulations and any additional stations as may be required under those laws.

(4) Instruments used during an embalming or other preparation must be cleaned and sterilized (either in a steam sterilizer or by chemicals) after each embalming or preparation. Instruments must be free of stains and foreign particles.

(5) The preparation room or holding room must be kept in a sanitary condition at all times.

(6) All facilities must have a mortuary or hospital refrigeration unit available which is suitable for the storage of human remains. The refrigeration unit must be in good operating condition and must be maintained in a sanitary condition at all times. The refrigeration must be no more than 45 miles from the licensed facility and must comply with all death care laws.

Stat. Auth.: ORS 692.160 & 692.320
Stats. Implemented: ORS 692.025
Hist.: FDB 13, f. 9-9-74, ef. 3-1-75; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0205; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

830-040-0040

Change of Ownership

(1) Prior to a change of ownership, the prospective new owner must apply to the Board for the issuance of a new license on the most current forms provided by the Board in the new owner's name. (Refer to section (4) of this rule). A funeral establishment, immediate disposition company, cemetery, crematory, or alternative disposition facility must not be operated without the appropriate license or certificate of authority to operate. The appropriate fees and disclosures must accompany the application.

(2) All licensed facilities must receive Board approval prior to the sale or change of ownership of a licensed facility and provide the Board with a full disclosure of ownership of that licensed facility including percentages of ownership.

(3) All licensed facilities must be licensed by the Board and all applications for licenses must specify the real and true names of the person(s) who own or have an interest in the business proposed to be licensed by the Board, and must be signed by such person(s) or in the case of corporations, by a duly authorized officer or agent.

(4) Licenses issued under ORS 692.146 and 692.275 are not transferable. Prior to a change of ownership, sales or purchase agreements pertaining to such must be conditioned upon the prospective new purchaser's ability to apply for and obtain the necessary license or certificate of authority to operate. All licensed or certificated facilities are subject to the inspection and approval of the Board. Before opening a new facility or continuing the operation of an existing facility under new ownership, the prospective operator or new owner must apply to the Board on the most current form provided by the Board with all ownership and, if applicable, corporate information. Prior to a transfer of ownership, the prospective new purchaser and seller must notify the Department of Consumer and Business Services, giving notice of sale to that office, and give the approximate or intended date of the change of ownership.

(5) The purchase of a controlling interest (a majority) of assets or stock of an existing licensed facility will constitute a sale or change of ownership. The person or persons who own the stock of a licensed facility is considered the ownership of the licensed facility. Any one person who owns a majority of the stock is considered an owner. When percentages of stock ownership change any person moving into a majority position must be required to submit an application on the most current form provided by the Board for change of ownership.

(6) Corporate Licenses:

(a) The corporate licensee must notify the Board in writing whenever a person intends to acquire or accumulate ownership or control of ten percent or more of any class of stock in a licensed facility, except for stock in a publicly traded corporation;

(b) Except for publicly traded corporations, the corporate licensee must notify the Board immediately in writing when there has been a change in an officer or director;

(c) The Board may disapprove a change or acquisition described in this rule for any of the grounds for which a license may be denied.

(7) Partnership licensees:

(a) For the purposes of this rule, a partnership is an association of two or more persons who carry on a business jointly and who demonstrate an intent to be treated as partners by signing a partnership agreement, or by entering into a lease or contract under a name different from their real and true names.

(b) The licensee must obtain prior written approval from the Board whenever a person intends to become a general partner in a partnership or intends to acquire or control ten percent or more of the total investment commitment in a licensed limited partnership.

(c) The licensee must notify the Board in writing whenever an existing approved partner increases or decreases his/her investment interest.

(d) The Board may disapprove a change or acquisition described in this rule for any of the grounds for which a license may be denied.

(8) Co-licensees: For purposes of this rule, whenever two or more persons intend to carry on the business jointly other than as a corporation, partnership, or other approved legal entity, they will be treated as co-licensees. Corporations, partnerships, individuals, or other legal entities may become co-licensees. If corporations or partnerships become co-licensees, they must comply with the requirements pertaining to corporate and partnership licensees.

Stat. Auth.: ORS 183.341, 183.545, 692.160 & 692.320
Stats. Implemented: ORS 692.025 & 692.160
Hist.: FDB 1-1978 f. & ef. 6-30-78; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0215; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-1998, f. & cert. ef. 6-22-98; MCB 1-2009, f. & cert. ef. 7-1-09; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

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830-040-0050

Advertising

(1) Any licensed facility advertising through any media (including but not limited to telephone books, newspapers, direct mail, bill boards, etc.) must include the licensed facility's registered name and physical address as it appears on the Board's records.

(2) No person, firm or corporation may advertise, promote, or market at need or preneed funeral arrangements without first having received a license from the Board.

(3) No cemetery or cremation facility, or person, firm or corporation may advertise, promote, or market at need or preneed cemetery or cremation plans without first having received a certificate of authority to operate that cemetery or crematorium.

(4) No person, firm or corporation may advertise, promote, or market at need or preneed immediate disposition or alternative disposition arrangements without having first registered with the Board.

(5) Any advertisement or marketing materials which intentionally conceals or misstates a material fact is considered misrepresentation.

Stat. Auth.: ORS 692.160 & 692.320

Stats. Implemented: ORS 692.160

Hist.: FDB 1-1978, f. & ef. 6-30-78; SMB 1-1984, f. & ef. 10-22-84; MCB 1-1986, f. & ef. 10-21-86; Renumbered from 830-010-0220; MCB 1-1989, f. & cert. ef. 2-6-89; MCB 1-1993, f. 4-14-93, cert. ef. 4-16-93; MCB 1-2010(Temp), f. & cert. ef. 4-1-10 thru 9-27-10; MCB 2-2010, f. 9-23-10, cert. ef. 9-24-10; MCB 1-2011, f. 7-29-11, cert. ef. 8-1-11; MCB 1-2012, f. 3-27-12, cert. ef. 4-1-12

Oregon Board of Naturopathic Medicine Chapter 850

Rule Caption: Amendments that clarify existing licensing requirements and making examination and license application requirements separate rules.

Adm. Order No.: OBNM 1-2012(Temp)

Filed with Sec. of State: 4-12-2012

Certified to be Effective: 4-12-12 thru 10-4-12

Notice Publication Date:

Rules Adopted: 850-030-0031

Rules Amended: 850-030-0010, 850-030-0030, 850-030-0070

Subject: 850-030-0010, 850-030-0030 and 850-030-0070 are being amended to clarify existing licensing requirements by application and examination.

850-030-0031 is new rule to split the existing examination and license application requirements into two separate clarifying rules. Requirements are currently found in one rules – 850-030-0030.

Rules Coordinator: Anne Walsh—(971) 673-0193

850-030-0010

Requirements for Application

(1) An individual applying for an initial license to practice in Oregon must undergo examination as provided in OAR 850-030-0030 and comply with 850-030-0031 before the Board may issue a license to practice Naturopathic medicine in Oregon.

(2) An applicant for examination may submit information required for a criminal background check with application for examination. This information is required with the application for initial license, and a criminal background check must be completed before a license can be issued.

(3) An individual seeking to take the Naturopathic Physician Licensing Examinations (NPLEX) must register through the North American Board of Naturopathic Examiners (NABNE) and meet the qualifications established by NABNE. The Board does not administer NPLEX examinations.

(4) An individual who seeks to obtain a license by reciprocity must comply with OAR 850-030-0070.

Stat. Auth.: ORS 183 & 685

Stats. Implemented:

Hist.: NE 2, f. 6-7-59; NE 2-1984, f. & ef. 2-28-84; NE 1-1986, f. & ef. 4-10-86; NE 3-1990(Temp), f. 11-27-90, cert. ef. 12-1-90; Renumbered from 850-010-0010, BNE 8-2005, f. & cert. ef. 10-27-05; OBNM 1-2012(Temp), f. & cert. ef. 4-12-12 thru 10-4-12

850-030-0030

Application for Examination

(1) An individual applying for a license by examination must pass the following Naturopathic Physician Licensing Examinations (NPLEX) that are administered by the North American Board of Naturopathic Examiner (NABNE): the basic science examination also known as the NPLEX Part I Biomedical Science examination, the core clinical examinations also

known as NPLEX Part II Clinical Science examinations and the Minor Surgery examination.

(2) An individual applying for a license must pass the following state examinations: the Formulary and Jurisprudence examinations. To be eligible to sit for the state Formulary or Jurisprudence examinations an applicant must have passed NPLEX Part I, and be eligible to sit for NPLEX Part II and Minor Surgery examination, or have already passed Part I, Part II and the Minor Surgery examinations.

(3) An applicant applying to take the state Formulary or Jurisprudence examinations for Oregon must:

(a) Submit a completed application, furnished by the Board. If the applicant is applying to take both examinations, the applicant may submit one application for both exams;

(b) Submit a copy of the applicant's diploma of graduation from the school of naturopathic medicine accredited by the Council of Naturopathic Medical Education (CNME);

(c) Have transcripts from any school of naturopathic medicine attended by the applicant submitted to the Board directly from the school; and

(d) Pay the non-refundable fees per 850-030-0035.

(4) An applicant may submit fingerprint cards and the fee for the criminal background check at the same time as submitting the application for examination. Fingerprint cards for the criminal background check are not required to take the Formulary or Jurisprudence examinations, but failure to submit the cards with the examination application may increase the time before a license may be issued when the applicant submits the application for initial license.

(5) The Board may allow a licensee or other individual who is not applying for licensure by examination to apply for and take the state Formulary or Jurisprudence examination on a case-by-case basis.

Stat. Auth.: ORS 685

Stats. Implemented: ORS 685.070

Hist.: NE 2, f. 6-7-59; NE 2-1984, f. & ef. 2-28-84; BNE 6-2001, f. 10-9-01, cert. ef. 1-1-02; Renumbered from 850-010-0030, BNE 8-2005, f. & cert. ef. 10-27-05; OBNM 1-2012(Temp), f. & cert. ef. 4-12-12 thru 10-4-12

850-030-0031

Application for Initial License

An Individual who has successfully completed the examinations required for licensure may apply for an initial license.

(1) An individual must submit the following for an initial license application:

(a) A completed license application, on the form furnished by the Board;

(b) Arrange for NABNE to submit to the Board proof that the individual has successfully passed the required NPLEX examinations;

(c) Successfully pass the Oregon Formulary and Jurisprudence examinations;

(d) Have undergraduate transcripts submitted directly from the college or university to the Board from the colleges or universities the individual attended and which attendance was used to support admission into the naturopathic school from which the individual graduated;

(e) Submit to a national criminal background check per ORS 685.195 by providing to the Board fingerprint cards that can be read for purposes of a background check along with the required fee under OAR 850-030-0035;

(f) Pay the non-refundable license application fee under OAR 850-030-0035.

(2) To qualify for an initial license an individual must submit the completed application for initial license within one year of receiving notification of successfully passing the required examinations. If the individual does not submit a complete application within one year of passing the required examinations, the Board may no longer accept the results on the state examinations, in which case one or both of the state examinations would need to be retaken.

Stat. Auth.: ORS 685.080 & 685.125

Stats. Implemented: ORS 685.070, 685.080 & 685.085

Hist.: OBNM 1-2012(Temp), f. & cert. ef. 4-12-12 thru 10-4-12

850-030-0070

Initial License by Reciprocity

The Board on an individual basis may consider reciprocity for individuals who hold an active license to practice naturopathic medicine in good-standing in another state, jurisdiction or territory of the United States, the District of Columbia or Canada.

(1) If an individual is currently licensed as a naturopathic physician in good-standing in another licensing state or jurisdiction following successful completion of the NPLEX examinations required by Oregon, the individual must submit a complete license application within two years after

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successfully passing the required state examinations administered by the Board.

(a) The individual must have verification that he or she is licensed and in good standing as a naturopathic physician directly submitted from the state or jurisdiction in which license is held.

(b) If the individual does not submit a complete license application within two years of passing the required national and state examinations, the Board may no longer accept the individual's results on those examinations in which case one or more of all the exams would need to be retaken.

(2) To qualify for license by reciprocity an individual must submit the following for an initial license:

(a) A completed initial license application, on the form furnished by the Board;

(b) Arrange for NABNE to submit to the Board proof that the individual has successfully passed the NPLEX examinations required by the Board;

(c) Successfully pass the Oregon Formulary and Jurisprudence examinations;

(d) Have undergraduate transcripts submitted directly from the college or university to the Board from the colleges or universities the individual attended and which attendance was used to support admission into the naturopathic school from which the individual graduated;

(e) Submit to a national criminal background check per ORS 685.195 by providing to the Board fingerprint cards that can be read for purposes of a background check along with the required fee under OAR 850-030-0035;

(f) Pay the non-refundable license application fee under OAR 850-030-0035.

(3) An applicant may submit fingerprint cards and the fee for the criminal background check at the same time as submitting the application for the Formulary or Jurisprudence examinations. Fingerprint cards are not required to take the Formulary or Jurisprudence examinations, but may delay licensure once an initial application for license is made.

(4) Applicants for license by reciprocity must possess qualifications equal to those required of persons eligible for licensure by examination. An application for license by reciprocity will be denied if applicant does not meet all those qualifications.

Stat. Auth.: ORS 685

Stats. Implemented:

Hist.: NE 2, f. 6-7-59; NE 2-1984, f. & ef. 2-28-84; BNE 7-2001, f. 10-9-01, cert. ef. 1-1-02;

Renumbered from 850-010-0070, BNE 8-2005, f. & cert. ef. 10-27-05; OBNM 1-

2012(Temp), f. & cert. ef. 4-12-12 thru 10-4-12

Oregon Business Development Department Chapter 123

Rule Caption: These rules have been amended to update the limitations for unanticipated amendments.

Adm. Order No.: OBDD 2-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-2-12

Notice Publication Date: 3-1-2012

Rules Amended: 123-006-0035

Subject: These rules have been amended to update the limitations for unanticipated amendments for contracts as well as removing the 90 day limit to request for reinstatement of an expired contract.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-006-0035

Contract Amendments

(1) General Rule. The Department may amend any contract without additional competition, including reinstatements and cost overruns, but only when the Department has determined:

(a) The amended Contract is within the Scope of the Solicitation Document, or if no Solicitation Document, the Contract; or in the instance of a Special Procurement, the approval of Special Procurement;

(b) The amended Contract does not adversely affect the competitive conditions for the original contract; and

(c) If the Contract was selected according to the Small Procurement method, the total compensation does not exceed \$5000, or, if selected according to the Intermediate Procurement method, the total compensation does not exceed \$150,000.

(2) Anticipated Amendments.

(a) "Anticipated Amendment" means the Department has text in any Solicitation Document and the Contract that explains:

(A) The possibility of one or more Amendments;

(B) A general description of circumstances that might require an Amendment to be issued under the Contract and any changes to the requirements of the Contract that may be anticipated or even planned for, but not necessarily quantified at the time of Contract execution. These changes may be described in any Solicitation and Contract as, for example: Extra Work or Goods; Additional Work; Work to be done if certain situations are encountered; or Changes in terms, conditions, price, or type of Work; etc.; and

(C) The provisions of the Contract that are subject to negotiation in order to finalize the details and costs of such an Amendment.

(b) Anticipated Amendments do not include cost overruns or reinstatements.

(c) The Department may make one or more Anticipated Amendments to a Contract without any additional competitive process and for an unlimited amount, subject to section (1) of this rule.

(3) Unanticipated Amendments.

(a) "Unanticipated Amendment" means any Amendment that does not meet the requirements of an Anticipated Amendment. Unanticipated Amendments do not include cost overruns or reinstatements.

(b) Limited Amount. The Department may make one or more Unanticipated Amendments to a Contract without any additional competitive process, provided the cumulative amounts of all Unanticipated Amendments do not exceed \$6,000 for a Contract award as a small procurement under 137-047-0265 or 25% of the Original Contract amount of a Contract awarded as an intermediate procurement under 137-047-0270 and subject to section (1) of this rule.

(c) Unlimited Amount. The Department may make one or more Unanticipated Amendments to a Contract without any additional competitive process and for an unlimited amount, subject to section (1) of this rule, and provided the Department's Designated Procurement Officer gives written approval of the Unanticipated Amendment as meeting the following requirements:

(A) The Unanticipated Amendment is due to circumstances that were unforeseen at the time the original Contract was established;

(B) The Unanticipated Amendment does not represent any important general change that alters the essential identity or main purpose of the original Contract, nor is of such importance that it should be a new undertaking; and

(C) The Unanticipated Amendment serves the public interest, including specific reasoning to support that conclusion. Reasons may include, but are not limited to: To address emergencies arising in the course of the Contract that require prompt action to protect the Work already completed or Goods delivered; to comply with official or judicial commands or directives issued during contract performance; or to ensure that the purpose of the Contract will be realized.

(4) Cost Overruns.

(a) Unless the Contract provides that the maximum total compensation is based on an estimate and is subject to amendment, if Contractor expends all authorized compensation but the required Goods, Work or Services are not complete or are not satisfactory, Contractor is responsible to complete the Goods, Work or Services to Department's satisfaction without further compensation.

(b) Notwithstanding the general rule in subsection (4)(a) above, Department may, by Amendment to the Contract, agree to increases in the maximum total compensation, subject to section (1) of this rule, and provided the Department's Designated Procurement Officer gives written approval of the Cost Overrun Amendment as meeting the following requirements:

(A) The cost overrun arose out of circumstances or conditions encountered in the course of contract performance that were unavoidable and not reasonably anticipated at the time of the original Contract, or the most recent Amendment, if any;

(B) The cost overrun was incurred in good faith, results from the good faith performance by the Contractor, and is no greater than the prescribed hourly rate or the reasonable value of the additional Goods, Work or Services rendered; and

(C) The Cost Overrun Amendment serves the public interest, including specific reasoning to support that conclusion. Reasons may include, but are not limited to: To address emergencies arising in the course of the Contract that require prompt action to protect the Work already completed; to comply with official or judicial commands or directives issued during contract performance; or to ensure that the purpose of the Contract will be realized.

(5) Reinstatements.

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(a) "Reinstatement" of an expired Contract means an amendment to restore the full action of the Contract as though the expiration had not occurred, and extend the Contract to a new expiration. A reinstatement may be combined with any other amendment allowed by this rule.

(b) The Department's Designated Procurement Officer may give written approval to reinstate an expired Contract if the following requirements are met:

(A) The failure to extend or renew the Contract in a timely manner was due to unforeseen or unavoidable conditions, or if due to administrative mistake, the reason for the mistake and the steps taken to prevent similar mistakes;

(B) The expiration occurred in good faith on the part of both the Department and the Contractor;

(C) The reinstatement furthers the public interest, compared to a separate procurement process, including specific reasoning to support that conclusion; and

(c) When a Contract is reinstated pursuant to this section, the Department may compensate the Contractor only at the rate or terms of compensation established in the original Contract, for Goods, Work or Services performed in the interim between the expiration of the original Contract and the execution of the Reinstatement Amendment.

(6) Amendments of Contracts for Architectural, Engineering and Land Surveying Services. This rule does not apply to amendments of Contracts for Architectural, Engineering and Land Surveying Services. The Department will comply with the Oregon Department of Justice Model Public Contract Rules, OAR chapter 137, division 048 for amendments to such contracts.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285A.075 & 279.070
Hist.: EDD 11-2005, f. 11-30-05, cert. ef. 12-1-05; EDD 26-2008, f. 8-28-08, cert. ef. 9-1-08; OBDD 37-2010, f. 10-29-10, cert. ef. 11-1-10; OBDD 2-2012, f. 3-30-12, cert. ef. 4-2-12

Rule Caption: The Water/Wastewater Fund rules have been amended to reflect changes in the definitions as well as Appeals and Exceptions.

Adm. Order No.: OBDD 3-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-2-12

Notice Publication Date: 3-1-2012

Rules Amended: 123-043-0010, 123-043-0025, 123-043-0115

Rules Repealed: 123-043-0010(T), 123-043-0025(T), 123-043-0115(T)

Subject: The Water/Wastewater rules include updating the definition of "project" as well as adding language to the Appeals and Exceptions rule to allow for the director or his designee to waive non-statutory requirements.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-043-0010

Definitions

For the purposes of these rules additional definitions may be found in Procedural Rules, OAR 123-001. As used in this division of administrative rules, the following terms shall have the following meaning, unless the context clearly indicates otherwise:

(1) "DEQ" means the State of Oregon Department of Environmental Quality.

(2) "Facilities" means something that is built or installed to perform some particular function.

(3) "Fund" means the water fund created by ORS 285B.563.

(4) "Grant" means an award to a municipality of monies that can be used to reimburse eligible project costs. Grant funds are not required to be repaid when contract conditions are met.

(5) "Non-compliance" means the municipality has received a notice of non-compliance with:

(a) Drinking water quality standards administered by the Oregon Department of Human Services Public Health Services Drinking Water Program; or

(b) Water quality statutes, rules, orders, or permits administered by DEQ or the Environmental Quality Commission.

(6) "Project" means only a project for constructing or improving a drinking water system, or a project for constructing or improving a system for waste water collection or treatment, including storm drainage systems as defined in ORS 285B.560(4) and (5).

(7) "System" means the interconnected facilities that are required or useful for performing the required function.

(8) "Technical Assistance" means preliminary engineering or planning; legal, financial, and economic investigations, reports and studies to determine the feasibility of a project. Technical Assistance also means required Water Master Plans or Wastewater Facility Studies needed to allow communities to properly plan for the future.

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

Stat. Auth.: ORS 285B.563 & 285A.075

Stats. Implemented: ORS 285B.560 - 285B.599

Hist.: EDD 10-1993(Temp), f. & cert. ef. 10-4-93; EDD 7-1994, f. & cert. ef. 4-7-94; EDD 7-2002, f. & cert. ef. 4-26-02; EDD 11-2006, f. & cert. ef. 11-3-06; EDD 14-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 32-2008, f. 10-2-08, cert. ef. 10-3-08; EDD 25-2009, f. 11-30-09, cert. ef. 12-1-09; OBDD 2-2010(Temp), f. & cert. ef. 1-14-10 thru 7-13-10; Administrative correction 7-27-10; OBDD 6-2011(Temp), f. & cert. ef. 11-3-11 thru 4-30-12; OBDD 3-2012, f. 3-30-12, cert. ef. 4-2-12

123-043-0025

Ineligible Project Costs

Expenses and costs expressly allowed by OAR 123-043-0015 are eligible for reimbursement from the fund. All other costs, including but not limited to those listed below, are ineligible for reimbursement:

(1) Costs incurred for facilities that are or will be privately owned.

(2) Cost of purchase of general purpose motor vehicles and other equipment not directly related to the project.

(3) Cost of purchase of off-site property for uses not directly related to the project.

(4) Project operating or maintenance expenses.

Stat. Auth.: ORS 285B.563 & 285A.075

Stats. Implemented: ORS 285B.560 - 285B.599

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 11-2006, f. & cert. ef. 11-3-06; EDD 25-2009, f. 11-30-09, cert. ef. 12-1-09; OBDD 2-2010(Temp), f. & cert. ef. 1-14-10 thru 7-13-10; Administrative correction 7-27-10; OBDD 42-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 6-2011(Temp), f. & cert. ef. 11-3-11 thru 4-30-12; OBDD 3-2012, f. 3-30-12, cert. ef. 4-2-12

123-043-0115

Appeals and Exceptions

(1) Appeals of decisions made by the municipality regarding a project must be made at the local level in accordance with the requirements and procedures of the municipality.

(2) The director or the director's designee will consider appeals of the Authority's funding decisions. Only the municipality may appeal. Appeals must be submitted in writing to the director within 30 days of the event or action that is being appealed. A project that would have been funded but for a technical error in the Authority's review of the application, as determined by the director, will be funded as soon as sufficient moneys become available in the fund, provided the project is still viable. The director's or the director's designee decision is final.

(3) The director or the director's designee may waive any non-statutory requirements of OAR chapter 123, division 43, if it is demonstrated such a waiver will further the goals and objectives of the program.

Stat. Auth.: ORS 285B.563 & 285A.075

Stats. Implemented: ORS 285B.560 - 285B.599

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 11-2006, f. & cert. ef. 11-3-06; EDD 25-2009, f. 11-30-09, cert. ef. 12-1-09; OBDD 2-2010(Temp), f. & cert. ef. 1-14-10 thru 7-13-10; Administrative correction 7-27-10; OBDD 6-2011(Temp), f. & cert. ef. 11-3-11 thru 4-30-12; OBDD 3-2012, f. 3-30-12, cert. ef. 4-2-12

Rule Caption: Development of new rules for the Business Retention and Expansion Program established in 2011 Legislative Session through SB 219.

Adm. Order No.: OBDD 4-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-2-12

Notice Publication Date: 3-1-2012

Rules Adopted: 123-091-0001, 123-091-0010, 123-091-0015, 123-091-0020, 123-091-0025, 123-091-0030

Subject: The Business Retention and Expansion Program (OBEP) was established through SB 219 in the 2011 Legislative Session. Business Oregon, through OBEP, will provide forgivable loans to certified employers to allow for expanded operations and increased hiring. These rules establish criteria for eligibility of funding and describe the loan agreement.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-091-0001

Purpose

This division of administrative rules clarifies, specifies and establishes procedures, standards and criteria for operation of and making loans to businesses from the Oregon Business Retention and Expansion Program (OBEP).

ADMINISTRATIVE RULES

Stat. Auth.: ORS 285A.075, 285B & OL Ch. 549, Sec. 1-8 & 10-11
Stats. Implemented: ORS 285B, OL Ch. 549, Sec. 1-8 & 10-11
Hist.: OBDD 4-2012, f. 3-30-12, cert. ef. 4-2-12

123-091-0010

Definitions

For the purpose of this rule, the following terms shall have the following meanings:

(1) "Business" means any individual, association of individuals, joint venture, partnership, limited liability company or corporation which is validly existing and authorized to conduct business in Oregon.

(2) "Calendar year" means an individual's tax year of January 1–December 31.

(3) "Department" means the Oregon Business Development Department as established under ORS 285A.070.

(4) "Director" means the director of the Department as appointed under ORS 285A.070.

(5) "Eligible Employee" means a new employee of the Business:

(a) Who will have an annual wage that is at least 150% of the most recently available average pay for the county in which the new job will be created or the most recently available average pay for the state, both as determined by the Oregon Employment Department in the Covered Employment and Wages Summary Report, whichever is less;

(b) Who will be hired by the Business at its Oregon facility before the end of the two calendar years following the year of OBEP loan approval;

(c) For whom FICA and state and federal income taxes are deducted from his/her gross wages, which are then forwarded to the appropriate agencies by the Business on behalf of the person;

(d) For whom the Business pays state and federal unemployment insurance; and

(e) For whom the Business contributes to FICA.

(6) "Full-time Job" one Full-time Job equals 1,820 Hours Worked in a one-year period.

(7) "Hours Worked" means all hours that the employee worked, if the employee is paid for those hours. "Hours worked" does not include holiday, vacation time, sick leave or any other paid time where no work is performed.

(8) "OBEP Fund" means the Oregon Business Retention and Expansion Fund.

Stat. Auth.: ORS 285A.075, 285B & OL Ch. 549, Sec. 1-8 & 10-11
Stats. Implemented: ORS 285B, OL Ch. 549, Sec. 1-8 & 10-11
Hist.: OBDD 4-2012, f. 3-30-12, cert. ef. 4-2-12

123-091-0015

Criteria for OBEP Fund Loan

In order to be eligible for a loan from the OBEP Fund, the Department must first find:

(1) That, at the time a loan from the OBEP Fund is considered for approval, the Business:

(a) Has at least 150 employees as demonstrated by documentation determined to be acceptable by the Department;

(b) Is a traded sector business, as defined in ORS 285A.010;

(c) Is not a retailer, as defined in ORS 72.8010;

(d) Plans to hire at least 50 full-time Eligible Employees before the end of the two calendar years following the year in which the OBEP loan is approved;

(e) Has stated to the Department that a loan from the OBEP was an integral factor in the Business's decision to hire at least 50 full-time Eligible Employees; and

(f) Has provided all information to the Department as requested and as required by the Oregon Business Retention and Expansion Program;

(2) That the Business's proposed expansion will result in significant, long-term economic benefit in the region and will serve as a catalyst for additional economic development benefits in the state.

Stat. Auth.: ORS 285A.075, 285B & OL Ch. 549, Sec. 1-8 & 10-11
Stats. Implemented: ORS 285B, OL Ch. 549, Sec. 1-8 & 10-11
Hist.: OBDD 4-2012, f. 3-30-12, cert. ef. 4-2-12

123-091-0020

Approval and Amount of OBEP Fund Loan

(1) The Director, or his designee, in his sole discretion, shall determine whether to approve a loan to a Business from the OBEP Fund and the amount of the loan.

(2) A loan from the OBEP Fund shall not exceed the lesser of:

(a)(A) The amount of estimated Oregon personal income taxes to be paid in the two calendar years following the year of OBEP loan approval by Eligible Employees, using the result of the following formula:

(B) Average wage of all Eligible Employees multiplied by the applicable Tax as a Percent of Taxable Income from Table B: Average Income and Tax (Dollars) in the Oregon Department of Revenue's most recently published Oregon Personal Income Tax Statistics, All Returns and Full-Year Resident Returns (by AGI) multiplied by 2.

(b) The amount currently available in the OBEP Fund.

Stat. Auth.: ORS 285A.075, 285B & OL Ch. 549, Sec. 1-8 & 10-11
Stats. Implemented: ORS 285B, OL Ch. 549, Sec. 1-8 & 10-11
Hist.: OBDD 4-2012, f. 3-30-12, cert. ef. 4-2-12

123-091-0025

Loan Agreement

After approval of a loan from the OBEP Fund, the Department will enter into a loan agreement with the Business. Among other items, the loan agreement will contain the following provisions:

(1) The Business must enter into a First Source Agreement in accordance with OAR 123-070;

(2) The Business, to the extent practicable, must consult with vendors in Oregon before entering into contracts for goods and services;

(3) The Business must duly execute and deliver the following to the Department within 90 days from the date the loan was approved:

(a) Loan agreement;

(b) Promissory note;

(c) If required, a copy of the First Source Agreement; and

(d) Any other certificates, opinions and documents as the Department may reasonably require regarding the authorization of the loan agreement, the promissory note and any related documents.

(4) Loan funds must be disbursed to the Business no later than 120 days after the loan was approved, provided that the Department, in the reasonable exercise of its administrative discretion, has made a determination that there are sufficient funds in the OBEP Fund to make the disbursement;

(5) The terms for forgiveness of the loan, which will, among other items, require that the personal income tax estimated to be generated by the new Full-time Jobs in no more than two consecutive calendar years is equal to or exceeds the amount of the loan and that the actual number of new Full-time Jobs is equal to or exceeds the number of Full-time Jobs proposed at the time the loan was approved. The Department intends to obtain information to calculate the personal income tax estimated to be generated by the new Full-time Jobs and the actual number of new Full-time Jobs from the Oregon Employment Department. If the Department is not able to obtain information from the Oregon Employment Department to make these calculations, the Business will be required to provide comparable information, as the Department may reasonably request, to the Department.

(6) If the personal income tax estimated to be generated by the new Full-time Jobs ("Total PIT") is less than the amount of the loan, the Business must immediately repay to the Department an amount equal to: (the loan amount multiplied by .5) multiplied by (1 – (Total PIT / the loan amount)). If the actual number of new Full-time Jobs is less than the number of new Full-time Jobs proposed at the time the loan was approved, the Business must immediately repay to the Department an amount equal to: (the loan amount multiplied by .5) multiplied by (1 – (the actual number of new Full-time Jobs / the required number of new Full-time Jobs)); and

(7) The Business must submit a report to the Department which lists categories of new positions created in the time period used to calculate the personal income tax, as described in paragraph e. above, the average hourly wage of the new positions, and the number of persons hired to fill those positions.

Stat. Auth.: ORS 285A.075, 285B & OL Ch. 549, Sec. 1-8 & 10-11
Stats. Implemented: ORS 285B, OL Ch. 549, Sec. 1-8 & 10-11
Hist.: OBDD 4-2012, f. 3-30-12, cert. ef. 4-2-12

123-091-0030

Waivers

The Director, or his designee, may waive non-statutory requirements of this division of administrative rule if such a waiver will serve to further the goals of the Oregon Business Retention and Expansion Program.

Stat. Auth.: ORS 285A.075, 285B & OL Ch. 549, Sec. 1-8 & 10-11
Stats. Implemented: ORS 285B, OL Ch. 549, Sec. 1-8 & 10-11
Hist.: OBDD 4-2012, f. 3-30-12, cert. ef. 4-2-12

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Oregon Department of Education
Chapter 581

Rule Caption: State Board of Education Notice of Proposed Rule.

Adm. Order No.: ODE 9-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-2-12

ADMINISTRATIVE RULES

Notice Publication Date: 1-1-2012

Rules Amended: 581-001-0000

Subject: Updates method of notice of proposed rule to include electronic mailing.

Specifies notice procedure of rules relating to the implementation of the federal IDEA to ensure that Oregon is in compliance with federal law.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-001-0000

Notice of Proposed Rule

(1) Before permanently adopting, amending or repealing any rule, the State Board of Education shall give notice of the proposed adoption, amendment or repeal:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule to be adopted;

(b) By mailing or e-mailing, at least 28 days before the effective date of the rule, a copy of the notice to persons on the State Board of Education's mailing list established pursuant to ORS 183.335(8);

(c) By mailing or e-mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective day of the rule;

(d) By mailing or e-mailing a copy of the notice to the following persons, organizations or publications:

(A) Associated Press;

(B) Oregon Education Investment Board;

(C) Chancellor's Office, Oregon University System;

(D) Community Colleges and Workforce Development Department;

(E) Teacher Standards and Practices Commission;

(F) Early Learning Council;

(G) School districts, education service districts and public charter schools;

(H) Confederation of Oregon School Administrators;

(I) Oregon Community College Association;

(J) Oregon Education Association;

(K) Oregon Federation of Teachers;

(L) Oregon School Boards Association;

(M) Oregon School Employees Association;

(N) Oregon Association of Education Service Districts;

(O) Chalkboard Project;

(P) Stand for Children;

(Q) Disability Rights Oregon;

(R) Other established educational, student and parent organizations that have submitted mailing or e-mailing addresses; and

(S) Capitol Press Room

(3) Persons who wish to be placed on the State Board of Education's mailing or e-mailing list may request in writing or by e-mailing that the Department of Education send to the person copies of its notice of proposed rulemaking.

(4) The Department may update the mailing and e-mailing lists described in this rule annually by requesting persons to confirm that they wish to remain on the lists. If a person does not respond to a request for confirmation within 28 days of the date the Department sends the request, the Department will remove the person from the mailing and e-mailing lists. Any person removed from the mailing or e-mailing lists will be returned to the mailing or e-mailing list upon request, provided that the person provides a mailing address or e-mailing address to which notice may be sent.

(5) Prior to any adoption, amendment or repeal of a rule (including policies and procedures) related to the implementation of the Individuals with Disabilities Education Act (IDEA) the Department shall:

(a) Provide notice to the mailing and e-mailing groups maintained under this rule at least 30 days prior to the effective date of the rule;

(b) Provide any notice necessary to ensure that persons and institutions affected by the rule have a reasonable opportunity to provide public comments;

(c) Conduct a public hearing on the rule and provide notice of the public hearing at least 30 days prior to the date of the hearing; and

(d) Review and consider all public comments received during the public hearing or during the public comment period.

Stat. Auth.: ORS 183.335 & 183.341(4)

Stats. Implemented: ORS 183.335

Hist.: 1EB 206, f. 12-5-75, ef. 12-26-75; Renumbered from 581-061-0040, 4-1-76; 1EB 8-1980, f. & ef. 4-17-80; 1EB 15-1984, f. & ef. 9-27-84; EB 11-1994, f. & cert. ef. 10-3-94; ODE 9-2012, f. 3-30-12, cert. ef. 4-2-12

Rule Caption: Specifies rulemaking relating to children with disabilities is done pursuant to federal IDEA.

Adm. Order No.: ODE 10-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-2-12

Notice Publication Date: 1-1-2012

Rules Amended: 581-001-0005

Subject: Specifies that rulemaking relating to children with disabilities is done in accordance with federal IDEA. Updates federal law references.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the State Board of Education adopts the Attorney General's Model Rules of Procedure under the Administrative Procedure Act in effect on January 1, 2012, except for special education due process hearings authorized under ORS 343.165, special education complaint investigations under ORS 343.041(3), and rulemaking relating to the implementation of Individuals with Disabilities Act, which shall be heard in accordance with rules of the State Board of Education implementing the federal law, Individuals with Disabilities Education Act, in effect as of January 1, 2012

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Education.]

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: 1EB 2, f. 12-22-58; 1EB 125, f. 11-4-71, ef. 11-15-71; 1EB 160, f. 11-2-73, ef. 11-25-73; Renumbered from 581-061-0035, 4-1-76; 1EB 222, f. 3-22-76, ef. 4-1-76; 1EB 14-1978, f. & ef. 4-3-78; 1EB 7-1980, f. & ef. 4-17-80; 1EB 20-1981(Temp), f. 12-29-81, ef. 12-31-81; 1EB 11-1982, f. & ef. 3-24-82; 1EB 2-1984, f. 2-17-84, ef. 5-8-84; 1EB 22-1986, f. & ef. 7-14-86; EB 2-1995, f. & cert. ef. 1-24-95; ODE 2-2006(Temp), f. & cert. ef. 2-14-06 thru 8-1-06; Administrative correction 8-22-06; ODE 4-2007, f. & cert. ef. 2-21-07; ODE 6-2011, f. & cert. ef. 4-22-11; ODE 10-2012, f. 3-30-12, cert. ef. 4-2-12

Rule Caption: Career and Technical Education Revitalization Grant Program – implementation of HB 3362 (2011).

Adm. Order No.: ODE 11-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-2-12

Notice Publication Date: 1-1-2012

Rules Adopted: 581-044-0210, 581-044-0220, 581-044-0230, 581-044-0240, 581-044-0250, 581-044-0260

Subject: The CTE Revitalization Grant was created and funded during the 2011 Regular Session of the Oregon Legislature as part of HB 3362. The legislation requires that the Oregon Department of Education (ODE) administer the grant program in collaboration with the Bureau of Labor and Industries (BOLI). Funds in the amount of \$2,000,000.00 were allocated for the 2011-2013 biennium. The funds are designated for competitive grants to public schools, school districts, education service districts, charter schools, or any combination of those institutions. The purpose of the grant is to:

(1) Develop or enhance career and technical education programs of study.

(2) Expand professional growth of and career opportunities for students through CTE programs.

(3) Assess the ability of CTE programs to meet workforce needs and give students skills required for jobs in Oregon that provide high wages and are in high demand.

(4) Support the achievement of the high school diploma requirements.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-044-0210

Definitions

The following definitions apply to OAR 581-044-0210 to 581-044-0260.

(1) "Diverse number of students" refers to a range of school sizes based on student enrollment.

(2) "High demand", as defined by the Oregon Employment Department, means having more than the median number of total (growth plus replacement) openings for statewide or a particular region.

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(3) "High wage", as defined by the Oregon Employment Department, is a wage that is more than the all-industry, all-ownership median wage for statewide or a particular region.

(4) "Metropolitan County" is a county classified as Metropolitan by the U.S. Office of Management and Budget (OMB).

(5) "Reasonable geographic distribution" means that at least one-third of the funded proposals shall serve schools within a Metropolitan County, and at least one-third shall serve schools outside of a Metropolitan County.

(6) "The Act" refers to section 7, chapter 683, Oregon Laws 2011 (Enrolled House Bill 3362).

Stat. Auth.: 2011 OL Ch. 683 Sec. 7

Stats. Implemented: 2011 OL Ch. 683 Sec. 7

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12

581-044-0220

Policy

A Career and Technical Education Revitalization Grant Program has been established to encourage the following:

(1) Enhance collaboration between education providers and employers.

(2) Develop or enhance career and technical education programs of study.

(3) Expand the professional growth of and career opportunities for students through career and technical education programs.

(4) Assess the ability of each career and technical education program to meet workforce needs and give students the skills required for jobs in Oregon that provide high wages and are in high demand.

(5) Support the achievement of the Oregon high school diploma requirements.

(6) Support programs of study that are part of a continuum across the educational enterprise.

Stat. Auth.: 2011 OL Ch. 683 Sec. 7

Stats. Implemented: 2011 OL Ch. 683 Sec. 7

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12

581-044-0230

Eligibility

(1) The following shall be the eligible applicant(s) for the Career and Technical Education Revitalization Grant Program:

- (a) School districts;
- (b) Education service districts;
- (c) Public schools; and
- (d) Public charter schools.

(2) A single grant proposal may include more than one eligible applicant and other partners, but the fiscal agent must be one of the eligible applicants identified in subsection (1) of this rule.

Stat. Auth.: 2011 OL Ch. 683 Sec. 7

Stats. Implemented: 2011 OL Ch. 683 Sec. 7

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12

581-044-0240

Criteria for Grant Awards

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for which Career and Technical Education Revitalization Grant funds are available. The Department shall notify eligible applicants of the proposal process and due dates, and make available necessary guidelines and application forms.

(2) All proposals must comply with requirements of the Act. Grants shall be awarded based on the following generally applicable criteria:

- (a) The program shall focus on development and/or enhancement of a program of study in career and technical education;
- (b) The program supports Oregon high school diploma requirements;
- (c) There is a clear connection between the proposal and the workforce for the program of study based on high wages and high demand;
- (d) The program shall serve to increase enrollment in programs of study which provide skills for employment in high-demand careers leading to high wages;

(e) The program demonstrates potential to teach a higher-level of academic and technical skills to all students, thereby increasing the knowledge and improving the skills of Oregon's workforce, and meeting established or developing industry standards;

(f) The business industry and/or labor communities are actively involved in program development and implementation in a manner that

strengthens the development and continued viability of the program of study;

(g) There is evidence that the program of study implemented or improved shall be sustained beyond the life of the grant;

(h) There are provisions for follow up of students/staff, evaluation of program results, and reporting of program results.

(3) Priority shall be given to proposals that meet the minimum criteria and:

- (a) Support new or expanded CTE programs;
- (b) Demonstrate long-term viability;
- (c) Demonstrate commitments from business, industry, labor or education providers to enhance collaboration;
- (d) Demonstrate a diverse number of students served;
- (e) Contribute to a reasonable geographic distribution of grant monies; and
- (f) Create regional collaborations between partners which may include multiple public schools or other partners in a region.

Stat. Auth.: 2011 OL Ch. 683 Sec. 7

Stats. Implemented: 2011 OL Ch. 683 Sec. 7

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12

581-044-0250

Proposal Review Committee

(1) The Oregon Department of Education and the Bureau of Labor and Industries shall jointly convene a Proposal Review Committee to review grant applications and recommend determinations on those applications.

(2) The Proposal Review Committee shall have representatives from business, industry, labor, and education providers. The Department and Bureau shall seek recommendations for membership on the committee from:

- (a) Organizations who represent business, industry and labor; and
- (b) Education providers including but not limited to the Department of Community Colleges and Workforce Development, community colleges, school districts and other public and private education providers.

(3) A member of the Proposal Review Committee may not review a grant for which they have a declared conflict of interest.

(4) The Proposal Review Committee shall receive training on the purpose of the Career and Technical Education Revitalization Grant program and RFP scoring procedures prior to scoring any proposals.

Stat. Auth.: 2011 OL Ch. 683 Sec. 7

Stats. Implemented: 2011 OL Ch. 683 Sec. 7

Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12, cert. ef. 4-2-12

581-044-0260

Method of Awarding Competitive Grants

(1) Funding awards for Career and Technical Education Revitalization projects shall be approved by the Oregon Department of Education designated project manager, fiscal manager, and the Superintendent of Public Instruction.

(2) The Oregon Department of Education shall design a Request for Proposal (RFP) and scoring sheets that reflect requirements of state law and criteria stated in OAR 581-044-0240.

(3) Mailing requirements and deadlines shall be included in the RFP.

(4) Each proposal shall be scored by a minimum of two reviewers who are members of the Proposal Review Committee. Where possible each proposal shall be scored by at least one reviewer representing business, industry, or labor and one reviewer representing education providers.

(5) The Proposal Review Committee shall make recommendations for funding based on the review of proposals and the intent of the Act.

(6) In the event that there are insufficient proposals that meet the requirements of the Act and ensure a reasonable geographic distribution, the Proposal Review Committee may recommend an alternative approach to determining reasonable geographic distribution.

(7) The Oregon Department of Education shall notify both successful and unsuccessful applicants. Both successful and unsuccessful applicants shall be allowed access to a summary of comments and suggestions related to their proposals.

(8) Applicants shall have one week from the date of the notification letter to appeal the funding decision related to their application to the Superintendent of Public Instruction. Decisions made by the Superintendent are final.

(9) Grant recipients may request minor changes in funded proposals from the Department of Education. Requests for changes and approved changes shall be kept as part of the grant file.

Stat. Auth.: 2011 OL Ch. 683 Sec. 7

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Stats. Implemented: 2011 OL Ch. 683 Sec. 7
Hist.: ODE 14-2011(Temp), f. & cert. ef. 10-31-11 thru 4-28-12; ODE 11-2012, f. 3-30-12,
cert. ef. 4-2-12

Rule Caption: Student physical restraint and seclusion requirements for public education programs.

Adm. Order No.: ODE 12-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 1-1-2012

Rules Adopted: 581-021-0550, 581-021-0553, 581-021-0556, 581-021-0559, 581-021-0563, 581-021-0566

Subject: HB 2939 was enacted in 2011. To implement this legislation, the state board drafted 6 new rules to replace this existing rule which is being repealed. These new rules relate to physical restraint and seclusion in public education programs and implement HB 2939 enacted by the 2011 Legislature. The rules:

(1) Specify when restraint methods may be used and what types of restraint may be used on students.

(2) Procedures regarding restraint and seclusion.

(3) Reporting requirements for public education programs.

(4) Approval of training programs on restraint and seclusion.

(5) Use of training programs by public education programs.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0550

Definitions

As used in OAR 581-021-0550 to 581-021-0566:

(1) ‘Chemical restraint’ means a drug or medication that is used on a student to control behavior or restrict freedom of movement and that is not:

(a) Prescribed by a licensed physician or other qualified health professional acting under the professional’s scope of practice for standard treatment of the student’s medical or psychiatric condition;

(b) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional’s scope of practice.

(2) ‘Mechanical restraint’ means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student. ‘Mechanical restraint’ does not include:

(a) A protective or stabilizing device ordered by a licensed physician; or

(b) A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.

(3) ‘Physical restraint’ means the restriction of a student’s movement by one or more persons holding the student or applying physical pressure upon the student.

(a) ‘Physical restraint’ does not include the touching or holding of a student without the use of force for the purpose of directing the student or assisting the student in completing a task or activity;

(b) ‘Physical restraint’ does not include prone restraint as defined in Section 2, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939).

(4) ‘Prone restraint’ means a restraint in which a student is held face down on the floor.

(5) ‘Public education program’ means a program that:

(a) Is for students in early childhood education, elementary school or secondary school;

(b) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and

(c) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education.

(6) ‘Seclusion’ means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. ‘Seclusion’ does not include:

(a) The removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.

(7) ‘Serious bodily injury’ means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

Stat. Auth.: ORS. 326.051

Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939)

Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0553

Use of Physical Restraint and Seclusion in Public Education Programs

(1) The use of a chemical restraint, mechanical restraint or prone restraint on a student in a public education program in this state is prohibited.

(2) The use of physical restraint or seclusion on a student in a public education program in this state is prohibited unless used as provided in Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), which includes the following:

(a) Physical restraint or seclusion may be used on a student in a public education program only if:

(A) The student’s behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and,

(B) Less restrictive interventions would not be effective.

(b) Physical restraint or seclusion may not be used for discipline, punishment or convenience of personnel of the public education program.

(c) If physical restraint or seclusion is used on a student, the physical restraint or seclusion must be:

(A) Used only for as long as the student’s behavior poses a reasonable threat of imminent, serious bodily injury to the student or others;

(B) Imposed by personnel of the public education program who are:

(i) Trained to use physical restraint or seclusion through programs approved by the Department of Education under OAR 581-021-0563; or

(ii) Otherwise available in the case of an emergency circumstance when trained personnel are not immediately available due to the unforeseeable nature of the emergency circumstance;

(C) Continuously monitored by personnel of the public education program for the duration of the physical restraint or seclusion.

(3) If physical restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and,

(c) Every 15 minutes after the first 30 minutes of the physical restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the physical restraint or seclusion, including providing documentation for the reason the physical restraint or seclusion must be continued.

Stat. Auth.: ORS. 326.051

Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939)

Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0556

Program’s Procedures Regarding Physical Restraint & Seclusion

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of physical restraint or seclusion.

(2) Following an incident involving the use of physical restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred;

(b) Written documentation of the incident within 24 hours of the incident that provides a description of the physical restraint or seclusion including:

(A) The date of the physical restraint or seclusion;

(B) The times when the physical restraint or seclusion began and ended;

(C) The location of the physical restraint or seclusion;

(D) A description of the student’s activity that prompted the use of physical restraint or seclusion;

(E) The efforts used to de-escalate the situation and the alternatives to physical restraint or seclusion that were attempted;

(F) The names of the personnel of the public education program who administered the physical restraint or seclusion;

(G) A description of the training status of the personnel of the public education program who administered the physical restraint or seclusion, including any information that may need to be provided to the parent or guardian; and,

(H) Timely notification of a debriefing meeting to be held and of the parent’s or guardian’s right to attend the meeting.

(3) If the personnel of the public education program who administered the physical restraint or seclusion had not received training from a program approved by the Department of Education, as required and in

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accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:

- (a) The lack of training; and
- (b) The reason the physical restraint or seclusion was administered by a person without training.

(4) A debriefing meeting related to the use of physical restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.

(a) Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving physical restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided by the public education providers within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of physical restraint or seclusion.

(9) As indicated, per ORS 161.205 and 339.250, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the application of force is consistent with Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) and OAR 581-021-0553.

(10) The district school board shall adopt written policies to implement Physical Restraint & Seclusion procedures consistent with and as indicated in chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), ORS 339.250 and OARs 581-021-0550 to 581-021-0566, and shall inform teachers, administrators, school employees and school volunteers.

Stat. Auth.: ORS. 326.051
Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939)
Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0559

Reporting Requirements for the Use of Physical Restraint & Seclusion

(1) Each entity that has jurisdiction over a public education program must prepare an annual report detailing the use of physical restraint and seclusion for the preceding school year, including, at a minimum:

- (a) The total number of incidents involving physical restraint;
- (b) The total number of incidents involving seclusion;
- (c) The total number of seclusions in a locked room;
- (d) The total number of students placed in physical restraint;
- (e) The total number of students placed in seclusion;
- (f) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of physical restraint or seclusion;
- (g) The number of students who were placed in physical restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of physical restraint and seclusion for each student;
- (h) The number of incidents in which the personnel of the public education program administering physical restraint or seclusion were not trained; and
- (i) The demographic characteristics of all students upon whom physical restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2) Each entity that has jurisdiction over a public education program shall make its annual report about physical restraint and seclusion available to:

- (a) The public at the entity's main office and the website of the entity; and
- (b) The school board or governing body overseeing the entity;
- (c) If the entity is an education service district, the component school districts of the education service district;

(d) If the entity is a public charter school, the sponsor of the public charter school;

(e) Parents and guardians of students in a public education program, who shall be advised at least once each school year about how to access the report.

Stat. Auth.: ORS. 326.051
Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939)
Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0563

Approval of Physical Restraint and Seclusion Training Programs for School Staff

(1) The Department of Education shall approve training programs in physical restraint and seclusion that:

- (a) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of physical restraint or seclusion;
- (b) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and
- (c) Are consistent with the philosophies, practices and techniques for physical restraint and seclusion that are established by rule or policy of the Department of Human Services.

(2) A training program seeking approval must submit in writing to the Oregon Department of Education that meets the expectations subsection (1) of this rule.

(3) Training programs approved remain in effect unless significant changes are made to the program.

(a) If significant changes are made, the training program must be re-submitted for approval.

(4) The ODE must remove training programs from the approved list if they no longer meets the requirements specified in subsection (1) of this rule, or if they are found by the Oregon Department of Education to have violated any other laws.

Stat. Auth.: ORS. 326.051
Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939)
Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0566

Required Use of Approved Restraint and Seclusion Programs

On or after July 1, 2012, a Public Education Program may only use training programs on physical restraint and seclusion that are approved by the Department of Education under OAR 581-021-0563. The Department of Education shall make the approved training list available to all Public Education Programs.

Stat. Auth.: ORS. 326.051
Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939)
Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

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Rule Caption: Clarifies that both federal FERPA and IDEA apply to education records of children with disabilities.

Adm. Order No.: ODE 13-2012(Temp)

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-2-12 thru 9-1-12

Notice Publication Date:

Rules Amended: 581-015-2300, 581-015-2770

Subject: Rules clarify that both federal FERPA and IDEA apply to children with disabilities, birth to age 21. Timelines for parental access to these records differ by age of the child.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-015-2300

Access to Student Education Records

(1) For purposes of ensuring the safeguards required for education records of children with disabilities, including early intervention and early childhood special education records, the Department adopts by reference the provisions of FERPA, 34 CFR 99.1 to 99.38, the IDEA, 34 CFR 300.610 to 34.300.627 and 34 CFR 303.401 through 303.416.

(a) For children with disabilities under age three, references to a "student" in these rules means an infant or toddler with a disability.

(b) For children with disabilities under age three, "student records" means early intervention records.

(2) The program, district, agency, or contractor must comply with a parent's request to inspect and review records without unnecessary delay and within the following timelines:

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(a) For children under age three, before any meeting regarding an IFSP, or any hearing pursuant to 303.430(d) and 303.435 through 303.439, and in no case more than 10 days after the request has been made.

(b) For children over the age of three, before any meeting regarding an IEP/IFSP, or any due process hearing pursuant to 34 CFR 300.507, or resolution session pursuant to 34 CFR 300.510, related to a due process hearing, and in no case more than 45 days after the request has been made.

(3) School districts, and EI/ECSE programs and contractors, must give parents of children with disabilities an opportunity to examine all student education records in accordance with OAR 581-015-2300 as noted above.

Stat. Auth.: ORS 343.041, 343.155

Stats. Implemented: ORS 343.155, 343.173, 34 CFR 300.501, 34 CFR 300.610-627, 34 CFR 303.400-303.416, 34 CFR 300.510, 34 CFR 300.507, 34 CFR 300.530

Hist: ODE 4-2000, f. & cert. ef. 2-1-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0606, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 13-2012(Temp), f. 3-30-12, cert. ef. 4-2-12 thru 9-1-12

581-015-2770

Confidentiality of Records for Preschool Children with Disabilities

Contractors and subcontractors must follow the rules and procedures in OAR 581-015-2300 and 34 CFR 303.400 through 303.420 for confidentiality of records for preschool children with disabilities with the following exception: "School district" means contractors or subcontractors.

Stat. Auth.: ORS 343.475, 343.485

Stats. Implemented: ORS 343.485

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1010, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 13-2012(Temp), f. 3-30-12, cert. ef. 4-2-12 thru 9-1-12

Rule Caption: Rule Amendments and Adoptions relating to the Implementation of Federal IDEA, parts B & C.

Adm. Order No.: ODE 14-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-2-12

Notice Publication Date: 12-1-2011

Rules Adopted: 581-015-2712, 581-015-2713, 581-015-2774, 581-015-2863

Rules Amended: 581-015-2000, 581-015-2080, 581-015-2700, 581-015-2730, 581-015-2775, 581-015-2780, 581-015-2790, 581-015-2805, 581-015-2810, 581-015-2815, 581-015-2825, 581-015-2830, 581-015-2835, 581-015-2840, 581-015-2870, 581-015-2885, 581-015-2890, 581-021-0220, 581-021-0270

Subject: Federal regulations relating to the Individual with Disabilities Act (IDEA), Part B and C were revised. These rule changes are needed to ensure the Oregon remains in compliance with federal law and continues to receive federal funding relating to the IDEA.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-015-2000

Definitions

The definitions below apply to OARs 581-015-2000–2999, unless the context indicates otherwise.

(1) "Adult student" is a student for whom special education procedural safeguard rights have transferred as described in OAR 581-015-2325.

(2) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

(3) "Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

(4) "Children with disabilities" or "students with disabilities" means children or students who require special education because of: autism; communication disorders; deafblindness; emotional disturbances; hearing impairments, including deafness; intellectual disability; orthopedic impairments; other health impairments; specific learning disabilities; traumatic brain injuries; or visual impairments, including blindness.

(a) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction that adversely affects a child's educational performance. Other characteristics that may be associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Essential features are typically but not necessarily manifested before age three. Autism may include autism spectrum disorders such as but not limited to autistic disorder, pervasive developmental disorder, not otherwise specified, and Asperger's syndrome. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. However, a child who qualifies for special education under the category of autism may also have an emotional disturbance as a secondary disability if the child meets the criteria under emotional disturbance.

(b) "Communication Disorder" means the impairment of speech articulation, voice, fluency, or the impairment or deviant development of language comprehension and/or expression, or the impairment of the use of a spoken or other symbol system that adversely affects educational performance. The language impairment may be manifested by one or more of the following components of language: morphology, syntax, semantics, phonology, and pragmatics.

(c) "Deafblindness" means having both hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in special education programs designed solely for students having hearing or visual impairments

(d) "Emotional Disturbance" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms or fears associated with personal or school problems;

(F) The term includes schizophrenia but does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

(e) "Hearing Impairment" means a hearing condition, whether permanent or fluctuating, that adversely affects a child's educational performance. The term includes those children who are hard of hearing or deaf.

(f) "Intellectual Disability" means significantly sub average general intellectual functioning, and includes a student whose intelligence test score is two or more standard deviations below the norm on a standardized individual intelligence test, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, and that adversely affects a child's educational performance.

(g) "Orthopedic Impairment" means a motor disability that adversely affects the child's educational performance. The term includes impairments caused by an anomaly, disease or other conditions (e.g., cerebral palsy, spinal bifida, muscular dystrophy or traumatic injury).

(h) "Other Health Impairment" means limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that:

(A) Is due to chronic or acute health problems (e.g. a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, attention deficit disorder, attention deficit hyperactivity disorder, leukemia, Tourette's syndrome or diabetes); and

(B) Adversely affects a child's educational performance.

(i) "Specific Learning Disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using lan-

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guage, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Specific learning disability includes conditions such as perceptual disabilities, brain injury, dyslexia, minimal brain dysfunction, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, intellectual disability, emotional disturbance, or environmental, cultural, or economic disadvantage.

(j) "Traumatic Brain Injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term includes open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(k) "Visual Impairment" means a visual impairment that, even with correction, adversely affects a child's educational performance. The term includes those children who are partially sighted or blind.

(5) "Consent" means that:

(a) The parent or adult student has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;

(b) The parent or adult student understands and agrees in writing to the carrying out of the activity for which consent is sought; and the consent describes that activity and lists any records that will be released and to whom; and

(c) The parent or adult student understands that the granting of consent is voluntary and may be revoked at any time in accordance with OAR 581-015-2090(4) or 581-015-2735.

(6) "Day" means calendar day unless otherwise indicated as:

(a) "Business day," which means Mondays through Fridays, other than holidays; or as

(b) "School day," which means any day, including partial days that children are in attendance at school for instructional purposes. The term "school day" has the same meaning for all children in school, including those with and without disabilities.

(7) "Department" means the Oregon Department of Education.

(8) "EI/ECSE" means early intervention/early childhood special education and refers to services or programs for preschool children with disabilities.

(9) "Elementary or secondary school or facility" means a school or facility with any combination of grades K through 12.

(10) "Evaluation" means procedures used to determine whether the child has a disability, and the nature and extent of the special education and related services that the child needs.

(11) "General education curriculum" means the same curriculum as for children without disabilities (children without disabilities). For preschool children with disabilities, the term means age-appropriate activities.

(12) "Health assessment statement" means a written statement issued by a nurse practitioner licensed by a State Board of Nursing specially certified as a nurse practitioner, or by a physician assistant licensed by a State Board of Medical Examiners. Both a nurse practitioner and a physician assistant must be practicing within his or her area of specialty.

(13) "Homeless children" (or "homeless youth") has the same meaning as in section 725 of the McKinney-Vento Act, 42 USC § 11434a(2).

(14) "Identification" means the process of determining a child's disability and eligibility for special education and related services.

(15) "Individualized Education Program" (IEP) means a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a disability.

(16) "Individualized Family Service Plan" (IFSP) is defined in OAR 581-051-2700.

(17) "Limited English proficient" has the same meaning as in the Elementary and Secondary Education Act, 20 USC § 9101(25).

(18) "Mediation" means a voluntary process in which an impartial mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such a time as a resolution is agreed to by the parties or the mediation process is terminated.

(19) "Medical statement" means a written statement issued by a physician licensed by a State Board of Medical Examiners.

(20) "Native language", when used with respect to a person who is limited English proficient, means the language normally used by that person or, in the case of a child, the language normally used by the parent of the child. For an individual with deafness, blindness, deafblindness or no written language, the term means the mode of communication normally used by the person (such as sign language, Braille, or oral communication). In direct contact with a child, the term means the language normally used by the child.

(21) "Parent" means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child,

(C) A legal guardian, other than a state agency;

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes.

(22) "Participating agency" means a state or local agency, other than the school district responsible for a student's education, that is financially and legally responsible for providing transition services to the student.

(23) "Personally identifiable information" means information as defined in the Family Educational Rights and Privacy Act (FERPA), found at 34 CFR 99.3, which includes, but is not limited to:

(a) The name of the child, the child's parent or other family member;

(b) The address of the child or the child's family;

(c) A personal identifier, such as the child's social security number or student number, or biometric record; and

(d) Other indirect identifiers, such as the child's date of birth, place of birth, and mother's maiden name;

(e) Other information that alone or in combination is linked or linkable to a specific child that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the child with reasonable certainty; or

(f) Other information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

(24) "Placement" means educational placement, not social service placement by a state agency.

(25) "Preschool child" means "preschool child with a disability" as defined under OAR 581-015-2700.

(26) "Private school" means an educational institution or agency not operated by a public agency.

(27) "Public agency" means a school district, an education service district, a state agency or institution, EI/ECSE contractor or subcontractor, responsible for early intervention, early childhood special education or special education.

(28) "Related services" includes transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, and includes orientation and mobility services, speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, school health services and school nurse services, counseling services, including rehabilitation counseling services, social work services in schools, parent counseling and training, school health services and medical services for diagnostic or evaluation purposes, and includes early identification and assessment of disabling conditions in children. This definition incorporates the exception for services for children with surgically implanted devices, including cochlear implants, in 34 CFR 300.34(b) and the definitions for individual related services in 34 CFR 300.34(c).

(29) "School age child or children" means a child or children who have reached 5 years of age but have not reached 21 years of age on or before September 1 of the current school year.

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(30) "Scientifically Based Research" is defined in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended ESEA.

(31) "School district" means the public education agency (school district, ESD, or state agency) that is responsible by statute, rule or contract for providing education to children with disabilities.

(32) "Services plan" is defined in OAR 581-015-2450.

(33) "Short term objectives" means measurable intermediate performance steps that will enable parents, students and educators to gauge, at intermediate times during the year, how well the child is progressing toward the annual goals by either:

(a) Breaking down the skills described in the goal into discrete components, or

(b) Describing the amount of progress the child is expected to make within specified segments of the year.

(34) "Special education" means specially designed instruction that is provided at no cost to parents to meet the unique needs of a child with a disability "Special education" includes instruction that:

(a) May be conducted in the classroom, the home, a hospital, an institution, a special school or another setting; and

(b) May involve physical education services, speech language services, transition services or other related services designated by rule to be services to meet the unique needs of a child with a disability.

(35) "Specially designed instruction" means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction:

(a) To address the unique needs of the child that result from the child's disability; and

(b) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(36) "Supplementary aids and services" means aids, services and other supports that are provided in regular education classes or other education-related settings and in extracurricular and nonacademic settings to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate.

(37) "Superintendent" means the State Superintendent of Public Instruction or the designee of the State Superintendent of Public Instruction.

(38) "Surrogate parent" means an individual appointed under OAR 581-015-2320 for school age children or 581-015-2760 for preschool children who acts in place of a biological or adoptive parent in safeguarding a child's rights in the special education decision-making process.

(39) "Transition services" means a coordinated set of activities for a student with a disability that:

(a) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate the student's movement from school to post school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(b) Is based on the individual student's needs, taking into account the student's preferences and interests; and

(c) Includes:

(A) Instruction;

(B) Related services;

(C) Community experiences;

(D) The development of employment and other post school adult living objectives; and

(E) If appropriate, acquisition of daily living skills and functional vocational evaluation; and

(d) May be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

(40) "Ward of the state" means child who is in the temporary or permanent custody of, or committed to, the Department of Human Services or Oregon Youth Authority through the action of the juvenile court.

Stat. Auth.: ORS 343.041, 343.045, 343.155 & 343.223

Stats. Implemented: ORS 343.045, 343.155, 343.223, 34 CFR 300.5, 300.6, 300.8, 300.11, 300.15, 300.19, 300.22, 300.27, 300.28, 300.29, 300.30, 300.34, 300.37, 300.39, 300.42, 300.43 & 300.45

Hist.: IEB 8-1978, f. & ef. 3-3-78; IEB 35-1978, f. & ef. 10-5-78; IEB 18-1979(Temp), f. & ef. 11-15-79; IEB 5-1980, f. 2-22-80, ef. 2-23-80; IEB 18-1983(Temp), f. & ef. 12-20-83; IEB 5-1985, f. 1-30-85, ef. 1-31-85; EB 39-1988(Temp), f. & cert. ef. 11-15-88; IEB 18-1989, f. & cert. ef. 5-15-89; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 9-1993, f. & cert. ef. 3-25-93; EB 18-1994, f. & cert. ef. 12-15-94; EB 22-1995, f. & cert. ef. 9-15-95; ODE 10-2000, f. & cert. ef. 5-3-00; ODE 2-2003, f. & cert. ef. 3-10-03;

Renumbered from 581-015-0005, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 13-2009, f. & cert. ef. 12-10-09; ODE 12-2011, f. & cert. ef. 10-31-11; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2080

Child Find

(1) The requirements of this rule apply to all children unless they are no longer entitled to a free appropriate public education under OAR 581-015-2040 – 581-015-2050.

(2) School districts must identify, locate and evaluate all resident children with disabilities, regardless of the severity of the disability, who are in need of early intervention, early childhood special education, or special education services, including:

(a) Highly mobile children with disabilities (such as migrant and homeless children);

(b) Children who are wards of the state;

(c) Indian preschool children who reside on reservations;

(d) Children who are suspected of having a disability even though they are advancing from grade to grade;

(e) Children enrolled in public charter schools;

(f) Children who are home schooled;

(g) Children below the age of compulsory school attendance who are not enrolled in a public or private school program; and

(h) Children above the age of compulsory school attendance who have not graduated with a regular high school diploma.

(3) For purposes of this rule, residency is determined in accordance with ORS chapter 339, except for children enrolled in charter schools. Residency for children enrolled in charter schools is determined in accordance with ORS chapter 338. The district in which the charter school is located is responsible for child find for students enrolled in the charter school regardless of parental resident district.

(4) The district in which the private school is located is responsible for conducting child find activities for all children enrolled in the private school, in accordance with OAR 581-015-2085, regardless of parental resident district.

(5) The lead agency as defined in OAR 581-015-2700(20) and its contractors provides a public awareness program that:

(a) Prepares and disseminates information on the availability of early intervention and other services, as described in paragraph (b) of this section, to all primary referral sources (especially hospitals and physicians). The information is to be given to:

(A) Parents with infants and toddlers;

(B) Parents with premature infants;

(C) Parents with infants that have physical risk factors associated with learning or developmental complications; and

(D) Parents of toddlers with disabilities, regarding services available to them on their child's third birthday, no fewer than 90 days prior to the toddler's third birthday.

(b) Has procedures for assisting primary referral sources to disseminate information on the availability of early intervention services to parents of infants or toddlers with disabilities. This information includes:

(A) A description of the availability of early intervention services;

(B) A description of the child find system and how to refer a child under age three for an evaluation or early intervention services; and

(C) A central directory as defined in OAR 581-015-2713.

(6) The lead agency must coordinate child find efforts with all other major State efforts to locate and identify children by other State agencies relevant to early childhood or educational or developmental needs.

Stat. Auth.: ORS 343.041, 343.045, 343.157

Stats. Implemented: ORS 343.045, 343.157, 34 CFR 300.111, 34 CFR 303.302, 34 CFR 301 Hist.: IEB 269, f. & ef. 12-22-77; IEB 14-1983, f. 11-23-83, ef. 11-25-83; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0037, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2700

Definitions – EI/ECSE Program

For the purposes of OAR 581-015-2700 to 581-015-2910, the definitions in this rule and 581-015-2000 apply.

(1) "Assessment" means the ongoing procedures used by appropriate qualified personnel to identify the child's unique strengths and needs throughout the period of the child's eligibility. For EI this includes, the initial assessment of the child and family prior to the first IFSP meeting.

(2) "Communication" means receptive or expressive language development.

(3) "Contractor" means the agency designated by the Department to administer the provision of EI and ECSE within selected service areas.

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(4) "Department" means the Oregon Department of Education.

(5) "Designated referral and evaluation agency" means the agency in each county designated to be the referral point for parents and others who suspect that a child may need early intervention or early childhood special education, and to be responsible for assuring that all referred children suspected of having a disability receive evaluation for potential eligibility for early intervention and early childhood special education.

(6) "Early childhood special education (ECSE)" means free, specially designed instruction to meet the unique needs of a preschool child with a disability, three years of age until the age of eligibility for public school, including instruction in physical education, speech-language services, travel training, and orientation and mobility services. Instruction is provided in any of the following settings: home, hospitals, institutions, special schools, classrooms and community childcare or preschool settings, or both.

(7) "Early intervention and early childhood special education assistants" means individuals who implement program activities under the direct supervision of the professional personnel.

(8) "Early intervention and early childhood special education specialists" means professionals who implement or coordinate the implementation of individualized family service plans.

(9) "Early intervention (EI)" means services for preschool children with disabilities from birth until three years of age, including Indian children and children who are homeless and their families, these services are:

(a) Based on scientifically-based research, as defined in OAR 581-015-2000, to the extent practicable;

(b) Designed to meet the child's developmental needs and the needs of the family related to enhancing the child's development as identified by the IFSP team, in any one or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development;

(c) Selected in collaboration with the parents;

(d) Provided:

(A) Under public supervision;

(B) By personnel qualified in accordance with criteria established by rules of the State Board of Education; and

(C) In conformity with an individualized family service plan;

(e) At no cost to parents;

(f) Meet all applicable state requirements; and

(g) Include the following types of intervention services (defined in 303.13(1): family training, counseling, in-home visits; special instruction; speech-language pathology and audiology services, and sign language and cued language services; occupational therapy; physical therapy; psychological services; service coordination; medical services only for diagnostic or evaluation purposes; early identification, screening, and assessment services; health services necessary to enable the child to benefit from other early intervention services; nursing services, nutrition services, social work services; vision services; assistive technology devices and services; and transportation and related costs that are necessary to enable a child and the child's family to receive another early intervention service.

(10) "Educational records" means those records that are:

(a) Directly related to a student; and

(b) Maintained by a primary contractor or subcontractor.

(11) "Evaluation" means the procedures used by qualified personnel to determine;

(a) A child's initial eligibility for EI or ECSE services;

(b) A child's continuing eligibility for EI or ECSE services; and

(12) "Health Services" means services necessary to enable an otherwise eligible child to benefit from the other early intervention services under this part during the time that the child is eligible to receive early intervention services.

(a) The term includes:

(A) Such services as clean intermittent catheterization, tracheotomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(B) Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

(b) the term does not include services that are:

(A) Surgical in nature;

(B) Purely medical in nature; or

(C) Related to the implementation, optimization, maintenance, or placement of a medical device that is surgically implanted.

(i) Nothing in this part limits the right of an infant or toddler with a disability with a surgically implanted device (cochlear implant) to receive

the early intervention services that are identified in the child's IFSP as being needed to meet the child's IFSP and developmental outcomes.

(ii) Nothing in this part prevents the EI provider from routinely checking that either the hearing aid or the external components of a surgically implanted device of an infant or toddler with a disability are functioning properly;

(D) Devices necessary to control or treat a medical condition; and

(E) Medical-Health services (such as immunizations and regular "well baby" care) that are routinely recommended for all children.

(13) "IFSP Content" means the definition as stated in OAR 581-015-2815 which includes:

(a) "Frequency" which means the number of days or sessions that a service is provided;

(b) "Duration" which means projecting when a given service will no longer be provided (such as when the child is expected to achieve the outcomes in his or her IFSP);

(c) "Intensity" which means whether a service will be provided on an individual basis;

(d) "Method" which means how a service is provided; and

(e) "Location" which means the actual place or places where a service will be provided.

(14) "Independent educational evaluation (IEE)" means an evaluation conducted by a qualified examiner who is not employed by the Department, the contractor, or subcontractor responsible for the child in question.

(15) "Indian" means an individual who is a member of an Indian tribe. "Indian Tribe" means any federal or state Indian tribe, band, rancheria, pueblo, colony, or community, including any native village or regional village corporation.

(16) "Individualized family service plan (IFSP)" means a written plan of early childhood special education, related services, early intervention services, and other services developed in accordance with criteria established by the State Board of Education for each child eligible for services under this chapter.

(17) "Informed clinical opinion" means the acquisition and interpretation of multiple sources of information as part of the evaluation and assessment process. This includes evaluation and assessment results, observation reports, previous testing results, medical data, parent reports, and other evaluative information. A review of this information is used in forming a determination regarding current developmental status and the need for EI.

(a) Informed clinical opinion may be used as an independent basis to establish a child's eligibility under this section even when other instruments do not establish eligibility.

(b) In no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

(18) "Initial Assessment" means the assessment of a child and the family assessment that is conducted prior to the child's first IFSP meeting.

(19) "Instruction" means providing families with information and skills that support the achievement of the goals and outcomes in the child's IFSP and working with preschool children with disabilities in one or more of the following developmental areas: communication development, social or emotional development, physical development, including vision and hearing, adaptive development, and cognitive development.

(20) "Lead Agency" means the agency designated by the Governor under Section 635(a)(10) of IDEA and § 303.120 that receives funds under Section 643 of the Act to administer the responsibilities under Part C of the Act.

(21) "Local Education Agency" or LEA means:

(a) A public board of education or other public authority legally constituted within a state for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, or other political subdivision of the state, or for a combination of school districts or counties as are recognized in a state as an administrative agency for its public elementary schools or secondary schools.

(b) Educational service agencies and other public institutions or agencies. This includes the following:

(A) A regional public multiservice agency-

(i) Authorized by State law to develop, manage, and provide services or programs to LEAs; and

(ii) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State.

(B) Any public institution or agency having administrative control and direction of a public elementary school or secondary school, including public charter school, that is established as an LEA under State law.

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(C) Entities that meet the definition of intermediate educational unit or IEU in section 602(23) of IDEA, as in effect prior to June 4, 1997.

(c) BIE funded schools which are funded by the Bureau of Indian Education and not subject to the jurisdiction of the SEA other than the Bureau of Indian Education, but only to the extent that the inclusion makes the school eligible for programs which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.

(22) "Monitoring" means activities carried out by the Department and its contractors which measure the subcontractor's compliance with state and federal mandates for the provision of EI and ECSE.

(23) "Multidisciplinary" means the involvement of two or more separate disciplines or professions with respect to-

(a) evaluation of the child and assessments of the child and family, this may include one individual who is qualified in more than one discipline or profession; and

(b) for the IFSP Team this means the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator.

(24) "Natural environment" means settings that are natural or normal for the child's age peers who have no disability.

(25) "Other services" means those services that may be provided to preschool children with disabilities and to their families that are not EI or ECSE services and are not paid for with EI or ECSE funds.

(26) "Parent" means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child;

(C) A legal guardian, generally authorized to act as the child's parent, or authorized to make EI, educational health or developmental decisions for the child (but not the State if the child is a ward of the State);

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make EI or educational decisions for the child.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational or EI decisions on behalf of a child, then that person will be the parent for special education purposes, except that if an EI provider or a public agency provides any services to a child or any family member of that child, that EI provider or public agency may not act as the parent for that child.

(27) "Parent Training and Information Center" means a center assisted under section 671 or 672 of IDEA.

(28) "Periodic review" means a review of the IFSP for a child and the child's family. An EI or ECSE program or parent may request a review of the IFSP.

(29) "Personally Identifiable Information" means information as identified in the Family Educational Rights and Privacy Act (FERPA) found at 34 CFR 99.3 and OAR 581-015-2000(23), except any reference to a "student" means a "child" in this part and any reference to a "school" means an EI provider as used in this part.

(30) "Physical development" means gross or fine motor development.

(31) "Preschool child with disabilities" means all children from:

(a) Birth until three years of age, including infants and toddlers who are eligible for EI services under OAR 581-015-2780(3); or

(b) Three years of age to eligibility for public school who are eligible for ECSE services under OAR 581-015-2795.

(32) "Professional Development Plan" means a written document specifying the name of the employee, the position, current qualifications, current deficits, an accounting of steps to be taken to rectify deficits including timelines, persons responsible, and the final date by which the plan will be complete.

(33) "Public agency" or "public agencies" means the lead agency and any other agency or political subdivision of the state.

(34) "Qualified Personnel" means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.

(35) "Related services" includes transportation and such developmental, corrective, and other supportive services, including orientation and mobility services, speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, school health services and school nurse services, counseling, social work services, parent counseling and training, and medical services, as may be required to assist a child with disabilities, three years of age until the age of eligibility for public school, to benefit from special education or early childhood special education and includes early identification and assessment of disabling conditions. Medical services shall be for diagnostic and evaluation purposes only. This definition incorporates the exception for services for children with surgically implanted devices, including cochlear implants, in 34 CFR 300.34(b) and the definitions for individual related services in 34 CFR 300.34(c).

(36) "Related services personnel" means professionals who consult, supervise, train staff, design curriculum, or implement related services.

(37) "Service coordination" means the activities carried out by a service coordinator to assist and enable an eligible child and the child's family to receive the rights, procedural safeguards and services that are authorized under the state's EI program and to coordinate access to other services designated on the IFSP.

(38) "Sign Language and cued language services" include teaching sign language, cued language, and auditory/oral language, providing oral translation services (such as amplification), and providing sign and cued language interpretation.

(39) "State Education Agency" or SEA means the State Board of Education or other agency or officer primarily responsible for State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law and the term includes the agency that receives funds under IDEA to administer the State's responsibilities under part B of the Act.

(40) "State Interagency Coordinating Council" (SICC) means a council appointed by the Governor for IDEA Part C purposes in compliance with 34 CFR 303.600-303.605.

(41) "Subcontractor" means the agency or agencies selected by the contractor to provide services for EI and ECSE.

(42) "Supervision" means the activities carried out by the Department and its primary contractors to oversee the provision of EI and ECSE services.

(43) "Supervisor" means a professional who supervise and train staff, design curriculum, and administer EI or ECSE programs.

(44) The following words are defined in OAR 581-015-2000:

(a) "Assistive technology device";

(b) "Assistive technology service";

(c) "Children with disabilities";

(d) "Autism";

(e) "Communication disorder";

(f) "Deafblindness";

(g) "Emotional disturbance";

(h) "Hearing impairment";

(i) "Intellectual disability";

(j) "Orthopedic impairment";

(k) "Other health impairment";

(l) "Specific learning disability";

(m) "Traumatic brain injury";

(n) "Visual impairment";

(o) "Consent";

(p) "Day";

(q) "Department";

(r) "General curriculum";

(s) "Health assessment statement";

(t) "Identification";

(u) "Individualized education program (IEP)";

(v) "Mediation";

(w) "Medical statement";

(x) "Native language";

(y) Participating agency";

(z) "Personally identifiable information";

(aa) "Placement";

(bb) "Private school";

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- (cc) "School district";
- (dd) "Short term objectives";
- (ee) "Special education";
- (ff) "Specially designed instruction";
- (gg) "Supplementary aids and services";
- (hh) "Superintendent";
- (ii) "Surrogate parent";
- (jj) "Ward of the state"; and
- (kk) "Scientifically Based Research"

Stat. Auth.: ORS 343.475
Stats. Implemented: ORS 343.475, 34 CFR 300.5 - 300.45, 34 CFR 99.3, 34 CFR 303.4-303.37, 34 CFR 303.600-303.605
Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0900, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2712

Availability of Early Intervention Services

Appropriate early intervention services are offered to eligible children as soon as possible consistent with scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including-

- (1) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and
- (2) Infants and toddlers with disabilities who are homeless and their families.

Stat. Auth.: ORS 343.475, 326.051
Stats. Implemented: ORS 343.475
Hist.: ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2713

Central Directory

The EI system shall include a central directory that is accessible to the general public (i.e. through the lead agency's website and other appropriate means) which includes accurate, up-to-date information about-

- (1) Public and private early intervention services, resources, and experts available in the State;
- (2) Professional and other groups (including parent support, and training and information centers that provide assistance to infants and toddlers with disabilities eligible for EI services and their families); and
- (3) Research and demonstration projects being conducted in the State relating to infants and toddlers with disabilities.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 343.475, 34 CFR 303.117
Hist.: ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2730

Parent Consent for EI

(1) The public agency must obtain written parental consent before conducting an initial evaluation or reevaluation.

(2) Written parental consent must also be obtained before the provision of EI services described in the IFSP. The parents of a child eligible for EI services must determine whether they, their child, or other family members will accept or decline any EI services, and may decline such a service after first accepting it, without jeopardizing other EI services. If the parents do not provide consent for a particular EI service or withdraw consent after first providing it, that service will not be provided. The EI services for which parental consent is obtained will be provided.

(3) If consent is not given, the public agency must make reasonable efforts to ensure that the parent:

- (a) Is fully aware of the nature of the evaluation and assessment or the services that would be available; and
- (b) Understands that the child will not receive the evaluation and assessment or services unless consent is given.

Stat. Auth.: ORS 343.475, 343.531
Stats. Implemented: ORS 343.475, 343.531, 34 CFR 303.420 (c)
Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0938, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2774

Referral Procedures

Children must be referred to the lead agency for Child Find purposes as soon as possible, but in no case more than seven days after the child has been identified.

(1) This applies to all referrals including infants and toddlers under the age of three who are the subjects of a substantiated case of child abuse or neglect, or who are identified as directly affected by illegal drug abuse or withdrawal symptoms from prenatal drug exposure.

(2) Primary referral sources may include: hospitals including prenatal facilities, physicians, parents, child care programs, LEAs and schools, public health facilities, other public health or social service agencies, other clinics or health care providers, public agencies and staff in the child welfare system, homeless family shelters, and domestic violence shelters and agencies.

Stat. Auth.: ORS 326.051, 343.475
Stats. Implemented: 34 CFR 303.303
Hist.: ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2775

EI Evaluation

(1) General.

(a) A public agency must conduct an evaluation or reevaluation process in accordance with this rule before determining that a child qualifies for early intervention (EI) services, changing the child's eligibility, or terminating the child's eligibility under OAR 581-015-2780.

(b) EI evaluations and reevaluations must be conducted in accordance with OAR 581-015-2790(8) and (9)(b)-(f).

(2) Request for initial evaluation. Consistent with the consent requirements in OAR 581-015-2730:

(a) A parent or public agency may initiate a request for an initial evaluation to determine if a child qualifies for EI services.

(b) A public agency must refer a child as soon as possible, but in no case more than seven days after the child has been identified.

(3) When initial evaluation must be conducted. An initial evaluation must be conducted to determine if a child is eligible for EI services when a public agency suspects or has reason to suspect that the child has a disability, developmental delay, or condition likely to result in developmental delay.

(4) Evaluation planning. Before conducting any evaluation or reevaluation, the public agency must conduct evaluation planning in accordance with OAR 581-015-2115.

(5) Notice and consent.

(a) Before conducting any evaluation or reevaluation, the public agency must provide notice to the parent in accordance with OAR 581-015-2745 that describes any evaluation procedures the agency proposes to conduct as a result of the evaluation planning process.

(b) Before conducting any evaluation or reevaluation, the public agency must obtain written consent for evaluation in accordance with OAR 581-015-2730 and 581-015-2740.

(c) If the public agency refuses an evaluation or reevaluation requested by the parent, the public agency must provide the parent with prior written notice under OAR 581-015-2745.

(d) Parents may challenge the public agency's refusal to conduct an evaluation or reevaluation under OAR 581-015-2870.

(6) EI Evaluation requirements: An EI evaluation or reevaluation must:

(a) Be conducted by a multidisciplinary team representing two or more separate disciplines or professions, including persons who are knowledgeable about the child;

(b) Assess the child's level of functioning in all the following areas: cognitive development, physical development including vision and hearing, communication development, social or emotional development, and adaptive development;

(c) Be based on informed clinical opinion;

(d) Be completed in time to conduct the initial IFSP meeting within 45 calendar days from the date of referral, except when the parent has not provided consent for the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the lead agency or EI provider to obtain parental consent.

(A) These exceptional circumstances must be documented in the child's early intervention records and note the extenuating family circumstances or the lead agency or EI providers attempts to obtain consent;

(B) The initial evaluation, assessment, or initial IFSP meeting must be completed as soon as possible after the documented circumstances described no longer exist or consent is obtained;

(C) An interim IFSP should be developed and implemented to the extent appropriate; and

(e) Include:

(A) For a child suspected of having autism spectrum disorder, deaf-blindness, hearing impairment, orthopedic impairment, traumatic brain injury, or visual impairment, the evaluation requirements in OAR 581-015-2130 through 581-015-2180 for the respective disability; or

(B) A diagnosis of a physical or mental condition as described under in OAR 581-015-2780(3)(b); or

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- (C) An evaluation for determining a developmental delay as follows:
- (i) At least one norm-referenced, standardized test addressing the child's level of functioning in each of the following developmental areas: cognitive; physical (including vision and hearing); communication; social or emotional; and adaptive;
 - (ii) At least one additional procedure to confirm the child's level of functioning in each area of suspected delay listed in subsection (6)(e)(C)(i) of this rule;
 - (iii) At least one 20-minute observation of the child;
 - (iv) A review of previous testing, medical data and parent reports; and
 - (v) Other evaluative information as necessary to determine eligibility.
- (f) All evaluations and assessments of a child must be conducted in the native language of the child, unless it is clearly not feasible to do so.
- (7) **Reevaluation.** A public agency must conduct a reevaluation of a child receiving early intervention services in accordance with OAR 581-015-2105 if the public agency determines that the EI needs of the child warrant a reevaluation, or, subject to subsection (5), if the child's parent or EI specialist requests a reevaluation.

Stat. Auth.: ORS 343.475
Stats. Implemented: ORS 343.475, 34 CFR 303.24, 34 CFR 303.310
Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0945, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2780 EI Eligibility

- (1) Upon completing the administration of tests and other evaluation materials, the designated referral and evaluation agency must determine, through a multidisciplinary team, whether a child is eligible for EI services by following the procedures in this rule.
- (2) The multidisciplinary team must include the parents, in accordance with OAR 581-015-2750, and individuals from two or more separate disciplines or professions, including persons who are knowledgeable about the child.
- (3) To be eligible for EI services, the child must meet the minimum criteria for subsection (a), (b) or (c), below:
- (a) **Categorical:**
 - (A) The child meets the minimum criteria for one of the following disability categories in OAR 581-015-2130 through 581-015-2180: autism spectrum disorder, deafblindness, hearing impairment, orthopedic impairment, traumatic brain injury or visual impairment.
 - (B) If the child meets the disability criteria for a categorical eligibility in subsection (A), the child's disability does not need to be presently adversely affecting the child's development for the child to be eligible for EI services.
 - (b) **Medical:** The child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, as documented by one of the following with the appropriate State Board licensure: a physician, a physician assistant, or a nurse practitioner.
 - (c) **Developmental delay:** The child experiences a developmental delay and as a result needs EI services. Developmental delay means two standard deviations or more below the mean in one or more of the following developmental areas, or 1.5 standard deviations below the mean in two or more of the developmental areas:
 - (A) Cognitive development;
 - (B) Physical development;
 - (C) Communication development;
 - (D) Social or emotional development;
 - (E) Adaptive development.
- (4) The multidisciplinary team must prepare an evaluation report and a written statement of eligibility.
- (a) The evaluation report(s) must describe and explain the results of the evaluation conducted.
 - (b) The written statement of eligibility must include:
 - (A) A list of the evaluation data considered in determining the child's eligibility;
 - (B) A determination of whether the child meets the minimum criteria for EI as described in (3) of this part; and
 - (C) The signature of each member of the team signifying his or her concurrence or dissent.
 - (5) For a child who may have disabilities in more than one category, the team need only qualify the child for EI services under one disability category, however:
 - (a) The child must be evaluated in all areas of development and areas of suspected disability; and
 - (b) The child's IFSP must address all of the child's early intervention needs.

- (6) The multidisciplinary team must give the parents a copy of the eligibility statement and evaluation report.
- (7) The contractor or subcontractor must notify the child's resident district upon determination of eligibility for EI services.

(8) A child found eligible under this rule is eligible for regional services if the child meets the criteria under OAR 581-015-2550 for vision impairment, hearing impairment, autism spectrum disorder, severe orthopedic impairment or traumatic brain injury.

Stat. Auth.: ORS 343.513
Stats. Implemented: ORS 343.513, 34 CFR 303.24
Hist.: EB 4-1995, f. & cert. ef. 1-24-95; EB 27-1995, f. & cert. ef. 12-11-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0946, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2790 ECSE Evaluation

- (1) **General.** A public agency must conduct an evaluation or reevaluation process in accordance with this rule before:
- (a) Determining that a child is a child with a disability under OAR 581-015-2795; or
 - (b) Determining that a child continues to have a disability under OAR 581-015-2795; or
 - (c) Changing the child's eligibility; or
 - (d) Terminating the child's eligibility as a child with a disability.
- (2) **Request for initial evaluation.** Consistent with the consent requirements in OAR 581-015-2735, a parent or public agency may initiate a request for an initial evaluation to determine if a child qualifies for ECSE services.
- (3) **When initial evaluation must be conducted.**
- (a) An initial evaluation must be conducted to determine if a child is eligible for ECSE services when a public agency suspects or has reason to suspect that:
 - (A) The child has a disability that has an adverse impact on the child's education or development; and
 - (B) The child may need ECSE services as a result of the disability.
 - (b) The public agency must designate a team to determine whether an initial evaluation will be conducted.
 - (A) The team must include the parent and at least two professionals, at least one of whom is a specialist knowledgeable and experienced in the evaluation and education of children with disabilities.
 - (B) The team may make this decision without a meeting. If a meeting is held, parents must be invited to participate in accordance with OAR 581-015-2750.
 - (c) **Evaluation planning.** Before conducting any evaluation or reevaluation, the public agency must conduct evaluation planning in accordance with OAR 581-015-2115.
 - (d) **Notice and consent.**
 - (a) Before conducting any evaluation or reevaluation, the public agency must provide notice to the parent in accordance with OAR 581-015-2745 that describes any evaluation procedures the agency proposes to conduct as a result of the evaluation planning process.
 - (b) Before conducting any evaluation or reevaluation, the public agency must obtain written consent for evaluation in accordance with OAR 581-015-2735 and 581-015-2740.
 - (c) If the public agency refuses an evaluation or reevaluation requested by the parent, the public agency must provide the parent with prior written notice under OAR 581-015-2745.
 - (d) Parents may challenge the public agency's refusal to conduct an evaluation or reevaluation under OAR 581-015-2870.
 - (e) **ECSE evaluation requirements:** For a child suspected of being eligible for ECSE services, the following evaluation must be conducted:
 - (a) For a child suspected of having any of the following disabilities, an evaluation in all areas of the suspected disability following OAR 581-015-2130 through 581-015-2180, respectively:
 - (A) Autism spectrum disorder;
 - (B) Communication disorder;
 - (C) Deafblindness;
 - (D) Emotional disturbance;
 - (E) Hearing impairment;
 - (F) Intellectual Disability;
 - (G) Orthopedic impairment;
 - (H) Other health impaired;
 - (I) Specific learning disability;
 - (J) Traumatic brain injury;
 - (K) Visual impairment; or

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(b) For a child suspected of having a developmental delay, an evaluation that includes:

(A) At least one norm referenced, standardized test in each area of suspected delay;

(B) At least one additional procedure to confirm the child's level of functioning in each area of suspected delay;

(C) At least one 20-minute observation of the child;

(D) Review of previous testing, medical data, and parent reports; and

(E) Other evaluative information as necessary to determine eligibility.

(7) Reevaluation.

(a) Public agencies must ensure that a reevaluation of each child with a disability is conducted in accordance with OAR 581-015-2115, subject to subsection (5) and (7)(b) in this rule:

(A) If the public agency determines that the ECSE needs of the child warrant a reevaluation; or

(B) If the child's parent or ECSE specialist requests a reevaluation.

(b) A reevaluation for each child with a disability:

(A) May occur not more than once a year, unless the parent and public agency agree otherwise; and

(B) Must occur at least every three years, unless the parent and public agency agree that a reevaluation is unnecessary.

(8) Conduct of evaluation. In conducting the evaluation, the public agency must:

(a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining:

(A) Whether the child is eligible for EI/ECSE services; and

(B) The content of the child's IFSP, including information related to enabling the child to be involved in and progress in appropriate activities;

(b) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(9) Other evaluation procedures. Each public agency must ensure that:

(a) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(b) Assessments and other evaluation materials used to assess a child under this part:

(A) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(B) Are provided and administered in the child's native language or other mode of communication as determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment, and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;

(C) Are used for the purposes for which the assessments or measures are valid and reliable;

(D) Are administered by trained and knowledgeable personnel; and

(E) Are administered in accordance with any instructions provided by the producer of the assessments.

(c) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(d) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(e) The evaluation is sufficiently comprehensive to identify all of the child's EI/ECSE and related services needs, whether or not commonly linked to the disability category in which the child has been classified; and

(f) The evaluation includes assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

(10) Evaluation timelines:

(a) Initial. An initial evaluation must be completed within 60 school days from written parent consent to the date of the meeting to consider eligibility.

(b) Reevaluation. A reevaluation must be completed within 60 school days from written parent consent (or from the date the evaluation is initiated under OAR 581-015-2740(3)) to the date of the meeting to consider eligibility, continuing eligibility or the student's educational needs.

(c) Exceptions. An evaluation may be completed in more than 60 school days under the following circumstances documented in the child's educational record:

(A) The parents of a child repeatedly fail or refuse to produce the child for an evaluation, or for other circumstances outside the school district's control;

(B) The student is a transfer student in the process of reevaluation and the public agency and the parents agree to a different length of time to complete the evaluation in accordance with subsection (d); or

(C) The public agency and parent agree to extend the timeline for an evaluation to determine eligibility for specific learning disabilities in accordance with OAR 581-015-2170.

(d) Transfer students.

(A) When a child with disabilities transfers from one EI/ECSE program to another EI/ECSE program in the same school year, the previous and current EI/ECSE programs must coordinate any pending assessments as necessary and as expeditiously as possible to ensure prompt completion of the evaluation.

(B) The exception under subsection (10)(c) only applies if the current EI/ECSE program is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current EI/ECSE program agree to a specific time for completion of the evaluation.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 34 CFR 303.25, 34 CFR 303.321(a)(5)

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0941, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2805

EI and ECSE Transition

(1) The lead agency will describe in a written document how it will meet the transition requirements set forth in 34 CFR 303.29.

(2) Transition from EI to ECSE or other services:

(a) Before a child reaches the age of eligibility for ECSE, the school district must obtain parental consent for initial evaluation under OAR 581-015-2735 and conduct an initial evaluation under OAR 581-015-2790.

(b) With the approval of the child's family and in accordance with OAR 581-015-2810, a transition meeting to establish a transition plan must be held at least 90 calendar days, and at the discretion of the parties, up to nine months before the child's third birthday and must include:

(A) Discussions with and training of parents regarding future services, placements and other matters related to the child's transition;

(B) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting or, if appropriate, steps to exit from the program;

(C) A review of the child's program options for the period from the child's third birthday through the remainder of the school year; and

(D) With parental consent, the transmission of information about the child to the ECSE subcontractor or other service provider, if different than the child's EI subcontractor including:

(i) Evaluation and assessment information; and

(ii) Copies of IFSPs that have been developed and implemented.

(c) For children eligible for ECSE services under OAR 581-015-2795, contractors or subcontractors must initiate and conduct an IFSP meeting on or before the child's third birthday to:

(A) Review and revise the IFSP;

(B) Determine placement; and

(C) Obtain parent consent for initial placement in special education.

This is the initial consent for placement in special education for school-age students.

(3) Transition from ECSE to School-age Special Education Services:
(a) Before a child reaches the age of eligibility for public school, the district must:

(A) For children previously eligible with a developmental delay and suspected of having a disability under OAR 581-015-2130 through 581-015-2180, conduct an evaluation and determine eligibility for school age special education services; or

(B) For children previously eligible in a disability category under OAR 581-015-2130 through 581-015-2180, continue the child's eligibility

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for school age special education services. The school district may conduct a reevaluation and reconsider eligibility for special education services.

(b) The school district and contractor or subcontractor must hold a meeting during the year before the child is eligible to enter public school:

(A) To determine steps to support the child's transition from ECSE to public schooling or other educational setting; and

(B) For a child eligible for school age special education services, to develop an IEP that is in effect at the beginning of the school year.

Stat. Auth.: ORS 343.473, 343.521

Stats. Implemented: ORS 343.521, 34 CFR 300.124, 34 CFR 303.209

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; Administrative Correction 12-1-97; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0960, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2810

IFSP Meeting Procedures and Timelines

(1) Contractors or subcontractors must conduct a meeting to develop an initial IFSP within:

(a) Forty-five calendar days from the date the child is referred to and determined eligible for EI services; and

(b) Thirty calendar days from the date the child is determined eligible for ECSE services.

(2) Contractors or subcontractors must initiate and conduct a meeting to review and revise the IFSP every 365 days to:

(a) Determine whether the annual goals for the child are being achieved; and

(b) Revise the IFSP as appropriate to address:

(A) Any lack of expected progress toward the annual goals and appropriate activities;

(B) The results of any reevaluation;

(C) Existing information about the child provided to, or by, the parents;

(D) The child's anticipated needs; or

(E) Other matters.

(3) For a child under age three:

(a) Contractors or subcontractors must initiate and conduct a review of the IFSP, with the participation of the child's parents consistent with OAR 581-015-2750 and 581-015-2755, every six months or more frequently if conditions warrant or if the family requests such a review.

(b) The purpose of this review is to determine:

(A) The degree to which progress on major outcomes or annual goals is being made; and

(B) Whether revision of major outcomes or goals or services is needed.

(c) This review may be carried out by a meeting or by another means that is acceptable to the parents and other participants. However, if IFSP revisions are necessary, an IFSP meeting must be conducted.

(4) Contractors or subcontractors must initiate and conduct, with the approval of the child's family, an IFSP meeting to plan the child's transition to ECSE services or other preschool services at least 90 calendar days, and at the discretion of the parties, up to nine months, before the child's third birthday and the lead agency or its contractors must notify the LEA and SEA for the area in which the toddler resides that the toddler on his third birthday will reach the age of eligibility for services under Part B of the Act as determined in accordance with State law.

(5) For children eligible for ECSE services under OAR 581-015-2795, contractors or subcontractors must initiate and conduct an IFSP meeting on or before the child's third birthday in accordance with OAR 581-015-2805.

(6) Contractors or subcontractors must conduct an IFSP meeting if they believe that a change in the IFSP may be necessary to ensure the provision of appropriate EI services for a child under age three or a free appropriate public education to a child over age three.

(7) A parent may request a meeting at any time to review or revise the IFSP.

(8) In response to a parent request for IFSP meeting, the contractor or subcontractor must hold an IFSP meeting within a reasonable time.

Stat. Auth.: ORS 343.475, 343.521

Stats. Implemented: ORS 343.475, 343.521, 34 CFR 300.101

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 15-2003, f. & cert. ef. 8-14-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0968, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2815

IFSP Content

(1) Contractors or subcontractors must use IFSP forms and directions published by the Oregon Department of Education.

(2) Oregon Department of Education IFSP forms combine the content requirements for IEPs under Part B of IDEA, IFSPs under Part C of IDEA, and IFSPs under ORS 343.521.

(3) Each individualized family service plan must contain:

(a) A statement of the child's present level of development, including how the child's disability affects the child's participation in appropriate activities for the child's age. For a child under age three, the statement must include present levels of physical development including vision, hearing and health status, cognitive development, communication development, social development and adaptive development. The statement must be based on information from assessments using professionally acceptable objective criteria.

(b) A statement of major outcomes or annual goals and short-term objectives expected to be achieved for the child and family related to:

(A) Meeting the child's needs that result from the child's disability to enable the child to participate in appropriate activities;

(B) Meeting each of the child's other developmental needs that result from the child's disability.

(c) For a child under age three, a statement of the specific early intervention services, based on scientifically based research to the extent practicable, to be provided for the child and to the family to advance toward attaining the major outcomes or annual goals (including pre-literacy, language, and numeracy skills, as developmentally appropriate for the child).

(d) For a child age three and older, the IFSP contains IEP content including, a statement of ECSE and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for personnel that will be provided for the child:

(A) To advance appropriately toward attaining the annual goals;

(B) To participate in appropriate activities and to participate in extracurricular and other nonacademic activities; and

(C) To be educated and participate with other children with disabilities and children without disabilities.

(e) For a child under age three, with concurrence of the family, a statement of the family's resources, priorities, concerns and goals related to enhancing the development of the child, based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment.

(f) The projected dates for initiation of services and modifications and the anticipated frequency, location, intensity, method and duration of the services as defined in OAR 581-015-2700 and modifications described in subsection (3)(d) of this rule and the payment arrangements, if any.

(g) The name of the service coordinator from the profession, including service coordination, most immediately relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable EI/ECSE responsibilities) responsible for coordinating the involvement of the family and agencies in implementing early intervention and other services, including transition services. The contractor or subcontractor may:

(A) Assign the same service coordinator who was appointed at the time that the child was initially referred for evaluation; or

(B) Appoint a new service coordinator.

(h) For a child under age three:

(A) To the maximum extent appropriate, the natural environments in which early intervention services will be provided; and

(B) A justification of the extent, if any, to which services will not be provided in a natural environment.

(i) For a child age three and older, an explanation of the extent, if any, to which the child will not participate with children without disabilities in the regular class and activities described in subsection (3)(d) of this rule.

(j) A statement of:

(A) How the progress toward major outcomes or annual goals will be measured, including the criteria, procedures and timelines used to determine:

(i) The degree to which progress toward achieving the outcomes or goals is being made; and

(ii) Whether revisions of the outcomes or goals or services are necessary.

(B) For a child age three and older, how the child's parents will be regularly informed of:

(i) Their child's progress toward major outcomes or annual goals; and
(ii) The extent to which that progress is sufficient to enable the child to achieve the outcomes or goals by the annual IFSP review date.

(k) The steps to be taken and services provided to support the transition of the child from early intervention services to early childhood special

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education or other appropriate services, in accordance with OAR 581-015-2805, 581-015-2750, and 581-015-2810.

(l) The steps to be taken to support the transition of the child from early childhood special education to public schooling or other education setting, in accordance with OAR 581-015-2805, 581-015-2750, and 581-015-2810.

(m) A statement of other services, such as medical services, that the child may need but are not early intervention or early childhood special education services including the funding sources used in paying for those services or the steps to be taken to secure those services through public or private sources. This provision does not apply to routine medical services (e.g., immunizations, and “well-baby” care) unless a child needs those services and the services are not otherwise available or being provided.

Stat. Auth.: ORS 343.475 & 343.521

Stats. Implemented: ORS 343.521

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0970, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2825

Participants for IFSP Team Meetings and Reviews

(1) Each initial and annual IFSP meeting must include the following participants:

(a) The child’s parent or parents;

(b) The child’s EI or ECSE specialist and, as appropriate, persons who will be providing services to the child or family; for EI, this must include two or more individuals from separate disciplines or professions, and one of these individuals must be the service coordinator.

(c) A representative of the contractor or subcontractor who may be another member of the team and who is:

(A) Qualified to provide or supervise the provision of EI or ECSE services to meet the unique needs of children with disabilities;

(B) Knowledgeable of typical child development and appropriate activities for infants and young children; and

(C) Knowledgeable about the availability of resources.

(d) For a child eligible for EI services, the service coordinator who is responsible for implementation of the IFSP and may be the child’s EI specialist;

(e) For a child who is eligible for ECSE services, the child’s preschool teacher if the child is or may be participating in a regular preschool;

(f) Family members and/or advocates as requested by the parents;

(g) Other individuals, including related services personnel as appropriate, invited by the parent, primary contractor, or subcontractor who have knowledge or special expertise regarding the child;

(h) An individual, who may be another member of the team who:

(A) Was involved in conducting the evaluation of the child;

(B) Is knowledgeable about the child’s disability; and

(C) Can interpret the developmental or instructional implications of the evaluation; and

(i) A representative of the school district in which the child resides during the year before the child enters school.

(2) The regular preschool teacher must participate, to the extent appropriate, in the development, review and revision of the child’s IFSP, including assisting in the determination of:

(a) Necessary modifications to appropriate preschool activities in the classroom and participation in the preschool environment;

(b) Supplementary aids and services, program modifications or supports for preschool personnel that will be provided for the child; and

(c) Appropriate positive behavioral interventions and strategies for the child.

(3) For a child birth to three the IFSP team must be multidisciplinary as defined in OAR 581-015-2700.

(4) IFSP team attendance for children age 3 and older:

(a) A member of the IFSP team described in subsection (1)(b) through (1)(e) is not required to attend an IFSP meeting, in whole or in part, if the parent of a child with a disability and the contractor or subcontractor agree in writing that the attendance of the member is not necessary because the member’s area of the curriculum or related services is not being modified or discussed at the meeting.

(b) A member of the IFSP team described in subsection (1)(b) through (1)(e) may be excused from attending an IFSP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member’s area of curriculum or related services, if:

(A) The parent and contractor or subcontractor consent in writing to the excusal; and

(B) The member submits, in writing to the parent and the IFSP team, input into the development of the IFSP before the meeting.

(5) Each review must include the participants in subsections (1)(a), (b), (d) and (2), and if feasible to do so (1) (f) of this rule. When the review indicates any changes in the IFSP, then the individualized meeting must follow all IFSP procedural requirements.

(6) For the purposes of subsection (1)(h), if such an individual is unable to attend the meeting, arrangements must be made for the person’s involvement through other means, including:

(a) Participating in a telephone conference call;

(b) Having a knowledgeable authorized representative attend the meeting; or

(c) Making pertinent records available at the meeting.

Stat. Auth.: ORS 343.475, 343.521

Stats. Implemented: ORS 343.475, 343.521, 300 CFR 303.24

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0980, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2830

Implementation of the IFSP

(1) An IFSP must:

(a) Be written before EI services or ECSE and related services are provided to the child;

(b) Begin as soon as possible following the meeting; and

(c) Be provided year round for children receiving EI services, unless agreed to otherwise by the parents; or

(d) Be in effect by the child’s third birthday and at the beginning of the school year for children receiving ECSE services.

(2) If a child’s third birthday occurs during the summer, the child’s IFSP team must determine when services begin under the IFSP.

(3) Contractors and subcontractors must:

(a) Ensure that the IFSP is available as soon as possible and at no cost to the parents. They must also ensure copies of the IFSP are available to each regular preschool teacher, EI/ECSE specialist, related service provider and other service provider who is responsible for its implementation; and

(b) Inform each teacher and provider described in (2)(a) of his or her specific responsibilities for implementing the child’s IFSP and the specific accommodations, modifications and supports that must be provided for on behalf of the child in accordance with the IFSP.

(4) Contractors or subcontractors must provide EI or ECSE and related services to a child with a disability in accordance with an IFSP.

(5) Nothing in this rule limits a parent’s right to ask for revisions of their child’s IFSP or to invoke due process procedures.

Stat. Auth.: ORS 343.475, 343.521

Stats. Implemented: ORS 343.475, 343.521, 34 CFR 300.101, 34 CFR 303.409,

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0990, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2835

Natural Environments in EI

Contractors or subcontractors must ensure that:

(1) To the maximum extent appropriate to the needs of the child and family, EI services are provided in natural environments, including the home and community settings in which children without disabilities participate; and

(2) The determination of the appropriate setting for providing EI services to an infant or toddler with a disability, including any justification for not providing a particular EI service in the natural environment is:

(a) Made by the IFSP Team (which includes the parent and other team members);

(b) Consistent with the provisions of OAR-581-2700 and 581-015-2815(3)(h);

(c) Based on the child’s outcomes which are identified by the IFSP team.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.495, 34 CFR 303.344

Hist.: ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-0995, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2840

Service Coordination

(1) For a child under age three, the contractor or subcontractor must:

(a) Provide active ongoing service coordination as an EI service; and

(b) Appoint a service coordinator as soon as possible when a referral is received.

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(2) For a child age three and older, contractors and subcontractors may provide service coordination as an ECSE service.

(3) The service coordinator must:

(a) Coordinate all services across agency lines by serving as a single point of contact in helping parents obtain the services and assistance they need;

(b) Assist and enable parents of eligible children in gaining access to required EI services and other services identified in the IFSP;

(c) Facilitate the timely delivery of available services and conduct follow-up activities to determine that appropriate services are provided;

(d) Continuously seek the appropriate services in situations necessary to benefit the development of each child being served for the duration of the child's eligibility;

(e) Coordinate the performance of evaluation and assessments;

(f) Facilitate and participate in the development, review, and evaluation of IFSPs;

(g) Assist families in identifying available service providers;

(h) Coordinate and monitor the delivery of available services and other services that are identified in the IFSP to the child or family, including making appointments and referrals to providers for needed services;

(i) Inform families of their rights, their procedural safeguards, and the availability of advocacy services;

(j) Coordinate with medical and health providers;

(k) Facilitate the development of a transition plan to preschool, ECSE services, or other early childhood service, if appropriate; and

(l) Coordinate the funding sources for services required under this part.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.523, 34 CFR 303.34

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1120, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2863

Procedures for EI/ECSE Complaints

OAR 581-015-2030 applies for EI and ECSE programs.

Stat. Auth.: ORS 343.041

Stats. Implemented: ORS 343.041, 34 CFR 300.151-153; 34 CFR 300.504(a)(2)

Hist.: ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2870

Due Process Hearings

OAR 581-015-2340 through 581-015-2385 apply for EI and ECSE programs with the following exceptions:

(1) "School District" means contractors and subcontractors;

(2) Parents may not seek reimbursement or attorney fees under ORS 343.175 for EI hearings;

(3) The Department must submit a copy of the hearing decision to the State Advisory Council for Special Education and the State Interagency Coordinating Council.

Stat. Auth.: ORS 343.475, 343.531

Stats. Implemented: ORS 343.475, 343.531

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & cert. ef. 1-24-95; EB 10-1996, f. & cert. ef. 6-26-96; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1030, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2885

Preschool Children with Disabilities Covered by Public Insurance

(1) Applicability: For purposes of OAR 581-015-2885, IDEA Part C requirements apply to children ages birth to age three; IDEA Part B requirements apply to children ages three and above.

(2) For purposes of this rule the term "public benefits" means public insurance including but not limited to Medicaid.

(3) The contractor or subcontractor may use a child or family's public benefits to provide or pay for early intervention or a Free Appropriate Public Education, as permitted under the public insurance program and the requirements of this rule.

(4) The contractor or subcontractor may not require a parent to sign up for, or enroll in, public benefits to receive early intervention services under Part C or a free appropriate public education (FAPE) under Part B.

(5) For a child under age three, the contractor or subcontractor:

(a) Must obtain, prior to using public benefits, parent consent if the child or family is not enrolled in the public benefits program or if that use would:

(A) Decrease available lifetime coverage or any other insured benefit;

(B) Result in the family paying for services that would otherwise be covered by the public benefits;

(C) Increase premiums or lead to the discontinuation of insurance; or

(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

(b) Must provide, if the parent does not consent to use of their public benefits, the early intervention services on the IFSP for which the parent has provided consent.

(c) Must provide written notification, prior to using public benefits, to the parents that includes:

(A) A statement that parental consent must be obtained before the contractor or subcontractor discloses a child's personally identifiable information to the State Medicaid Agency for billing purposes;

(B) A statement of the no-cost protection provision in subsection (5)(a-b) that early intervention services on the IFSP must still be made available if the parent has consented to these services;

(C) A statement that the parents have the right to withdraw their consent to disclose personally identifiable information to the public agency responsible for the administration of public benefits or insurance program (e.g., Medicaid) at any time; and

(D) A statement of the general cost categories that the parent would incur as a result of participating in a public benefits program.

(d) May pay any costs incurred as a result of using public benefits for early intervention services, such as a deductible or copayment.

(6) For a child over age three, the contractor or subcontractor:

(a) Must obtain parent consent for releasing information to the state Medicaid agency necessary to access public insurance for the period of time covered by the child's IFSP;

(b) Must notify parents that the parents' refusal to allow access to their public benefits does not relieve the contractor or subcontractor of responsibility to ensure that all required services are provided at no cost to the parents;

(c) May not require parents to incur an out-of-pocket expense such as the payment of deductible or co-pay amount incurred in filing a claim for services,

(d) May not use a child's benefits under a public insurance program if that use would:

(A) Decrease available lifetime coverage or any other insured benefit;

(B) Result in the family paying for services that would otherwise be covered by the public benefits;

(C) Increase premiums or lead to the discontinuation of insurance; or

(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

(e) May use its Part B funds to pay for the service to ensure FAPE; and

(f) May use its Part B funds to pay the cost the parents otherwise would have to pay to use public benefits (e.g., the deductible or co-pay amounts).

(7) Proceeds from public benefits are not treated as program income for purposes of 34 CFR 80.25.

(8) If a contractor or subcontractor spends reimbursements from federal funds (e.g., Medicaid) for early intervention, special education and related services, those funds will not be considered "state or local" funds for purposes of the maintenance of effort provisions.

(9) Nothing in this section should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public insurance program by federal statute, regulations or policy under applicable titles of the Social Security Act, or any other public insurance program.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.495, 34 CFR 303.520, 34 CFR 303.521

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-1051, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-015-2890

Preschool Children with Disabilities Covered by Private Insurance

(1) With regard to services required to provide FAPE to a preschool child over age three or EI services to a child under the age of three, a contractor or subcontractor may access a parent's private insurance proceeds only if the parent provides informed consent consistent with this rule and applicable federal requirements related to confidentiality of personally identifiable information.

(2) For a child under the age of three, when the contractor or subcontractor proposes to access the parent's private insurance to pay for the initial provision of early intervention services, it must:

(a) Obtain parent consent in accordance with this rule; and whenever personally identifiable information is released due to an increase in frequency, length, duration, or intensity in the provision of services on the child's IFSP;

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(b) Inform the parents of any of the State's payment policies and identify potential costs that the parent may incur when their private insurance is used to pay for services;

(c) Not permit use of private insurance to;

(A) Count towards or result in a loss of benefits due to the annual or lifetime insurance coverage caps, to the parent, or the child's family members who are covered by the policy;

(B) Negatively affect the availability of insurance to the child, the parent, or the child's family members who are covered under the insurance policy, and insurance coverage may not be discontinued for these individuals due to the use of the insurance to pay for services; or

(C) Be the basis for increasing insurance premiums of the child, the parent, or the child's family members covered under the insurance policy.

(3) For a child above the age of three, the contractor or subcontractor must obtain consent each time it proposes to access the parents' private insurance.

(a) If a public agency is unable to obtain parental consent to use the parent's private insurance, to ensure the provision of FAPE, the public agency may use its Part B funds to pay for the service.

(b) To avoid financial cost to parents who otherwise would consent to use private insurance, if the parent would incur a cost, the public agency may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).

(4) For all preschool children, the contractor or subcontractor must inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

(5) Proceeds from private insurance will not be treated as program income.

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 343.495, 34 CFR 303.520(b), 34 CFR 300.154

Hist.: ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-1052, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-021-0220

Definitions

As used in OAR 581-021-0220 through 581-021-0440, the following definitions apply:

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

(a) Attendance in person or by correspondence; and

(b) The period during which a person is working under a work-study program.

(2) "Directory Information" means those items of personally identifiable information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information may include, and is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended. (3) "Disclosure" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means.

(4) "Disciplinary action or proceeding" means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

(5) "Educational Agency or Institution" means any public or private school, education service district, state institution, private agency or youth care center providing educational services to students birth through age 21, and through Grade 12, that receives federal or state funds either directly or by contract or subcontract with the Department under any program administered by the U.S. Secretary of Education or the Department.

(6) "Education Records":

(a) The term means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution;

(b) The term does not include:

(A) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(B) Records of the law enforcement unit of an educational agency or institution, subject to the provisions of OAR 581-021-0225.

(C) Records relating to an individual who is employed by an educational agency or institution, that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under this subsection;

(D) Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

(i) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;

(ii) Made, maintained, or used only in connection with treatment of the student; and

(iii) Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.

(E) Records that only contain information relating to activities in which an individual engaged after he or she is no longer a student at that agency or institution;

(F) Medical or nursing records which are made or maintained separately and solely by a licensed health care professional who is not employed by the educational agency or institution, and which are not used for educational purposes of planning.

(7) "Eligible Student" means a student who has reached 18 years of age, or a student who is attending only an institution of postsecondary education and is not enrolled in a secondary school.

(8) "Institution of Postsecondary Education" means an institution that provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond Grade 12) at which secondary education is provided.

(9) "Parent" means a parent of a student and includes a natural parent, a guardian, an individual authorized in writing to act as a parent in the absence of a parent or a guardian, or a surrogate parent appointed to represent a student with disabilities. The term does not include the state if the child is a ward of the state and the student is eligible for special education services or is suspected of being eligible for special education services under state and federal law.

(10) "Party" means an individual, agency, institution, or organization.

(11) "Permanent record" means the educational record maintained by the educational agency or institution which includes:

(a) Name and address of the educational agency or institution;

(b) Full legal name of the student;

(c) Student's birth date and place of birth;

(d) Name of parents/guardians;

(e) Date of entry into the school;

(f) Name of school previously attended;

(g) Courses of study and marks received;

(h) Data documenting a student's progress toward achievement of state standards and must include a student's Oregon State Assessment results;

(i) Credits earned;

(j) Attendance;

(k) Date of withdrawal from school;

(l) Social security number, subject to subsection (1)(j) of this rule; and

(m) Such additional information as the educational agency or institution may prescribe.

(12) "Personally Identifiable Information" is information as defined in the Family Educational Rights and Privacy Act (FERPA) and OAR 581-015-2700, this includes but is not limited to:

(a) The student's name;

(b) The name of the student's parent or other family member;

(c) The address of the student or student's family;

(d) A personal identifier, such as the student's social security number or student number;

(e) A list of personal characteristics that would make the student's identity easily traceable; and

(f) Other information that would make the student's identity easily traceable.

(13) "Record" means any information recorded in any way including, but not limited to, handwriting, print, tape, film, microfilm and microfiche.

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(14) "Student" means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

(15) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 326.565 & 34 CFR § 99.3
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

581-021-0270

Rights of Inspection and Review of Education Records

(1) Except as limited under FERPA and IDEA, each educational agency or institution shall permit a parent, an eligible student, or a representative of a parent if authorized in writing by the parent, to inspect and review the education records of the student.

(2) The educational agency or institution shall comply with a request for access to records:

(a) Within a reasonable period of time and without unnecessary delay;

(b) For children with disabilities under OAR 581-015-0051, before any meeting regarding an IEP, or any due process hearing, or any resolution session related to a due process hearing; and

(c) In no case more than 45 days after it has received the request.

(d) For children under three years old who receive EI services, in no case more than 10 days after the request has been made.

(3) The educational agency or institution shall respond to the reasonable requests for explanations and interpretations of the records.

(4) If a parent or an eligible student so requests, the educational agency or institution shall give the parent or eligible student a copy of the student's education records pursuant to ORS 192.440, except that no copy of test protocols, test questions and answers, and other documents described in 192.501(4) shall be provided unless authorized by federal law.

(5) The educational agency or institution shall not destroy any education records if there is an outstanding request to inspect and review the records under this rule.

(6) While an education agency or institution is not required to give an eligible student access to treatment records under the definition of "education records" in OAR 581-021-0220(6)(b)(D), the student may, at his or her expense, have those records reviewed by a physician or other appropriate professional of the student's choice.

Stat. Auth.: ORS 192.440, 192.501(4), 326.565 & 34 CFR 199.10, 34 CFR 303.405(a)
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

Oregon Education Investment Board Chapter 705

Rule Caption: Regarding Procedural Rules.

Adm. Order No.: OEIB 1-2012(Temp)

Filed with Sec. of State: 3-28-2012

Certified to be Effective: 3-28-12 thru 9-24-12

Notice Publication Date:

Rules Adopted: 705-001-0000, 705-001-0005, 705-001-0010

Subject: 705-001-0000 – Regarding Notice of Proposed Rules.

705-001-0005 – Regarding Model Rules of Procedure.

705-001-0010 – Regarding Establishing Fees for Public Record.

Rules Coordinator: Seth Allen—(503) 378-8213

705-001-0000

Notice of Proposed Rule

(1) Before permanently adopting, amending or repealing any rule, the Oregon Education Investment Board shall give notice of the proposed adoption, amendment or repeal:

(a) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule to be adopted;

(b) By mailing or e-mailing, at least 28 days before the effective date of the rule, a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335(8);

(c) By mailing or e-mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective day of the rule; and,

(d) By mailing or e-mailing a copy of the notice to persons, organizations and publications identified by the Board and established educational, student and parent organizations that have submitted mailing or e-mailing addresses to the Board.

(2) Persons who wish to be placed on the Oregon Education Investment Board's mailing or e-mailing list may request in writing or by e-mail that the Board send to the person copies of its notice of proposed rulemaking.

(3) The Board may update the mailing and e-mailing lists described in this rule annually by requesting persons to confirm that they wish to remain on the lists. If a person does not respond to a request for confirmation within 28 days of the date the Board sends the request, the Board will remove the person from the mailing and e-mailing lists. Any person removed from the mailing or e-mailing lists will be returned to the mailing or e-mailing list upon request, provided that the person provides a mailing address or e-mailing address to which notice may be sent.

Stat. Auth.: ORS 183.335 & 183.341(4)

Stats. Implemented: ORS 183.335

Hist.: OEIB 1-2012(Temp), f. & cert. ef. 3-28-12 thru 9-24-12

705-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Oregon Education Investment Board adopts the Attorney General's Model Rules of Procedure under the Administrative Procedure Act in effect on January 1, 2012.

[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 Oregon Education Investment Board.]

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341

Hist.: OEIB 1-2012(Temp), f. & cert. ef. 3-28-12 thru 9-24-12

705-001-0010

Establishing Fees for Public Records

(1) The Oregon Education Investment Board may charge a fee of 25 cents per page for supplying copies of public records on request.

(2) The Board may charge an additional fee reasonably calculated to provide reimbursement for actual costs incurred in summarizing, compiling, or tailoring the public records to make them available for inspection, and for costs of conveying such records to the requester. Employee time required for such purposes shall be billed at a rate not to exceed cost of employee time to the Board. The Board may include the cost for time spent by an attorney for the Board in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records.

(3) No additional fee will be charged for providing records in an alternative format to individuals with vision or hearing impairments when required by the Americans with Disabilities Act.

(4) The Chief Education Officer or designee, or, in the event of a vacancy in the Chief Education Officer position, a person designated by the chair of the Board, may reduce or waive fees when:

(a) The time spent making the records available was negligible;

(b) Supplying the requested records is within the normal scope of Board activity; or

(c) Supplying the public records is in the public interest because making the record available primarily benefits the general public.

Stat. Auth.: Section 1, chapter 519, Oregon Laws 2011 and ORS 192.440

Stats. Implemented: ORS 192.440

Hist.: OEIB 1-2012(Temp), f. & cert. ef. 3-28-12 thru 9-24-12

Rule Caption: Regarding achievement compacts.

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

Filed with Sec. of State: 3-29-2012

Certified to be Effective: 3-29-12 thru 9-25-12

Notice Publication Date:

Rules Adopted: 705-010-0005, 705-010-0010, 705-010-0015, 705-010-0020, 705-010-0025, 705-010-0030, 705-010-0035, 705-010-0040, 705-010-0045, 705-010-0050, 705-010-0055, 705-010-0060

ADMINISTRATIVE RULES

Subject: 705-010-0005 – Regarding definitions.

705-010-0010 – Regarding parties to achievement compacts.

705-010-0015 – Regarding terms of achievement compacts.

705-010-0020 – Regarding optional local priorities.

705-010-0025 – Regarding guidance.

705-010-0030 – Regarding distribution of achievement compacts to educational entities.

705-010-0035 – Regarding the completion and execution of achievement compacts.

705-010-0040 – Regarding disadvantaged subgroups of students.

705-010-0045 – Regarding communication with stakeholders.

705-010-0050 – Regarding modification of achievement compacts.

705-010-0055 – Regarding receipt and acceptance of achievement compacts.

705-010-0060 – Regarding authority of Chief Education Officer relating to achievement compacts.

Rules Coordinator: Seth Allen—(503) 378-8213

705-010-0005

Definitions

The following definitions apply to Oregon Administrative Rules, 705-010-0005 to 705-010-0060, unless otherwise indicated by the context:

(1) “Board” means Oregon Education Investment Board established under section 1, chapter 519, Oregon Laws 2011 (Enrolled Senate Bill 909).

(2) “Chief Education Officer” means the Chief Education Officer appointed under section 2, chapter 519, Oregon Laws 2011 (Enrolled Senate Bill 909) by the Board, or, in the event of a vacancy in the Chief Education Officer position, the Chair of the Board or the Chair’s designee.

(3) “Education entity” means:

(a) A school district, as defined in ORS 332.002;

(b) An education service district operated under ORS chapter 334;

(c) A community college district or community college service district operated under ORS chapter 341;

(d) The Oregon University System established by ORS 351.011;

(e) A public university of the Oregon University System, as listed in ORS 352.002; and

(f) The health professions and graduate science programs of the Oregon Health and Science University (OHSU) operated under ORS chapter 353.

(4) “Governing body of an education entity” means:

(a) For a school district, the school district board;

(b) For an education service district, the board of directors of the education service district;

(c) For a community college district or a community college service district, the board of education of the community college district;

(d) For the Oregon University System, the State Board of Higher Education;

(e) For a public university of the Oregon University System, the president of the university; and

(f) For the Oregon Health and Science University, the Oregon Health and Science University Board of Directors.

(5) “Achievement compact” means an agreement entered into between the Oregon Education Investment Board and the governing body of an education entity.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0010

Parties to Achievement Compacts

Prior to the beginning of each fiscal year, the governing body of each education entity must enter into an achievement compact with the Oregon Education Investment Board for the fiscal year.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0015

Terms of Achievement Compacts

(1) The Board shall establish the terms for achievement compacts, which may include:

(a) A description of goals for outcomes that are consistent with the high school and college completion goals identified as the mission of edu-

cation in ORS 351.009 and the educational goals expressed in 329.015 and 351.003.

(b) A description of the outcomes and measures of progress that will allow each education entity to quantify:

(A) Completion rates for:

(i) Critical stages of learning and programs of study;

(ii) The attainment of diplomas, certificates and degrees; and

(iii) Achieving the high school and post-secondary education goals established in ORS 351.009 and a projection of the progress needed to achieve those goals by 2025;

(B) Validations of the quality of knowledge and skills acquired by students of the education entity; and

(C) The relevance of the knowledge and skills acquired by the students of the education entity and the means by which those skills and knowledge will contribute to the workforce, the economy and society as described in state policy.

(c) Local priorities as provided by OAR 705-010-0020.

(2) Notwithstanding the terms listed in subsection (1) of this rule, the achievement compact for Oregon Health and Science University shall be limited to the enrollment of, and attainment of degrees by, Oregon residents in programs for which the state provides funding.

(3) For school districts, the Board shall provide to each school district a number quantifying the district’s estimated level of funding for the next fiscal year compared to the determination of funding needed to ensure that the state’s system of kindergarten through grade 12 public education meets the quality goals specified under ORS 327.506. This number shall be included within the achievement compacts for school districts.

(4) For education entities other than school districts, the Board shall provide a number quantifying the entity’s estimated level of state and local funding for the next fiscal year.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0020

Optional Local Priorities

(1) The governing body of an education entity may include in its achievement compact local priorities that include outcome measures that the education entity chooses to use to inform its goals for educational achievement if those priorities meet the requirements of this rule and are approved by the Board.

(2) Education entities must provide to the Board a research-based rationale for their use of local priorities and a description of what the education entity projects to be accomplished by the use of these priorities.

(3) The Board shall provide guidance and examples to education entities of local priorities that would be acceptable to the Board.

(4) The Board shall act on the approval of local priorities within thirty days of receipt of an education entity’s completed achievement compact.

(5) The Board delegates to the Chief Education Officer the authority to approve local priorities.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)

Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0025

Guidance

(1) The Board shall provide guidance to all education entities on the definitions and methodologies to be used in setting targets for outcome measures when the Board distributes the achievement compacts.

(2) The guidance shall include:

(a) A calculation of the progress needed to achieve the high school and post-secondary education goals established in ORS 351.009 and a projection of the progress needed to achieve those goals by 2025;

(b) Definitions and explanations of the outcomes to be measured and the methodologies for calculating such measures;

(c) An explanation of the Board’s expectations for local priorities and examples of such priorities that would be acceptable to the Board, pursuant to OAR 705-010-0020;

(d) The determination of a sufficient number of students to require the inclusion of numbers and percentages for groups of students identified in OAR 705-010-0040; and,

(e) Any other provision that the Board or Chief Education Officer determines is relevant to the completion of achievement compacts.

(3) For school districts and education service districts, the Board’s guidance shall include:

(a) Direction to include in the calculation of high school completion students who:

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- (A) Were awarded a high school diploma in four or fewer years;
 - (B) Were awarded a high school diploma in five years;
 - (C) Were awarded a modified diploma;
 - (D) Were awarded an extended diploma; and
 - (E) Earned a General Educational Development (GED) certificate.
- (b) Data for the categories of high school completion indentified in subsection (3)(a) herein for the most recent year for which such data are available.

(4) The Board may provide and collect data on other categories of students to be tracked separately, including those who:

- (a) Were awarded an alternative certificate;
- (b) Left school without receiving a diploma or certificate prior to age 21; and,
- (c) Were no longer qualified to be offered a free appropriate public education by a school district under ORS 339.115 and did not receive a diploma or certificate.

(5) The Board shall provide guidance to education entities regarding the progress needed to close the achievement gap between disadvantaged groups of students and other students when setting targets for disadvantaged groups of students.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0030

Distribution of Compacts to Education Entities

(1) For the 2012–13 fiscal year, the Board shall distribute achievement compacts to all education entities by the following dates:

- (a) For school districts, by 5:00 PM, April 5, 2012;
- (b) For education service districts, by 5:00 PM, April 5, 2012;
- (c) For community colleges, by 5:00 PM, April 12, 2012;
- (d) For the Oregon University systems and its public universities, by 5:00 PM, April 6, 2012; and,
- (e) For the Oregon Health and Science University, by 5:00 PM, April 12, 2012.

(2) Distribution may be done by electronic means.
Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0035

Completion and Execution of Achievement Compacts

(1) Prior to the beginning of each fiscal year, the governing body of each education entity must complete and execute its achievement compact with the Board.

(2) Completion means that the governing body shall identify a target number and percentage of students for achievement of the outcomes, measures of progress and goals specified in the achievement compact for the fiscal year, as directed by the Board. The Board may waive the requirement to identify both a target number and percentage of students and require either a number or percentage for specific outcome measures, depending on the specifications of the compacts it approves.

(3) Education entities may provide a range of target numbers and percentages, but the Board shall use the lowest figure of any range provided.

(4) Education entities may provide target numbers and percentages for fiscal years beyond the next fiscal year.

(5) Execution of an achievement compact requires the signature of the chair or president of the governing board or that of its chief executive officer and its submission to the Board.

(6) The deadline for the submission of achievement compacts for 2012-13 is 5:00 PM, July 2, 2012. Education entities may submit by electronic means.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0040

Data for Student Groups

(1) In addition to the target numbers and percentages of all students that are identified in achievement compacts for the outcome measures specified in OAR 705-010-0015 and 705-010-0020, education entities must include in their achievement compacts for each outcome measure a target number and percentage for the combined total of all students in disadvantaged groups specified in subsections (2) and (4) of this rule.

(2) The governing body of school districts and education service districts must set targets for all outcome measures in their achievement compacts for students in each of the following groups:

- (a) Economically disadvantaged students;

- (b) Limited English proficient students;
- (c) Students with disabilities;
- (d) Black students (not of Hispanic origin);
- (e) Hispanic/Latino students;
- (f) American Indian or Alaska Native students; and
- (g) Pacific Islander students.

(3) In addition to the groups of students identified in subsections (2) of this rule, school districts and education service districts shall also set targets for all outcome measures for students in each of the following groups:

- (a) Talented and gifted students; and,
- (b) Asian students.

(4) The governing body of post-secondary education entities must set targets for all outcome measures in their achievement compacts for students in each of the following groups:

- (a) African American students;
- (b) Hispanic/Latino students;
- (c) Native American or Alaska native students;
- (d) Pacific Islander students;
- (e) Multi-racial or multi-ethnic students;
- (f) Economically disadvantaged students based on Pell Grant eligibility.

(5) An education entity is not required to include a target number or percentage under this section if the district does not have a sufficient number of the students in that group to ensure that individual students are not personally identifiable. The Chief Education Officer will identify a minimum number of students necessary in each subgroup to ensure that an individual student's information is not personally identifiable.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0045

Communications

As part of the process of entering into an achievement compact, the governing body of an education entity shall ensure that open communications are provided to parents, students, teachers or faculty, employees, exclusive bargaining representatives and community representatives for the purposes of explaining and discussing the outcomes, measures of progress, goals and targets specified in the achievement compact for the fiscal year. The open communications must be provided during each education entity's public budget process.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0050

Modification of Achievement Compacts

(1) After submission and acceptance of an achievement compact, an education entity may modify its target numbers and percentages in its achievement compact in the event of unexpected circumstances that the Chief Education Officer determines constitute a compelling reason to warrant such modification.

(2) The Board may provide guidance on what constitutes a compelling reason to warrant the modification of an education entity's target numbers and percentages pursuant to this rule.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0055

Receipt and Acceptance of Achievement Compacts

(1) The Chief Education Officer shall acknowledge receipt of each achievement compact and shall inform the education entity of the Board's acceptance of any local priorities within 30 days of receipt of the achievement compact.

(2) The Board shall post on its website the achievement compacts received and summary reports of the information contained in the achievement compacts.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

705-010-0060

Authority of Chief Education Officer Relating to Achievement Compacts

(1) In addition to the authorities specified in these rules, the Chief Education Officer may:

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(a) Communicate with the governing boards of education entities on behalf of the board about the implementation of and response to the achievement compacts; and

(b) Waive any timelines specified in the rules, policies and guidelines adopted by the Board, to the extent permitted by section 14, chapter 36, Oregon Laws 2012 (Enrolled Senate Bill 1581).

(2) The Chief Education Officer may settle any disputes relating to the achievement compacts. Any decision of the Chief Education Officer shall be considered a final decision.

Stat. Auth.: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Stats. Implemented: 2012 OL Ch. 36 Sec. 14 (Enrolled SB 1581)
Hist.: OEIB 2-2012(Temp), f. & cert. ef. 3-29-12 thru 9-25-12

Oregon Health Authority,
Division of Medical Assistance Programs
Chapter 410

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

Adm. Order No.: DMAP 11-2012(Temp)

Filed with Sec. of State: 3-16-2012

Certified to be Effective: 3-16-12 thru 9-11-12

Notice Publication Date:

Rules Adopted: 410-141-3000, 410-141-3010

Rules Amended: 410-120-0000, 410-141-0000

Subject: OAR 410-141-3000, together with the amendments to OARs 410-120-0000 and 410-141-0000, establish definitions for Oregon's Integrated and Coordinated Health Care Delivery System. OAR 410-141-3010 establishes the application, certification, and contract procedures for Coordinated Care Organizations (CCO). CCOs will improve health, increase the quality, reliability, availability and continuity of care, as well as to reduce costs. CCOs will provide medical assistance recipients with health care services that are supported by alternative payment methodologies that focus on prevention and that use patient-centered primary care homes, evidence-based practices and health information technology to improve health and reduce health disparities. The Authority needs to adopt these rules to establish transitional processes, the application process, application criteria, financial solvency requirements and the client grievance system.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-120-0000

Acronyms and Definitions

Identification of acronyms and definitions within this rule specifically pertain to their use within the Oregon Health Authority (Authority), Division of Medical Assistance Programs (Division) or the Addictions and Mental Health Division (AMH) administrative rules applicable to the medical assistance program. This rule does not include an exhaustive list of Division acronyms and definitions. For more information, see Oregon Health Plan (OHP) program OAR 410-141-0000, Acronyms and Definitions, OAR 410-141-0300, and any appropriate governing acronyms and definitions in the Department of Human Services (Department) chapter 407 administrative rules, or contact the Division.

(1) "Abuse" means provider practices that are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to the Authority, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the Authority.

(2) "Acupuncturist" means a person licensed to practice acupuncture by the relevant state licensing board.

(3) "Acupuncture Services" means services provided by a licensed acupuncturist within the scope of practice as defined under state law.

(4) "Acute" means a condition, diagnosis or illness with a sudden onset and that is of short duration.

(5) "Acquisition Cost" means unless specified otherwise in individual program administrative rules, the net invoice price of the item, supply or equipment, plus any shipping and/or postage for the item.

(6) "Addiction and Mental Health Division (AMH)" means a division within the Authority that administers mental health and addiction programs and services.

(7) "Adequate Record Keeping" means documentation that supports the level of service billed. See 410-120-1360, Requirements for Financial, Clinical, and Other Records, and the individual provider rules.

(8) "Administrative Medical Examinations and Reports" mean examinations, evaluations, and reports, including copies of medical records, requested on the DMAP 729 form through the local Department branch office or requested or approved by the Authority to establish client eligibility for a medical assistance program or for casework planning.

(9) "Advance Directive" means an individual's instructions to an appointed individual specifying actions to take in the event that the individual is no longer able to make decisions due to illness or incapacity.

(10) "Adverse Event" means an undesirable and unintentional, though not necessarily unexpected, result of medical treatment.

(11) "Aging and People with Disabilities (APD)" means the division in the Department of Human Services (DHS) that administers programs for seniors and people with disabilities. This division was formerly named "Seniors and People with Disabilities (SPD)".

(12) "All-Inclusive Rate: means the nursing facility rate established for a facility. This rate includes all services, supplies, drugs and equipment as described in OAR 411-070-0085, and in the Division's Pharmaceutical Services program administrative rules and the Home Enteral/Parenteral Nutrition and IV Services program administrative rules, except as specified in OAR 410-120-1340, Payment.

(13) "Allied Agency" means local and regional governmental agency and regional authority that contracts with the Authority or Department to provide the delivery of services to covered individual. (e.g., local mental health authority, community mental health program, Oregon Youth Authority, Department of Corrections, local health departments, schools, education service districts, developmental disability service programs, area agencies on aging (AAAs), federally recognized American Indian tribes).

(14) "Alternative Care Settings" mean sites or groups of practitioners that provide care to members under contract with a PHP or CCO, including urgent care centers, hospice, birthing centers, out-placed medical teams in community or mobile health care facilities, long-term care facilities and outpatient surgical centers.

(15) "Ambulance" means a specially equipped and licensed vehicle for transporting sick or injured persons which meets the licensing standards of the Authority or the licensing standards of the state in which the ambulance provider is located.

(16) "Ambulatory Surgical Center (ASC)" means a facility licensed as an ASC by the Authority.

(17) "American Indian/Alaska Native (AI/AN)" means a member of a federally recognized Indian tribe, band or group, an Eskimo or Aleut or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601, or a person who is considered by the Secretary of the Interior to be an Indian for any purpose.

(18) "American Indian/Alaska Native (AI/AN) Clinic" means a clinic recognized under Indian Health Services (IHS) law or by the Memorandum of Agreement between IHS and the Centers for Medicare and Medicaid Services (CMS).

(19) "Ancillary Services" mean services supportive of or necessary for providing a primary service, such as, anesthesiology, which is an ancillary service necessary for a surgical procedure.

(20) "Anesthesia Services" mean administration of anesthetic agents to cause loss of sensation to the body or body part.

(21) "Area Agency on Aging (AAA)" means the designated entity with which the Department contracts to meet the requirements of the Older Americans Act and ORS Chapter 410 in planning and providing services to the elderly or elderly and disabled population.

(22) "Atypical Provider" means entity able to enroll as a billing provider (BP) or performing provider for medical assistance programs related non-health care services but which does not meet the definition of health care provider for National Provider Identification (NPI) purposes.

(23) "Audiologist" means a person licensed to practice audiology by the State Board of Examiners for Speech Pathology and Audiology.

(24) "Audiology" means the application of principles, methods and procedures of measurement, testing, appraisal, prediction, consultation, counseling and instruction related to hearing and hearing impairment for the purpose of modifying communicative disorders involving speech, language, auditory function, including auditory training, speech reading and hearing aid evaluation, or other behavior related to hearing impairment.

(25) "Automated Voice Response (AVR)" means a computer system that provides information on clients' current eligibility status from the Division by computerized phone or Web-based response.

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(26) "Benefit Package" means the package of covered health care services for which the client is eligible.

(27) "Billing Agent or Billing Service" means third party or organization that contracts with a provider to perform designated services in order to facilitate an Electronic Data Interchange (EDI) transaction on behalf of the provider.

(28) "Billing Provider (BP)" means a person, agent, business, corporation, clinic, group, institution, or other entity who submits claims to and/or receives payment from the Division on behalf of a performing provider and has been delegated the authority to obligate or act on behalf of the performing provider.

(29) "Buying Up" means the practice of obtaining client payment in addition to the Division or managed care plan payment to obtain a non-covered service or item. (See 410-120-1350 Buying Up).

(30) "By Report (BR):" means services designated, as BR require operative or clinical and other pertinent information to be submitted with the billing as a basis for payment determination. This information must include an adequate description of the nature, and extent of need for the procedure. Information such as complexity of symptoms, final diagnosis, pertinent physical findings, diagnostic and therapeutic procedures, concurrent problems, and follow-up care will facilitate evaluation.

(31) "Case Management Services" mean services provided to ensure that CCO members obtain health services necessary to maintain physical, mental and emotional development and oral health. Case management services include a comprehensive, ongoing assessment of medical, mental health, chemical dependency and/or dental needs plus the development and implementation of a plan to obtain or make referrals for needed medical, mental, chemical dependency or dental services, referring members to community services and supports which may include referrals to Allied Agencies.

(32) "Children, Adults and Families Division (CAF)" means a division within the Department, responsible for administering self-sufficiency and child-protective programs.

(33) "Children's Health Insurance Program (CHIP)" means a federal and state funded portion of the Oregon Health Plan (OHP) established by Title XXI of the Social Security Act and administered by the Authority.

(34) "Chiropractor" means a person licensed to practice chiropractic by the relevant state licensing board.

(35) "Chiropractic Services" mean services provided by a licensed chiropractor within the scope of practice, as defined under state law and Federal regulation.

(36) "Citizen/Alien-Waived Emergency Medical (CAWEM)" means aliens granted lawful temporary resident status, or lawful permanent resident status under the Immigration and Nationality Act, are eligible only for emergency services and limited service for pregnant women. Emergency services for CAWEM are defined in OAR 410-120-1210 (3)(f).

(37) "Claimant" means a person who has requested a hearing.

(38) "Client" means an individual found eligible to receive OHP health services. "Client" is inclusive of members enrolled in PHPs, PCMs and CCOs.

(39) "Clinical Social Worker" means a person licensed to practice clinical social work pursuant to State law.

(40) "Clinical Record" means the medical, dental or mental health records of a client or member.

(41) "Comfort Care" means medical services or items that give comfort or pain relief to an individual who has a terminal illness, including the combination of medical and related services designed to make it possible for an individual with terminal illness to die with dignity and respect and with as much comfort as is possible given the nature of the illness.

(42) "Contested Case Hearing" means a proceeding before the Authority under the Administrative Procedures Act when any of the following contests an action:

- (a) A client or member or their representative;
- (b) A CCO member's provider; or
- (c) A CCO.

(43) "Contiguous Area" means the area up to 75 miles outside the border of the State of Oregon.

(44) "Contiguous Area Provider" means a provider practicing in a contiguous area.

(45) "Continuing Treatment Benefit" means a benefit for clients who meet criteria for having services covered that were either in a course of treatment or scheduled for treatment the day immediately before the date the client's benefit package changed to one that does not cover the treatment.

(46) "Co-Payments" mean the portion of a claim or medical, dental or pharmaceutical expense that a client must pay out of their own pocket to a provider or a facility for each service. It is usually a fixed amount that is paid at the time service is rendered. (See 410-120-1230 Client Copayment).

(47) "Cost Effective" means the lowest cost health care service or item that, in the judgment of Authority staff or its contracted agencies, meets the medical needs of the client.

(48) "Current Dental Terminology (CDT)" means a listing of descriptive terms identifying dental procedure codes used by the American Dental Association.

(49) "Current Procedural Terminology (CPT)" means the physicians' CPT is a listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians and other health care providers.

(50) "Date of Receipt of a Claim" means the date on which the Authority receives a claim, as indicated by the Internal Control Number (ICN) assigned to a claim. Date of receipt is shown as the Julian date in the 5th through 7th position of the ICN.

(51) "Date of Service" means the date on which the client receives medical services or items, unless otherwise specified in the appropriate provider rules. For items that are mailed or shipped by the provider, the date of service is the date on which the order was received, the date on which the item was fabricated, or the date on which the item was mailed or shipped.

(52) "Dental Emergency Services" mean dental services provided for severe tooth pain, unusual swelling of the face or gums, or an avulsed tooth.

(53) "Dental Services" mean services provided within the scope of practice as defined under state law by or under the supervision of a dentist.

(54) "Dentist" means a person licensed to practice dentistry pursuant to state law of the state in which he/she practices dentistry, or a person licensed to practice dentistry pursuant to Federal law for the purpose of practicing dentistry as an employee of the Federal government.

(55) "Denturist" means a person licensed to practice denture technology pursuant to State law.

(56) "Denturist Services" mean services provided, within the scope of practice as defined under State law, by or under the personal supervision of a denturist.

(57) "Dental Hygienist" means a person licensed to practice hygiene under the direction of a licensed professional within the scope of practice pursuant to State law.

(58) "Dental Hygienist with an Expanded Practice Permit" means a person licensed to practice dental hygiene services as authorized by the Board of Dentistry with an Expanded Practice Dental Hygienist Permit (EPDHP) pursuant to State law.

(59) "Dentally Appropriate" means services that are required for prevention, diagnosis or treatment of a dental condition and that are:

(a) Consistent with the symptoms of a dental condition or treatment of a dental condition;

(b) Appropriate with regard to standards of good dental practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of the client or a provider of the service;

(d) The most cost effective of the alternative levels of dental services that can be safely provided to a client.

(60) "Department of Human Services (Department or DHS)" means the agency established in ORS Chapter 409, including such divisions, programs and offices as may be established therein.

(61) "Department Representative" means a person who represents the Department and presents the position of the Department in a hearing.

(62) "Diagnosis Code" means as identified in the International Classification of Diseases, 9th revision, Clinical Modification (ICD-9-CM), the primary diagnosis code is shown in all billing claims, unless specifically excluded in individual provider rule(s). Where they exist, diagnosis codes shall be shown to the degree of specificity outlined in OAR 410-120-1280, Billing.

(63) "Diagnosis Related Group (DRG)" means a system of classification of diagnoses and procedures based on the ICD-9-CM.

(64) "Division of Medical Assistance Programs (Division)" means a division within the Authority; the Division is responsible for coordinating the medical assistance programs within the State of Oregon including the Oregon Health Plan (OHP) Medicaid demonstration, the State Children's Health Insurance Program (SCHIP -Title XXI), and several other programs.

(65) "Durable Medical Equipment, Prosthetics, Orthotics and Medical Supplies (DMEPOS)" mean equipment that can stand repeated use

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and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches and custom built orthopedic braces. Medical supplies are non-reusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages and tubing.

(66) "Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services (aka, Mediceck)" mean the Title XIX program of EPSDT services for eligible clients under age 21. It is a comprehensive child health program to assure the availability and accessibility of required medically appropriate health care services and to help Authority clients and their parents or guardians effectively use them.

(67) "Electronic Data Interchange (EDI)" means the exchange of business documents from application to application in a federally mandated format or, if no federal standard has been promulgated, using bulk transmission processes and other formats as the Authority designates for EDI transactions. For purposes of rules 407-120-0100 through 407-120-0200, EDI does not include electronic transmission by web portal.

(68) "EDI Submitter" means an individual or an entity authorized to establish an electronic media connection with the Authority to conduct an EDI transaction. An EDI submitter may be a trading partner or an agent of a trading partner.

(69) "Electronic Verification System (EVS)" means eligibility information that has met the legal and technical specifications of the Authority in order to offer eligibility information to enrolled providers of the Division.

(70) "Emergency Department" means the part of a licensed hospital facility open 24 hours a day to provide care for anyone in need of emergency treatment.

(71) "Emergency Medical Condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part. An emergency medical condition is determined based on the presenting symptoms (not the final diagnosis) as perceived by a prudent layperson (rather than a health care professional) and includes cases in which the absence of immediate medical attention would not in fact have had the adverse results described in the previous sentence. (This definition does not apply to clients with CAWEM benefit package. CAWEM emergency services are governed by OAR 410-120-1210(3)(f)(B)).

(72) "Emergency Medical Transportation" means transportation necessary for a client with an emergency medical condition, as defined in this rule, and requires a skilled medical professional such as an Emergency Medical Technician (EMT) and immediate transport to a site, usually a hospital, where appropriate emergency medical service is available.

(73) "Emergency Services" means health services from a qualified provider necessary to evaluate or stabilize an emergency medical condition, including inpatient and outpatient treatment that may be necessary to assure within reasonable medical probability that the patient's condition is not likely to materially deteriorate from or during a client's discharge from a facility or transfer to another facility.

(74) "Evidence-Based Medicine" means the conscientious, explicit, and judicious use of current best evidence in making decisions about the care of individual patients. The practice of evidence based medicine means integrating individual clinical expertise with the best available external clinical evidence from systematic research. By individual clinical expertise we mean the proficiency and judgment that individual clinicians acquire through clinical experience and clinical practice. Increased expertise is reflected in many ways, but especially in more effective and efficient diagnosis and in the more thoughtful identification and compassionate use of individual patients' predicaments, rights, and preferences in making clinical decisions about their care. By best available external clinical evidence we mean clinically relevant research, often from the basic sciences of medicine, but especially from patient centered clinical research into the accuracy and precision of diagnostic tests (including the clinical examination), the power of prognostic markers, and the efficacy and safety of therapeutic, rehabilitative, and preventive regimens. External clinical evidence both invalidates previously accepted diagnostic tests and treatments and replaces them with new ones that are more powerful, more accurate, more efficacious, and safer. (Source: BMJ 1996; 312:71-72 (13 January)).

(75) "False Claim" means a claim that a provider knowingly submits or causes to be submitted that contains inaccurate, misleading or omitted

information and such inaccurate, misleading or omitted information would result, or has resulted, in an overpayment.

(76) "Family Health Insurance Assistance Program (FHIAP)" means a program in which the State subsidizes premiums in the commercial insurance market for uninsured individuals and families with income below 185% of the Federal Poverty Level.

(77) "Family Planning Services" mean services for clients of child bearing age (including minors who can be considered to be sexually active) who desire such services and which are intended to prevent pregnancy or otherwise limit family size.

(78) "Federally Qualified Health Center (FQHC)" means a federal designation for a medical entity which receives grants under Section 329, 330, or 340 of the Public Health Service Act; or a facility designated as an FQHC by Centers for Medicare and Medicaid (CMS) upon recommendation of the U.S. Public Health Service.

(79) "Fee-for-Service Provider" means a medical provider who is not reimbursed under the terms of a Authority contract with a Prepaid Health Plan (PHP), also referred to as a Managed Care Organization (MCO). A medical provider participating in a PHP may be considered a fee-for-service provider when treating clients who are not enrolled in a PHP.

(80) "Flexible Service" means a service that is an alternative or addition to a service that is as likely or more likely to effectively treat the mental condition, chemical dependency condition, or physical condition as documented in the Member's Clinical Record. Flexible Services may include, but are not limited to: Respite Care, Partial Hospitalization, Subacute Psychiatric Care, Family Support Services, Parent Psychosocial Skills Development, Peer Services, and other non-Traditional Services identified.

(81) "Flexible Service Approach" means the delivery of any Coordinated Care Service in a manner or place different from the traditional manner or place of service delivery. A Flexible Service Approach may include delivering Coordinated Care Services at alternative sites such as schools, residential facilities, nursing facilities, Members' homes, emergency rooms, offices of DHS, OHA, other community settings; offering flexible clinic hours; offering Coordinated Care Services through outreach or a home-based approach; and using peers, paraprofessionals, Community Health Workers, Peer Wellness Specialists, or Personal Health Navigators who are Culturally Competent to engage difficult-to-reach Members.

(82) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

(83) "Fully Dual Eligible" means for the purposes of Medicare Part D coverage (42 CFR 423.772), Medicare clients who are also eligible for Medicaid, meeting the income and other eligibility criteria adopted by the Department for full medical assistance coverage.

(84) "General Assistance (GA)" means medical assistance administered and funded 100% with State of Oregon funds through OHP.

(85) "Healthcare Common Procedure Coding System (HCPCS)" means a method for reporting health care professional services, procedures, and supplies. HCPCS consists of the Level I – American Medical Association's Physician's Current Procedural Terminology (CPT), Level II – National codes, and Level III – Local codes. The Division uses HCPCS codes; however, Division uses Current Dental Terminology (CDT) codes for the reporting of dental care services and procedures.

(86) "Health Care Professionals" mean individuals with current and appropriate licensure, certification or accreditation in a medical, mental health or dental profession who provide health services, assessments and screenings for clients within their scope of practice, licensure or certification.

(87) "Health Evidence Review Commission" means a commission that, among other duties, develops and maintains a list of health services ranked by priority, from the most to the least important, representing the comparative benefits of each service to the population served.

(88) "Health Insurance Portability and Accountability Act (HIPAA) of 1996 (HIPAA)" means the federal law (Public Law 104-191, August 21, 1996) with the legislative objective to assure health insurance portability, reduce health care fraud and abuse, enforce standards for health information and guarantee security and privacy of health information.

(89) "Health Maintenance Organization (HMO)" means a public or private health care organization which is a federally qualified HMO under Section 1310 of the U.S. Public Health Services Act. HMOs provide health care services on a capitated, contractual basis.

(90) "Health Plan New/noncategorical client (HPN)" means an individual who is 19 years of age or older, is not pregnant, is not receiving

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Medicaid through another program and who must meet all eligibility requirements to become an OHP client.

(91) "Hearing Aid Dealer" means a person licensed by the Board of Hearing Aid Dealers to sell, lease or rent hearing aids in conjunction with the evaluation or measurement of human hearing and the recommendation, selection, or adaptation of hearing aids.

(92) "Home Enteral Nutrition" means services provided in the client's place of residence to an individual who requires nutrition supplied by tube into the gastrointestinal tract, as described in the Home Enteral/Parenteral Nutrition and IV Services program provider rules.

(93) "Home Health Agency" means a public or private agency or organization which has been certified by Medicare as a Medicare home health agency and which is licensed by the Authority as a home health agency in Oregon, and meets the capitalization requirements as outlined in the Balanced Budget Act (BBA) of 1997.

(94) "Home Health Services" mean part-time or intermittent skilled nursing services, other therapeutic services (physical therapy, occupational therapy, speech therapy), and home health aide services made available on a visiting basis in a place of residence used as the client's home.

(95) "Home Intravenous Services" mean services provided in the client's place of residence to an individual who requires that medication (antibiotics, analgesics, chemotherapy, hydrational fluids, or other intravenous medications) be administered intravenously as described in the Home Enteral/Parenteral Nutrition and IV Services program administrative rules.

(96) "Home Parenteral Nutrition" means services provided in the client's residence to an individual who is unable to absorb nutrients via the gastrointestinal tract, or for other medical reasons, requires nutrition be supplied parenterally as described in the Home Enteral/Parenteral Nutrition and IV Services program administrative rules.

(97) "Hospice" means a public agency or private organization or subdivision of either that is primarily engaged in providing care to terminally ill individuals, is certified by the federal Centers for Medicare and Medicaid Services as a program of hospice services meeting current standards for Medicare and Medicaid reimbursement and Medicare Conditions of Participation; and currently licensed by the Oregon Health Authority (Authority), Public Health Division.

(98) "Hospital" means a facility licensed by the Office of Public Health Systems as a general hospital which meets requirements for participation in OHP under Title XVIII of the Social Security Act. The Division does not consider facilities certified by CMS as long-term care hospitals, long-term acute care hospitals or religious non-medical facilities as hospitals for reimbursement purposes. Out-of-state hospitals will be considered hospitals for reimbursement purposes if they are licensed as a short term acute care or general hospital by the appropriate licensing authority within that state, and if they are enrolled as a provider of hospital services with the Medicaid agency within that state.

(99) "Hospital-Based Professional Services" mean professional services provided by licensed practitioners or staff based on a contractual or employee/employer relationship and reported as a cost on the Hospital Statement of Reasonable Cost report for Medicare and the Calculation of Reasonable Cost (Division 42) report for the Division.

(100) "Hospital Laboratory" means a laboratory providing professional technical laboratory services as outlined under laboratory services, in a hospital setting, as either an inpatient or outpatient hospital service whose costs are reported on the hospital's cost report to Medicare and to the Division.

(101) "Indian Health Care Provider" means an Indian health program or an urban Indian organization.

(102) "Indian Health Program" means any Indian Health Service (IHS) facility, any Federally recognized Tribe or Tribal organization, or any FQHC with a 638 designation.

(103) "Indian Health Service (IHS)" means an operating division (OPDIV) within the U.S. Department of Health and Human Services (HHS) responsible for providing medical and public health services to members of federally recognized Tribes and Alaska Natives.

(104) "Individual Adjustment Request Form (DMAP 1036)" means form used to resolve an incorrect payment on a previously paid claim, including underpayments or overpayments.

(105) "Inpatient Hospital Services" mean services that are furnished in a hospital for the care and treatment of an inpatient. (See Division Hospital Services program administrative rules in chapter 410, division 125 for inpatient covered services.)

(106) "Institutional Level of Income Standards (ILIS)" mean three times the amount SSI pays monthly to a person who has no other income

and who is living alone in the community. This is the standard used for Medicaid eligible individuals to calculate eligibility for long-term nursing care in a nursing facility, Intermediate Care Facilities for the Mentally Retarded (ICF/MR) and individuals on ICF/MR waivers or eligibility for services under Seniors and People with Disabilities' (SPD) Home and Community Based Waiver.

(107) "Institutionalized" means a patient admitted to a nursing facility or hospital for the purpose of receiving nursing and/or hospital care for a period of 30 days or more.

(108) "International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) (including volumes 1, 2, and 3, as revised annually)" mean a book of diagnosis codes used for billing purposes when treating and requesting reimbursement for treatment of diseases.

(109) "Laboratory" means a facility licensed under ORS 438 and certified by CMS, Department of Health and Human Services (DHHS), as qualified to participate under Medicare, to provide laboratory services (as defined in this rule) within or apart from a hospital. An entity is considered to be a laboratory if the entity derives materials from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings. If an entity performs even one laboratory test, including waived tests for these purposes, it is considered to be a laboratory, under the Clinical Laboratory Improvement Act (CLIA).

(110) "Laboratory Services" mean those professional and technical diagnostic analyses of blood, urine, and tissue ordered by a physician or other licensed practitioner of the healing arts within his/her scope of practice as defined under State law and provided to a patient by or under the direction of a physician or appropriate licensed practitioner in an office or similar facility, hospital, or independent laboratory.

(111) "Licensed Direct Entry Midwife" means a practitioner who has acquired the requisite qualifications to be registered and/or legally licensed to practice midwifery by the Public Health Division.

(112) "Liability Insurance" means insurance that provides payment based on legal liability for injuries or illness. It includes, but is not limited to, automobile liability insurance, uninsured and underinsured motorist insurance, homeowner's liability insurance, malpractice insurance, product liability insurance, Worker's Compensation, and general casualty insurance. It also includes payments under state wrongful death statutes that provide payment for medical damages.

(113) "Managed Care Organization (MCO)" means contracted health delivery system providing capitated or prepaid health services, also known as a Prepaid Health Plan (PHP). An MCO is responsible for providing, arranging and making reimbursement arrangements for covered services as governed by state and federal law. An MCO may be a Chemical Dependency Organization (CDO), Fully Capitated Health Plan (FCHP), Dental Care Organization (DCO), Mental Health Organization (MHO), or Physician Care Organization (PCO).

(114) "Maternity Case Management" means a program available to pregnant clients. The purpose of Maternity Case Management is to extend prenatal services to include non-medical services, which address social, economic and nutritional factors. For more information refer to the Division's Medical-Surgical Services Program administrative rules.

(115) "Medicaid" means a federal and state funded portion of the medical assistance programs established by Title XIX of the Social Security Act, as amended, administered in Oregon by the Authority.

(116) "Medical Assistance Eligibility Confirmation" means verification through the Electronic Verification System (EVS), AVR, Secure Web site or Electronic Data Interchange (EDI), or an authorized Department or Authority representative.

(117) "Medical Assistance Program" means a program for payment of health services provided to eligible Oregonians, including Medicaid and CHIP services under the OHP Medicaid Demonstration Project, and Medicaid and CHIP services under the State Plan.

(118) "Medical Care Identification" means the card commonly called the "medical card" issued to clients.

(119) "Medical Services" mean care and treatment provided by a licensed medical provider directed at preventing, diagnosing, treating or correcting a medical problem.

(120) "Medical Transportation" means transportation to or from covered medical services.

(121) "Medically Appropriate" means services and medical supplies that are required for prevention, diagnosis or treatment of a health condition which encompasses physical or mental conditions, or injuries, and which are:

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(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community, evidence-based medicine and professional standards of care as effective;

(c) Not solely for the convenience of an OHP client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies which can be safely provided to a Division client or Primary Care Manager (PCM) Member in the PHP's or PCM's judgment.

(122) "Medicare" means a federally administered program offering health insurance benefits for persons aged 65 or older and certain other aged or disabled persons. This program includes:

(a) Hospital Insurance (Part A) for inpatient services in a hospital or skilled nursing facility, home health care, and hospice care; and

(b) Medical Insurance (Part B) for physicians' services, outpatient hospital services, home health care, end-stage renal dialysis, and other medical services and supplies;

(c) Prescription drug coverage (Part D) means covered Part D drugs include prescription drugs, biological products, insulin as described in specified paragraphs of section 1927(k) of the Social Security Act, and vaccines licensed under section 351 of the Public Health Service Act; also includes medical supplies associated with the injection of insulin; Part D covered drugs prohibit Medicaid Title XIX Federal Financial Participation (FFP). For limitations, see the Division's Pharmaceutical Services program administrative rules in chapter 410, division 121.

(123) "Medicare Advantage" means an organization approved by CMS to offer Medicare health benefits plans to Medicare beneficiaries.

(124) "Medicheck for Children and Teens" mean services also known as Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services. The Title XIX program of EPSDT services for eligible clients under age 21. It is a comprehensive child health program to assure the availability and accessibility of required medically appropriate health care services and to help Authority clients and their parents or guardians effectively use them.

(125) "Member" means an OHP client enrolled with a pre-paid health plan or coordinated care organization.

(126) "Mental Health Case Management" means services provided to CCO members who require assistance to ensure access to mental health benefits and services from local, regional or state allied agencies or other service providers. Services provided may include: advocating for the CCO member's treatment needs; providing assistance in obtaining entitlements based on mental or emotional disability; referring CCO members to needed services or supports; accessing housing or residential programs; coordinating services, including educational or vocational activities; and establishing alternatives to inpatient psychiatric services.

(127) "National Correct Coding Initiative (NCCI)" means the Centers for Medicare and Medicaid Services (CMS) developed the National Correct Coding Initiative (NCCI) to promote national correct coding methodologies and to control improper coding leading to inappropriate payment.

(128) "National Drug Code or (NDC)" means a universal number that identifies a drug. The NDC number consists of 11 digits in a 5-4-2 format. The Food and Drug Administration assigns the first five digits to identify the manufacturer of the drug. The manufacturer assigns the remaining digits to identify the specific product and package size. Some packages will display less than 11 digits, but the number assumes leading zeroes.

(129) "National Provider Identification (NPI)" means federally directed provider number mandated for use on HIPAA covered transactions; individuals, provider organizations and subparts of provider organizations that meet the definition of health care provider (45 CFR 160.103) and who conduct HIPAA covered transactions electronically are eligible to apply for an NPI; Medicare covered entities are required to apply for an NPI.

(130) "Naturopath" means a person licensed to practice naturopathy pursuant to State law.

(131) "Naturopathic Services" means services provided within the scope of practice as defined under State law.

(132) "Non-covered Services" mean services or items for which the Authority is not responsible for payment or reimbursement. Non-covered services are identified in:

(a) OAR 410-120-1200, Excluded Services and Limitations; and

(b) 410-120-1210, Medical Assistance Benefit Packages and Delivery System;

(c) 410-141-0480, OHP Benefit Package of Covered Services;

(d) 410-141-0520, Prioritized List of Health Services; and

(e) Any other applicable Division administrative rules.

(133) "Nurse Anesthetist, C.R.N.A." means a registered nurse licensed in the State of Oregon who is currently certified by the American Association of Nurse Anesthetists Council on Certification.

(134) "Nurse Practitioner" means a person licensed as a registered nurse and certified by the Board of Nursing to practice as a Nurse Practitioner pursuant to State law.

(135) "Nurse Practitioner Services" mean services provided within the scope of practice of a Nurse Practitioner as defined under State law and by rules of the Board of Nursing.

(136) "Nursing Facility" means a facility licensed and certified by the Department SPD and defined in OAR 411-070-0005.

(137) "Nursing Services" mean health care services provided to a patient by a registered professional nurse or a licensed practical nurse under the direction of a licensed professional within the scope of practice as defined by State law.

(138) "Nutritional Counseling" means counseling which takes place as part of the treatment of a person with a specific condition, deficiency or disease such as diabetes, hypercholesterolemia, or phenylketonuria.

(139) "Occupational Therapist" means a person licensed by the State Board of Examiners for Occupational Therapy.

(140) "Occupational Therapy" means the functional evaluation and treatment of individuals whose ability to adapt or cope with the task of living is threatened or impaired by developmental deficiencies, physical injury or illness, aging process, or psychological disability; the treatment utilizes task-oriented activities to prevent or correct physical and emotional difficulties or minimize the disabling effect of these deficiencies on the life of the individual.

(141) "Ombudsman Services" mean advocacy services provided by the Authority to clients whenever the client is reasonably concerned about access to, quality of or limitations on the health services provided.

(142) "Oregon Health Plan (OHP)" means the Medicaid and Children's Health Insurance (CHIP) Demonstration Project which expands Medicaid and CHIP eligibility beyond populations traditionally eligible for Medicaid to other low-income populations, and Medicaid and CHIP services under the State Plan

(143) "Optometric Services" mean services provided, within the scope of practice of optometrists as defined under State law.

(144) "Optometrist" means a person licensed to practice optometry pursuant to State law.

(145) "Oregon Health Authority (Authority or OHA)" means the agency established in ORS Chapter 413 that administers the funds for Titles XIX and XXI of the Social Security Act. It is the single state agency for the administration of the medical assistance program under ORS chapter 414. For purposes of these rules, the agencies under the authority of the OHA are the Public Health Division, the Addictions and Mental Health Division, and the Division of Medical Assistance Programs.

(146) "Oregon Youth Authority (OYA)" means the state department charged with the management and administration of youth correction facilities, state parole and probation services and other functions related to state programs for youth corrections.

(147) "Out-of-State Providers" mean any provider located outside the borders of the State of Oregon:

(a) Contiguous area providers are those located no more than 75 miles from the border of the State of Oregon;

(b) Non-contiguous area providers are those located more than 75 miles from the borders of the State of Oregon.

(148) "Outpatient Hospital Services" mean services that are furnished in a hospital for the care and treatment of an outpatient. For information on outpatient-covered services, see the Division's Hospital Services administrative rules found in chapter 410, division 125.

(149) "Overdue Claim" means a valid claim that is not paid within 45 days of the date it was received.

(150) "Overpayment" means payment(s) made by Authority to a provider in excess of the correct Authority payment amount for a service. Overpayments are subject to repayment to the Authority.

(151) "Overuse" means use of medical goods or services at levels determined by Authority medical staff and/or medical consultants to be medically unnecessary or potentially harmful.

(152) "Panel" means the Hearing Officer Panel established by section 3, chapter 849, Oregon Laws 1999.

(153) "Payment Authorization" means authorization granted by the responsible agency, office or organization for payment prior or subsequent to the delivery of services, as described in these General Rules and the

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appropriate program rules. See the individual program rules for services requiring authorization.

(154) "Peer Review Organization (PRO)" means an entity of health care practitioners of services contracted by the State to review services ordered or furnished by other practitioners in the same professional field.

(155) "Pharmaceutical Services" mean services provided by a Pharmacist, including medications dispensed in a pharmacy upon an order of a licensed practitioner prescribing within his/her scope of practice.

(156) "Pharmacist" means a person licensed to practice pharmacy pursuant to state law.

(157) "Physical Capacity Evaluation" means an objective, directly observed measurement of a person's ability to perform a variety of physical tasks combined with subjective analysis of abilities of the person.

(158) "Physical Therapist" means a person licensed by the relevant State licensing authority to practice Physical Therapy.

(159) "Physical Therapy" means treatment comprising exercise, massage, heat or cold, air, light, water, electricity or sound for the purpose of correcting or alleviating any physical or mental disability, or the performance of tests as an aid to the assessment, diagnosis or treatment of a human being. Physical Therapy shall not include radiology or electrosurgery.

(160) "Physician" means a person licensed to practice medicine pursuant to state law of the state in which he/she practices medicine, or a person licensed to practice medicine pursuant to federal law for the purpose of practicing medicine under a contract with the federal government.

(161) "Physician Assistant" means a person licensed as a physician assistant in accordance with ORS 677. Physician assistants provide medical services under the direction and supervision of an Oregon licensed physician according to a practice description approved by the Board of Medical Examiners.

(162) "Physician Services" mean services provided, within the scope of practice as defined under state law, by or under the personal supervision of a physician.

(163) "Podiatric Services" mean services provided within the scope of practice of podiatrists as defined under state law.

(164) "Podiatrist" means a person licensed to practice podiatric medicine pursuant to state law.

(165) "Post-Payment Review" means review of billings and/or other medical information for accuracy, medical appropriateness, level of service or for other reasons subsequent to payment of the claim.

(166) "Practitioner" means a person licensed pursuant to state law to engage in the provision of health care services within the scope of the practitioner's license and/or certification.

(167) "Premium Sponsorship" means premium donations made for the benefit of one or more specified Division clients (See 410-120-1390).

(168) "Prepaid Health Plan (PHP)" means a managed health, dental, chemical dependency, or mental health organization that contracts with the Authority on a case managed, prepaid, capitated basis under OHP. PHPs may be a Chemical Dependency Organization (CDO), Dental Care Organization (DCO), Fully Capitated Health Plan (FCHP), Mental Health Organization (MHO), or Physician Care Organization (PCO)

(169) "Primary Care Dentist (PCD)" means a dental practitioner who is responsible for supervising and coordinating initial and primary dental care within their scope of practice for their members.

(170) "Primary Care Physician" means a physician who has responsibility for supervising, coordinating and providing initial and primary care to patients, initiating referrals for consultations and specialist care, and maintaining the continuity of patient care.

(171) "Primary Care Provider (PCP)" means any enrolled medical assistance provider who has responsibility for supervising, coordinating, and providing initial and primary care within their scope of practice for identified clients. PCPs initiate referrals for care outside their scope of practice, consultations and specialist care, and assure the continuity of medical-appropriate client care.

(172) "Prior Authorization (PA)" means payment authorization for specified medical services or items given by Authority staff, or its contracted agencies prior to provision of the service. A physician referral is not a PA.

(173) "Prioritized List of Health Services" mean the listing of conditions and treatment pairs developed by the Health Evidence Review Commission for the purpose of administering OHP.

(174) "Private Duty Nursing Services" mean nursing services provided within the scope of license by a registered nurse or a licensed practical nurse, under the general direction of the patient's physician to an individual who is not in a health care facility.

(175) "Provider" means an individual, facility, institution, corporate entity, or other organization which supplies health care services or items, also termed a performing provider, or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider (BP). The term provider refers to both performing providers and BP(s) unless otherwise specified.

(176) "Provider Organization" means a group practice, facility, or organization that is:

(a) An employer of a provider, if the provider is required as a condition of employment to turn over fees to the employer; or

(b) The facility in which the service is provided, if the provider has a contract under which the facility submits claims; or

(c) A foundation, plan, or similar organization operating an organized health care delivery system, if the provider has a contract under which the organization submits the claim; and

(d) Such group practice, facility, or organization is enrolled with the Authority, and payments are made to the group practice, facility or organization;

(e) If such entity solely submits billings on behalf of providers and payments are made to each provider, then the entity is an agent. (See Subparts of Provider Organization).

(177) "Public Health Clinic" means a clinic operated by county government.

(178) "Public Rates" mean the charge for services and items that providers, including Hospitals and nursing facilities, made to the general public for the same service on the same date as that provided to Authority clients.

(179) "Qualified Medicare Beneficiary (QMB)" means a Medicare beneficiary, as defined by the Social Security Act and its amendments.

(180) "Qualified Medicare and Medicaid Beneficiary (QMM)" means a Medicare beneficiary who is also eligible for Division coverage.

(181) "Quality Improvement" means the efforts to improve the level of performance of a key process or processes in health services or health care.

(182) "Quality Improvement Organization (QIO)" means an entity that has a contract with CMS under Part B of Title XI to perform utilization and quality control review of the health care furnished, or to be furnished, to Medicare and Medicaid clients; formerly known as a Peer Review Organization.

(183) "Radiological Services" mean those professional and technical radiological and other imaging services for the purpose of diagnosis and treatment ordered by a physician or other licensed practitioner of the healing arts within the scope of practice as defined under state law and provided to a patient by or under the direction of a physician or appropriate licensed practitioner in an office or similar facility, Hospital, or independent radiological facility.

(184) "Recipient" means a person who is currently eligible for medical assistance (also known as a client).

(185) "Recreational Therapy" means recreational or other activities that are diversional in nature (includes, but is not limited to, social or recreational activities or outlets).

(186) "Recoupment" means an accounts receivable system that collects money owed by the provider to the Authority by withholding all or a portion of a provider's future payments.

(187) "Referral" means the transfer of total or specified care of a client from one provider to another. As used by the Authority, the term referral also includes a request for a consultation or evaluation or a request or approval of specific services. In the case of clients whose medical care is contracted through a Prepaid Health Plan (PHP), or managed by a Primary Care Physician, a referral is required before non-emergency care is covered by the PHP or the Authority.

(188) "Remittance Advice (RA)" means the automated notice a provider receives explaining payments or other claim actions. It is the only notice sent to providers regarding claim actions.

(189) "Request for Hearing" means a clear expression, in writing, by an individual or representative that the person wishes to appeal a Department or Authority decision or action and wishes to have the decision considered by a higher authority.

(190) "Representative" means an individual who can make OHP-related decisions for a client who is not able to make such decisions themselves.

(191) "Retroactive Medical Eligibility" means eligibility for medical assistance granted to a client retroactive to a date prior to the client's application for medical assistance.

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(192) "Rural" means a geographic area that is 10 or more map miles from a population center of 30,000 people or less.

(193) "Sanction" means an action against providers taken by the Authority in cases of fraud, misuse or abuse of Division requirements.

(194) "School Based Health Service" means a health service required by an Individualized Education Plan (IEP) during a child's education program which addresses physical or mental disabilities as recommended by a physician or other licensed practitioner.

(195) "Service Agreement" means an agreement between the Authority and a specified provider to provide identified services for a specified rate. Service agreements may be limited to services required for the special needs of an identified client. Service agreements do not preclude the requirement for a provider to enroll as a provider.

(196) "Sliding Fee Schedule" means a fee schedule with varying rates established by a provider of health care to make services available to indigent and low-income individuals. The sliding-fee schedule is based on ability to pay.

(197) "Social Worker" means a person licensed by the Board of Clinical Social Workers to practice clinical social work.

(198) "Speech-Language Pathologist" means a person licensed by the Oregon Board of Examiners for Speech Pathology.

(199) "Speech-Language Pathology Services" mean the application of principles, methods, and procedure for the measuring, evaluating, predicting, counseling or instruction related to the development and disorders of speech, voice, or language for the purpose of preventing, habilitating, rehabilitating, or modifying such disorders in individuals or groups of individuals.

(200) "State Facility" means a Hospital or training center operated by the State of Oregon, which provides long-term medical or psychiatric care.

(201) "Subparts (of a Provider Organization)" mean for NPI application, subparts of a health care provider organization would meet the definition of health care provider (45 CFR 160.103) if it were a separate legal entity and if it conducted HIPAA-covered transactions electronically, or has an entity do so on its behalf, could be components of an organization or separate physical locations of an organization.

(202) "Subrogation" means Right of the State to stand in place of the client in the collection of third party resources (TPR).

(203) "Supplemental Security Income (SSI)" means a program available to certain aged and disabled persons which is administered by the Social Security Administration through the Social Security office.

(204) "Surgical Assistant" means a person performing required assistance in surgery as permitted by rules of the State Board of Medical Examiners.

(205) "Suspension" means a sanction prohibiting a provider's participation in the medical assistance programs by deactivation of the provider's Authority-assigned billing number for a specified period of time. No payments, Title XIX or State Funds, will be made for services provided during the suspension. The number will be reactivated automatically after the suspension period has elapsed.

(206) "Targeted Case Management (TCM)" means activities that will assist the client in a target group in gaining access to needed medical, social, educational and other services. This includes locating, coordinating, and monitoring necessary and appropriate services. TCM services are often provided by Allied Agency providers.

(207) "Termination" means a sanction prohibiting a provider's participation in the Division's programs by canceling the provider's Authority-assigned billing number and agreement. No payments, Title XIX or State Funds, will be made for services provided after the date of termination. Termination is permanent unless:

(a) The exceptions cited in 42 CFR 1001.221 are met; or

(b) Otherwise stated by the Authority at the time of termination.

(208) "Third Party Resource (TPR)" means a medical or financial resource which, under law, is available and applicable to pay for medical services and items for a Authority client.

(209) "Transportation" means Medical Transportation.

(210) "Type A Hospital" means a hospital identified by the Office of Rural Health as a Type A hospital.

(211) "Type B AAA" means an AAA administered by a unit or combination of units of general purpose local government for overseeing Medicaid, financial and adult protective services and regulatory programs for the elderly or the elderly and disabled.

(212) "Type B AAA Unit" means a Type B AAA funded by Oregon Project Independence (OPI), Title III – Older Americans Act, and Title XIX of the Social Security Act.

(213) "Type B Hospital" means a hospital identified by the Office of Rural Health as a Type B hospital.

(214) "Urban" means a geographic area that is less than 10 map miles from a population center of 30,000 people or more.

(215) "Urgent Care Services" mean health services that are medically appropriate and immediately required to prevent serious deterioration of a client's health that are a result of unforeseen illness or injury.

(216) "Usual Charge (UC)" means the lesser of the following unless prohibited from billing by federal statute or regulation:

(a) The provider's charge per unit of service for the majority of non-medical assistance users of the same service based on the preceding month's charges;

(b) The provider's lowest charge per unit of service on the same date that is advertised, quoted or posted. The lesser of these applies regardless of the payment source or means of payment;

(c) Where the provider has established a written sliding fee scale based upon income for individuals and families with income equal to or less than 200% of the federal poverty level, the fees paid by these individuals and families are not considered in determining the usual charge. Any amounts charged to third party resources (TPR) are to be considered.

(217) "Utilization Review (UR)" means the process of reviewing, evaluating, and assuring appropriate use of medical resources and services. The review encompasses quality, quantity, and appropriateness of medical care to achieve the most effective and economic use of health care services.

(218) "Valid Claim" means an invoice received by the Division or the appropriate Authority/Department office for payment of covered health care services rendered to an eligible client which:

(a) Can be processed without obtaining additional information from the provider of the goods or services or from a TPR; and

(b) Has been received within the time limitations prescribed in these General Rules (OAR 410 division 120).

(219) "Vision Services" mean provision of corrective eyewear, including ophthalmological or optometric examinations for determination of visual acuity and vision therapy and devices.

Stat. Auth.: ORS 413.042 414.065

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1981, f. 1-23-81, ef. 3-1-81; AFS 33-1981, f. 6-23-81, ef. 7-1-81; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82, for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 57-1982, f. 6-28-82, ef. 7-1-82; AFS 81-1982, f. 8-30-82, ef. 9-1-82; AFS 4-1984, f. & ef. 2-1-84; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-84, ef. 9-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 13-1987, f. 3-31-87, ef. 4-1-87; AFS 7-1988, f. & cert. ef. 2-1-88; AFS 69-1988, f. & cert. ef. 12-5-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0005; HR 25-1991(Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; HR 2-1994, f. & cert. ef. 2-1-94; HR 31-1994, f. & cert. ef. 11-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 11-2000, f. & cert. ef. 6-23-00; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 67-2004, f. 9-14-04, cert. ef. 10-1-04; OMAP 10-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 45-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 24-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 13-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 11-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12

410-141-0000

Definitions

In addition to the definitions in 410-120-0000, the following definitions apply.

(1) "Action" means in the case of a Prepaid Health Plan (PHP) or Coordinated Care Organization (CCO):

(a) The denial or limited authorization of a requested service, including the type or level of service;

(b) The reduction, suspension or termination of a previously authorized service;

(c) The denial in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner, as defined by the Division of Medical Assistance Programs (Division);

(e) The failure of a PHP to act within the timeframes provided in 42 CFR 438.408(b); or

(f) For a member in a single PHP or CCO service area, the denial of a request to obtain services outside of the participating provider panel pursuant to OAR 410-141-0160 and 410-141-0220 or OAR 410-141-3320, as applicable.

(2) "Appeal" means a request for review of an action.

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(3) “Coordinated Care Services” mean a CCO’s fully integrated physical health, chemical dependency and mental health services pursuant to ORS 414.725 and dental health services pursuant to ORS 414.625(3) that a CCO agrees to provide under contract with the Authority.

(4) “Capitated Services” mean those covered services that a PHP or Primary Care Manager (PCM) agrees to provide for a capitation payment under contract with the Authority.

(5) “Capitation Payment” means:

(a) Monthly prepayment to a PHP for health services the PHP provides to members;

(b) Monthly prepayment to a PCM to provide primary care management services for a client enrolled with the PCM.

(6) “CCO Payment” means the monthly payment to a CCO for services the CCO provides to members in accordance with the global budget.

(7) “Chemical Dependency Organization (CDO)” means a PHP that provides and coordinates chemical dependency outpatient, intensive outpatient and opiate substitution treatment services as capitated services under OHP.

(8) “Chemical Dependency Services” mean assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol or other drug abusing or dependent clients and their family members or significant others., consistent with Level I and/or Level II of the “Chemical Dependency Placement, Continued Stay, and Discharge Criteria.”

(9) “Cold Call Marketing” means a PCP’s or CCO’s unsolicited personal contact with a potential member for marketing purposes.

(10) “Community Advisory Council” means the CCO-convened council that meets regularly to ensure the CCO is addressing the health care needs of CCO members and the community, consistent with ORS 414.625.

(11) “Community Health Worker” means an individual who:

(a) Has expertise or experience in public health;

(b) Works in an urban or rural community either for pay or as a volunteer in association with a local health care system;

(c) To the extent practicable, shares ethnicity, language, socioeconomic status and life experiences with the residents of the community where the worker serves;

(d) Assists members of the community to improve their health and increases the capacity of the community to meet the health care needs of its residents and achieve wellness;

(e) Provides health education and information that is culturally appropriate to the individuals being served;

(f) Assists community residents in receiving the care they need;

(g) May give peer counseling and guidance on health behaviors; and

(h) May provide direct services such as first aid or blood pressure screening.

(12) “Community Mental Health Program (CMHP)” means the organization of all services for individuals with mental or emotional disorders operated by, or contractually affiliated with, a local Mental Health Authority, operated in a specific geographic area of the state under an inter-governmental agreement or direct contract with the Authority’s Addictions and Mental Health Division (AMH).

(13) “Co-morbid Condition” means a medical condition or diagnosis coexisting with one or more other current and existing conditions or diagnoses in the same patient.

(14) “Community Standard” means typical expectations for access to the health care delivery system in the client’s community of residence. Except where the community standard is less than sufficient to ensure quality of care, the Division requires that the health care delivery system available to Division members in PHPs and to PCM members take into consideration the community standard and be adequate to meet the needs of the Division and PCM members.

(15) “Condition/Treatment Pair” means diagnoses described in the International Classification of Diseases Clinical Modifications, 9th edition (ICD-9-CM), the Diagnostic and Statistical Manual of Mental Disorders, 4th edition (DSM-IV), and treatments described in the Current Procedural Terminology, 4th edition (CPT-4) or American Dental Association Codes (CDT-2), or the Authority AMH Medicaid Procedure Codes and Reimbursement Rates, which, when paired by the Health Evidence Review Commission, constitute the line items in the Prioritized List of Health Services. Condition/treatment pairs may contain many diagnoses and treatments.

(16) “Contract” means an agreement between the State of Oregon, acting by and through the Authority and a PHP or CCO to provide health services to eligible members.

(17) “Coordinated Care Organization (CCO)” means a corporation, governmental agency, public corporation or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

(18) “Corrective Action or Corrective Action Plan” means a Division-initiated request for a contractor or a contractor-initiated request for a sub-contractor to develop and implement a time specific plan for the correction of identified areas of noncompliance.

(19) “Covered Services” mean medically appropriate health services described in ORS Chapter 414 and applicable administrative rules that the Legislature funds, based on the Prioritized List of Health Services.

(20) “Declaration for Mental Health Treatment” means a written statement of an individual’s decisions concerning his or her mental health treatment. The individual makes the declaration when they are able to understand and make decisions related to treatment, which is honored when the individual is unable to make such decisions.

(21) “Dental Care Organization (DCO)” means a PHP that provides and coordinates dental services as capitated services under OHP.

(22) “Dental Case Management Services” mean services provided to ensure member receives dental services, including a comprehensive, ongoing assessment of the member’s dental and medical needs related to dental care and the development and implementation of a plan to ensure the member receives those services.

(23) “Diagnostic Services” mean those services required to diagnose a condition, including but not limited to radiology, ultrasound, other diagnostic imaging, electrocardiograms, laboratory and pathology examinations, and physician or other professional diagnostic or evaluative services.

(24) “Disenrollment” means the act of removing a client from enrollment with a PHP, PCM, or CCO.

(25) “Enrollment” means the assignment of a client to a PHP, PCM or CCO for management and receipt of health services.

(26) “Exceptional Needs Care Coordination (ENCC)” means a specialized case management service provided by fully capitated health plans to members identified as aged, blind or disabled who have complex medical needs, including:

(a) Early identification of members eligible for ENCC services;

(b) Assistance to ensure timely access to providers and capitated services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of capitated services and discharge planning; and

(e) Aid with coordinating necessary and appropriate linkage of community support and social service systems with medical care systems .

(27) “Free-Standing Mental Health Organization (MHO)” means the single MHO in each county that provides only mental health services and is not affiliated with a fully capitated health plan for that service area.

(28) “Fully-Capitated Health Plan (FCHP)” means PHPs that contract with the Authority to provide capitated health services, including inpatient hospitalization.

(29) Global Budget means the total amount of payment as established by the Authority to a CCO to deliver and manage health services for its members, including providing access to and ensuring the quality of those services.

(30) “Grievance” means a member’s complaint to a PHP, CCO or to a participating provider about any matter other than an action.

(31) “Grievance System” means the overall system that includes:

(a) Grievances to a PHP or CCO on matters other than actions;

(b) Appeals to a PHP or CCO on actions; and

(c) Contested case hearings through the state on actions.

(32) “Health Services” means:

(a) For purposes of CCOs, the integrated services authorized to be provided within the medical assistance program as defined in ORS 414.025, for the physical medical, mental health, chemical dependency and dental services funded by the Legislative Assembly based upon the Prioritized List of Health Services;

(b) For all other purposes, the services authorized to be provided within the medical assistance program as defined in ORS 414.025, for the physical medical, mental health, chemical dependency and dental services funded by the Legislative Assembly based upon the Prioritized List of Health Services.

(33) “Health System Transformation (HST)” means the transformation of health care delivery in medical assistance programs as prescribed by 2011 House Bill 3650, Chapter 602, Oregon Laws 2011 and 2012 Enrolled

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Senate Bill 1580, Chapter 8, Oregon Laws 2012; and including the CCO Implementation Proposal from the Oregon Health Policy Board (January 24, 2012) approved by Section 2 of 2012 Enrolled Senate Bill 1580.

(34) "Line Items" mean condition/treatment pairs or categories of services included at specific lines in the Prioritized List of Health Services.

(35) "Marketing" means any communication from a PHP or a CCO to a client who is not enrolled in the PHP or CCO, and the communication can reasonably be interpreted to be an attempt to influence the OHP client:

- (a) To enroll in that particular PHP or CCO;
- (b) To either disenroll or not to enroll with another PHP or CCO.

(36) "Medical Case Management Services" mean services provided to ensure members obtain health services necessary to maintain physical and emotional development and health.

(37) "Mental Health Assessment" means a qualified mental health professional's determination of a member's need for mental health services.

(38) "Mental Health Case Management" means services provided to members who need assistance to ensure access to mental health benefits and services from local, regional or state allied agencies or other service providers.

(39) "Mental Health Organization (MHO)" means a PHP that provides capitated mental health services for clients.

(40) "Non-Participating Provider" means a provider that does not have a contractual relationship with a PHP or CCO and is not on their panel of providers.

(41) "Participating Provider" means a provider that has a contractual relationship with a PHP or CCO and is on their panel of providers.

(42) "PCM Member" means a client enrolled with a primary case manager.

(43) "Peer Wellness Specialist" means an individual who assists mental health services consumers to reduce stigmas and discrimination and to provide direct services to assist individuals to create and maintain recovery, health and wellness by:

- (a) Assessing the individual's mental health service and support needs through community outreach;
- (b) Assisting individuals with access to available services and resources; and
- (c) Addressing barriers to services and providing education and information about available resources and mental health issues.

(44) "Person Centered Care" means care that reflects the individual patient's strengths and preferences; reflects the clinical needs of the patient as identified through an individualized assessment; is based upon the patient's goals; and will assist the patient in achieving the goals.

(45) "Personal Health Navigator" means an individual who provides information, assistance, tools and support to enable a patient to make the best health care decisions in the patient's particular circumstances and in light of the patient's needs, lifestyle, combination of conditions and desired outcomes.

(46) "Physician Care Organization (PCO)" means a PHP that contracts with the Authority to provide partially-capitated health services under OHP, exclusive of inpatient hospital services.

(47) "Primary Care Management Services" mean services that ensure PCM members obtain health services that are necessary to maintain physical and emotional development and health.

(48) "Primary Care Manager (PCM)" means a primary care provider who agrees to provide primary care management services to their members.

(49) "Prioritized List of Health Services" mean the listing of condition and treatment pairs developed by the Health Evidence Review Commission for the purpose of administering OHP health services.

(50) "Service Area" means the geographic area within which the PHP or CCO agreed under contract with the Authority to provide health services.

(51) "Valid Pre-Authorization" means a document the Authority, a PHP or CCO receives requesting a health service for a client who would be eligible for the service at the time of the service, and the document contains:

- (a) A beginning and ending date not exceeding twelve months; and
- (b) All data fields required for processing of the request or payment of the service, including the appropriate billing codes.

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

Stat. Auth.: ORS 409.110 & 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 13-2002, f. & cert. ef. 4-1-02; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 50-2003, f. 7-31-03, cert. ef. 8-1-03; OMAP 37-2004(Temp), f. 5-27-04, cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-

04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 45-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12

410-141-3000

Definitions

The Oregon Health Authority adopts and incorporates by reference the definitions in the following administrative rules and applies them to Health System Transformation and the use of Coordinated Care Organizations:

(1) OAR 309-012-0140, 309-016-0605, 309-032-0860, 309-032-1505, 309-033-0210, applicable to mental health services;

(2) OAR 410-120-0000, definitions of the Oregon Health Plan's General Rules; and

(3) OAR 410-141-0000, definitions of the Oregon Health Plan's rules generally applicable to prepaid managed health care organizations and coordinated care organizations.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 1580

Hist.: DMAP 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12

410-141-3010

CCO Application, Certification, and Contracting Procedures

(1) The following definitions apply to this rule:

(a) Applicant means the entity submitting an application to be certified as a CCO or to enter into or amend a contract for coordinated care services;

(b) Application means an entity's written response to a Request for Application (RFA);

(c) Award date means the date on which the Authority acts on the applications by issuing or denying certification and by awarding or not awarding contracts;

(d) Certification means the Authority's determination that an entity meets the standards, set forth in the RFA, for being a CCO, through initial certification or recertification;

(e) Coordinated care services means fully integrated physical health services, chemical dependency and mental health services, and shall include dental health services as provided in ORS 414.625(3), by July 1, 2014;

(f) CMS Medicare/Medicaid Alignment Demonstration means a demonstration proposal by the Authority to CMS that will align and integrate Medicare and Medicaid benefits and financing to the greatest extent feasible for individuals who are eligible for both programs. The Authority and CMS shall jointly establish its timelines and requirements for participation in the Demonstration;

(g) Entity means a single legal entity capable of entering into a risk contract that covers coordinated care services with the State and conducting the business of a coordinated care organization;

(h) Request for applications (RFA) means the document used for soliciting applications for certification as a CCO, award of or amendment of a contract coordinated care services, or other objectives as the Authority may determine appropriate for procuring coordinated care services.

(2) The Authority shall establish an application process for entities seeking certification and contracts as CCOs.

(3) The Authority shall use the following RFA processes for CCO certification and contracting:

(a) The Authority shall provide public notice of every RFA on its Web site. The RFA shall indicate how prospective applicants shall be made aware of addenda by posting notice of the RFA on the electronic system for notification to the public of Authority procurement opportunities, or upon request, by mailing notice of the availability of the RFA to persons that have expressed interest in the RFA;

(b) The RFA process begins with a public notice of the RFA, which shall be communicated using the Authority's website. A public notice of an RFA shall identify the certification requirements for the contract, the designated service areas where coordinated care services are requested and a sample contract;

(c) The RFA may specify that applicants must submit a letter of intent to the Authority within the specified time period. The letter of intent does not commit any applicant to apply. If a letter of intent is required, the Authority may not consider applications from applicants who fail to submit a timely letter of intent except as provided in the RFA;

(d) The RFA may request applicants to appear at a public meeting to provide information about the application;

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(e) The RFA will request information from Applicants in order to allow the Authority to engage in appropriate state supervision necessary to promote state action immunity under state and federal antitrust laws;

(f) The Authority shall consider only applications that are responsive, completed as described in the RFA, and submitted in the time and manner described in the RFA. The RFA may require submission of the application on its web portal in accordance with OAR 137-047-0330 (Electronic Procurements). If Electronic Procurement is used, applications will be accepted only from applicants who accept the terms and conditions for use of the Authority's web portal.

(4) At recertification the Authority may permit a current CCO contractor to submit an abbreviated application that focuses only on additional or different requirements specific to the recertification and new contract or the new addenda or capacity, or other the Authority objective which is the subject of the RFA;

(5) The Authority shall evaluate applications for certification on the basis of information contained in the RFA, the application and any additional information that the Authority obtains. Application evaluations shall be based on RFA criteria;

(a) The Authority may enter into negotiation with Applicants concerning potential capacity and enrollment in relation to other available, or potentially available, capacity, the number of potential enrollees within the service area, and other factors identified in the RFA;

(b) The Authority shall notify each Applicant that applies for certification of its certification status;

(c) Applicants that meet the RFA criteria shall be certified to contract as a CCO.

(6) Review for certification:

(a) The Authority shall issue certification to only applicants that meet the requirements and provide the assurances specified in the RFA. The Authority determines whether the applicant qualifies for certification based on the application and any additional information and investigation that the Authority may require;

(b) The Authority determines an Applicant is eligible for certification when the Applicant meets the requirements of the RFA, including written assurances, satisfactory to the Authority, that the Applicant:

(A) Provides or will provide the coordinated care services in the manner described in the RFA and the Authority's rules;

(B) Is responsible and meets or will meet standards established by the Authority and DCBS for financial reporting and solvency;

(C) Is organized and operated, and shall continue to be organized and operated, in the manner required by the contract and described in the application; and

(D) Shall comply with any assurances it has given the Authority.

(7) The Authority shall certify CCOs for a period of 6 years from the date the certification application is approved, unless the Authority certifies a CCO for a shorter period.

(8) The Authority may determine that an applicant is potentially eligible for certification if within a specified period of time the applicant is reasonably capable of being eligible for certification. The Authority is not obligated to determine whether an applicant is potentially eligible for certification if, in its discretion, the Authority determines that sufficient Applicants eligible for certification are available to attain the Authority's objectives under the RFA.

(9) The Authority may determine that an Applicant is potentially eligible for certification if:

(a) The Authority finds that the Applicant is reasonably capable of meeting the operational and solvency requirements of the RFA within a specified period of time; and

(b) The Applicant enters into discussions with the Authority about areas of qualification that must be met before the Applicant is operationally and financially eligible for certification. The Authority shall determine the date and required documentation and written assurances required from the Applicant;

(c) If the Authority determines that an Applicant potentially eligible for certification cannot become certified within the time announced in the RFA for contract award, the Authority may:

(A) Offer certification at a future date when the applicant demonstrates, to the Authority's satisfaction, that the Applicant is eligible for certification within the scope of the RFA; or

(B) Inform the Applicant that it is not eligible for certification.

(10) The Authority may award contracts to certified CCOs for administering the Oregon Integrated and Coordinated Health Care Delivery System.

(11) The Authority shall enter into or renew a contract with a CCO only if the CCO has been certified and the Authority determines that the contract would be within the scope of the RFA and consistent with the purposes and effective administration of the Oregon Integrated and Coordinated Health Care Delivery System, which includes but is not limited to:

(a) The capacity of any existing CCO in the region compared to the capacity of an additional CCO for the number of potential enrollees in the addenda;

(b) The number of CCOs in the region.

(12) The application is the Applicant's offer to enter into a contract and is a firm offer for the period specified in the RFA. The Authority's award of the contract constitutes acceptance of the offer and binds the Applicant to the contract:

(a) Except to the extent the Applicant is authorized to propose certain terms and conditions pursuant to the RFA, an Applicant may not make its offer contingent on the Authority's acceptance of any terms or conditions other than those contained in the RFA;

(b) Only an entity that the Authority has certified to contract as a CCO may enter into a contract as a CCO. Certification to contract as a CCO does not assure the CCO that it will be offered a CCO contract;

(c) The Authority may award multiple contracts or make a single award or limited number of awards to all certified or potentially certified Applicants, in order to meet Authority's needs including but not limited to adequate capacity for the potential enrollees in the service area, maximizing the availability of coordinated care services, and achieving the objectives in the RFA;

(d) Subject to any limitations in the RFA, the Authority may renew a contract for CCO services by amending an existing contract or issuing a replacement contract, without issuing a new RFA;

(e) The suspension or termination of a CCO contract issued under an RFA due to noncompliance with contract requirements or by a CCO's voluntary suspension or termination shall also be a suspension or termination of certification.

(13) Disclosure of application contents and release of information:

(a) Except for the letter of intent to apply, and the technical application (with the exception of information that has been clearly identified and labeled confidential in the manner specified in the RFA), application information may not be disclosed to any applicant or the public until the award date. No information may be given to any applicant or the public relative to its standing with other applicants before the award date, except under the following circumstances:

(A) The information in the application may be shared with the Authority, the Department of Consumer and Business Services, CMS, and those individuals involved in the application review and evaluation process; and

(B) Information may be provided by the applicant to the public as part of a public review process.

(b) Application information may be disclosed on the award date, with the exception of information that has been clearly identified and labeled confidential in the manner specified in the RFA, and if the Authority determines it meets the disclosure exemption requirements.

(14) CCOs may apply to participate in the CMS Medicare/Medicaid Alignment Demonstration, but participation is not required. This rule does not replace the CMS requirements related to the Medicare/Medicaid Alignment Demonstration, such as the CMS notice of intent to apply and required components for Part D coverage. The RFA provides information about the Demonstration requirements. Upon approval of the Demonstration by CMS, the Authority shall conduct, jointly with CMS, the evaluation for certification for the Medicare/Medicaid Alignment Demonstration and award of three-way contracts between CMS, the state, and Applicants who have been certified to contract as a CCO and participate in the Demonstration.

(15) The Authority shall interpret and apply this rule to satisfy federal procurement and contracting requirements in addition to state requirements applicable to contracts with CCOs. The Authority must seek and receive federal approval of CCO contracts.

(16) Except where inconsistent with the preceding sections of this rule, the Authority adopts the following DOJ Model Public Contract Rules (as in effect on January 1, 2012) to govern RFAs and certification and contracting with CCOs:

(a) OAR 137-046 – General Provisions Related to Public Contracting: 137-046-0100, 137-046-0110 and 137-046-0400 through 137-046-0480;

(b) OAR 137-047 – Public Procurements for Goods or Services: OAR 137-047-0100, 137-047-0260 through 137-047-0670, 137-047-700 to 137-

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047-0760 (excluding provisions governing judicial review) and OAR 137-047-0800;

(c) In applying the DOJ Model Rules to RFAs under this rule:

(A) An Application is a proposal under the DOJ Model Rules;

(B) An RFA is an RFP under the DOJ Model Rules;

(C) Certification as a CCO is pre-qualification under the DOJ Model Rules;

(D) Provisions of the Public Contracting Code referenced in the DOJ Model Rules are considered to be incorporated therein;

(E) Definitions in the DOJ Model Rules govern this rule except where a term is defined in section (1) of this rule.

(17) Judicial review of the Authority's decisions relating to a solicitation protest, certification, or contract award is governed by the Oregon Administrative Procedures Act (APA). The RFA may establish when an Authority may be considered a final order for purposes of APA review.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 1580

Hist.: DMAP 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12

Rule Caption: Legislatively mandated implementation of Pharmacy & Therapeutics (P&T) Committee.

Adm. Order No.: DMAP 12-2012(Temp)

Filed with Sec. of State: 3-16-2012

Certified to be Effective: 3-16-12 thru 9-11-12

Notice Publication Date:

Rules Adopted: 410-121-0111

Rules Amended: 410-121-0030, 410-121-0033, 410-121-0040, 410-121-0100

Subject: The Pharmaceutical Services Program's administrative rules govern Division payments for services provided to certain clients. The Division temporarily adopted OAR 410-121-0110 and amended 410-121-0030, 410-121-0033, 410-121-0040 and 410-121-0100 in order to comply with State and Federal mandates in regards to the Drug Use Review (DUR)/Pharmacy & Therapeutics (P&T) Committee. New legislation abolished the Drug Use Review (DUR) Board, which performed the Federal requirements in the past. These rule revisions are retroactively effective to September 5, 2011 until it expires or the Division suspends the rule, whichever comes first.

410-121-0030: Change Pharmacy & Therapeutics (P&T) Committee to Drug Use Review (DUR) / Pharmacy & Therapeutics (P&T) Committee.

410-121-0033: Change Pharmacy & Therapeutics (P&T) Committee to Drug Use Review (DUR) / Pharmacy & Therapeutics (P&T) Committee.

410-121-0040: Change Pharmacy & Therapeutics (P&T) Committee to Drug Use Review (DUR) / Pharmacy & Therapeutics (P&T) Committee.

410-121-0100: Remove information relating to the abolished DUR Board and replace with information about the new DUR/P&T Committee.

410-121-0110: Rule adopted to transfer and define duties from the abolished DUR Board to the DUR/P&T Committee.

The Division intends to permanently adopt rule revisions through the standard rule process which will allow for input from stakeholders and the public.

Rules Coordinator: 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 drug 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

ADMINISTRATIVE RULES

410-121-0033

Polypharmacy Profiling

(1) The Division of Medical Assistance Programs (Division) may impose prescription drug payment limitations on clients with more than 15 unique fee-for-service drug prescriptions in a six-month period.

(2) The Division will review the client's drug therapy in coordination with the client's prescribing practitioner to evaluate for appropriate drug therapy.

(3) Appropriate drug therapy criteria will include, but is not limited to, the following:

- (a) Overuse of selected drug classes;
- (b) Under-use of generic drugs;
- (c) Therapeutic drug duplication;
- (d) Drug to disease interactions;
- (e) Drug to drug interactions;
- (f) Inappropriate drug dosage;
- (g) Drug selection for age;
- (h) Duration of treatment;
- (i) Clinical abuse or misuse.

(4) The Division Medical Director in conjunction with the Drug Use Review/Pharmacy & Therapeutics Committee will make final determinations on imposed drug prescription payment limitations relating to this policy.

Stat. Auth.: ORS 409.120, 413.042 & 414.380

Stats. Implemented: ORS 414.065

Hist.: OMAP 1-2004, f. 1-23-04, cert. ef. 2-1-04; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribers are responsible for obtaining prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures required in OAR 410-121-0060.

(2) All drugs and categories of drugs, including but not limited to those drugs and categories of drugs that require PA as described in this rule, are subject to the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by Oregon Health Plan (OHP) in a manner consistent with the Oregon Health Services Commission's Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication shall not be covered unless there is a co-morbid condition for which coverage would be extended. The use of the medication must meet corresponding treatment guidelines, be included within the client's benefit package of covered services, and not otherwise excluded or limited;

(b) Each drug must also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Oregon Health Authority (Authority) may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the OHP Fee-For-Service Pharmacy PA Criteria Guide (PA Criteria Guide) dated Jan. 1, 2011, incorporated in rule by reference and found on our Web page at: <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 (P&T) Committee and adopted by the Authority in this rule (see OAR 410-121-0100 for a description of the DUR program). The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First DataBank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed at the next DUR/Pharmacy & Therapeutics (P&T) Committee meeting.

(6) PA is required for brand name drugs that have two or more generically equivalent products available and that are NOT determined Narrow Therapeutic Index drugs by the Oregon 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 prescriber must document that the use of the generically equivalent drug is medically contraindicated, and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA is required for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Department;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP or;

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 409.110, 413.042, 414.065 & 414.334

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03, cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03, cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03, cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04, cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; 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

410-121-0100

Drug Use Review

(1) Drug Use Review (DUR) in Division of Medical Assistance Programs (Division) is a program designed to measure and assess the proper utilization, quality, therapy, medical appropriateness, appropriate selection and cost of prescribed medication through evaluation of claims data. This is done on both a retrospective and prospective basis. This program shall include, but is not limited to, education in relation to over-utilization, under-utilization, therapeutic duplication, drug-to-disease and drug-to-drug interactions, incorrect drug dosage, duration of treatment and clinical abuse or misuse:

(a) Information collected in a DUR program that identifies an individual is confidential;

(b) Staff of the Drug Use Review (DUR)/Pharmacy & Therapeutics (P&T) Committee and contractors may have access to identifying information to carry out intervention activities approved by the Division. The Division, DUR/P&T Committee or contractors shall adhere to all requirements of the Health Insurance Portability and Accountability Act (HIPAA) and all Division policies relating to confidential client information.

(2) Prospective DUR is the screening for potential drug therapy problems before each prescription is dispensed. It is performed at the point of sale by the dispensing pharmacist:

(a) Dispensing pharmacists must offer to counsel each Division client receiving benefits who presents a new prescription, unless the client refuses such counsel. Pharmacists must document these refusals;

(A) Dispensing pharmacists may offer to counsel the client's caregiver rather than the client presenting the new prescription if the dispensing pharmacist determines that it is appropriate in the particular instance;

(B) Counseling must be done in person whenever practicable;

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(C) If it is not practicable to counsel in person, providers whose primary patient population does not have access to a local measured telephone service must provide access to toll-free services (for example, some mail order pharmacy services) and must provide access to toll-free service for long-distance client calls in relation to prescription counseling;

(b) Prospective DUR is not required for drugs dispensed by Fully Capitated Health Plans (FCHPs);

(c) Oregon Board of Pharmacy rules defining specific requirements relating to patient counseling, record keeping and screening must be followed.

(3) Retrospective DUR is the screening for potential drug therapy problems based on paid claims data. The Division provides a professional drug therapy review for Medicaid clients through this program:

(a) The criteria used in retrospective DUR are compatible with those used in prospective DUR. Retrospective DUR criteria may include Pharmacy Management (Lock-In), Polypharmacy, and Psychotropic Use in Children. Drug therapy review is carried out by pharmacists with the Oregon State University College of Pharmacy, Drug Use Research and Management Program.

(b) If therapy problems are identified, an educational letter is sent to the prescribing provider, the dispensing provider, or both. Other forms of education are carried out under this program with Division approval.

(4) The DUR/P&T Committee is designed to develop policy recommendations in the following areas in relation to Drug Use Review:

(a) Appropriateness of criteria and standards for prospective DUR and needs for modification of these areas. DUR criteria are predetermined elements of health care based upon professional expertise, prior experience, and the professional literature with which the quality, medical appropriateness, and appropriateness of health care service may be compared.

(b) The use of different types of education and interventions to be carried out or delegated by the DUR/P&T Committee and the evaluation of the results of this portion of the program; and

(c) The preparation of an annual report on Oregon Medicaid DUR Program which describes:

(A) DUR/P&T Committee Activities;

(i) A description of how pharmacies comply with prospective DUR;

(ii) Detailed information on new criteria and standards in use; and

(iii) Changes in state policy in relation to DUR requirements for residents in nursing homes;

(B) A summary of the education/intervention strategies developed; and

(C) An estimate of the cost savings in the pharmacy budget and indirect savings due to changes in levels of medical visits and hospitalizations.

Stat. Auth.: ORS 413.042, 414.355, 414.360, 414.365, 414.370 & 414.380

Stats. Implemented: ORS 414.065

Hist.: HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 38-1992, f. 12-31-92, cert. ef. 1-1-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12

410-121-0111

Drug Use Review/Pharmacy & Therapeutics Committee

(1) Pursuant to Oregon Laws 2011, chapter 720 (HB 2100), the Drug Use Review Board (DUR Board) is abolished and the tenure of office for the members of the DUR Board expires. The legislature transferred the duties, functions and powers previously vested in the DUR Board to the Drug Use Review (DUR)/Pharmacy and Therapeutics (P&T) Committee. This rule is retroactively effective on September 5, 2011, the date the DUR/P&T Committee was created and the DUR Board was abolished by HB 2100, and expires on March 15, 2012 or whenever the Oregon Health Authority (Authority) suspends the rule, whichever comes first.

(2) Unless otherwise inconsistent with these administrative rules or other laws, any administrative rule or agency policy with reference to the DUR Board or a DUR Board volunteer, staff or contractor shall be considered to be a reference to the DUR/P&T Committee or a DUR/P&T Committee volunteer, staff or contractor. The current preferred drug list (PDL), prior authorization process and utilization review process developed by the DUR Board remains in effect until such time as the Authority, after recommendations and advice from the DUR/P&T Committee, modifies them through the adoption of new administrative rules or policies and procedures.

(3) The DUR/P&T Committee shall advise the Oregon Health Authority (Authority) on the:

(a) Implementation of the medical assistance program retrospective and prospective programs, including the type of software programs to be

used by the pharmacist for prospective drug use review and the provisions of the contractual agreement between the state and any entity involved in the retrospective program;

(b) Implementation of the Practitioner Managed Prescription Drug Plan (PMPDP);

(c) Adoption of administrative rules pertaining to the DUR/P&T Committee;

(d) Development of and application of the criteria and standards to be used in retrospective and prospective drug use review programs in a manner that ensures that such criteria and standards are based on compendia, relevant guidelines obtained from professional groups through consensus-driven processes, the experience of practitioners with expertise in drug therapy, data and experience obtained from drug utilization review program operations. The DUR/P&T Committee must have an open professional consensus process, establish an explicit ongoing process for soliciting and considering input from interested parties, and make timely revisions to the criteria and standards based on this input and scheduled reviews;

(e) Development, selection and application of and assessment for interventions being educational and not punitive in nature for medical assistance program prescribers, dispensers and patients.

(4) The DUR/P&T Committee shall make recommendations to the Authority, subject to approval by the Director or the Director's designee, for drugs to be included on any PDL adopted by the Authority and on the PMPDP. The DUR/P&T Committee shall also recommend all utilization controls, prior authorization requirements or other conditions for the inclusion of a drug on the PDL.

(5) The DUR/P&T Committee shall, with the approval of the Director or designee, do the following:

(a) Publish an annual report;

(b) Publish and disseminate educational information to prescribers and pharmacists regarding the DUR/P&T Committee and the drug use review programs, including information on the following:

(A) Identifying and reducing the frequency of patterns of fraud, abuse or inappropriate or medically unnecessary care among prescribers, pharmacists and recipients;

(B) Potential or actual severe or adverse reactions to drugs;

(C) Therapeutic appropriateness;

(D) Overutilization or underutilization;

(E) Appropriate use of generic products;

(F) Therapeutic duplication;

(G) Drug-disease contraindications;

(H) Drug-drug interactions;

(I) Drug allergy interactions;

(J) Clinical abuse and misuse.

(6) Adopt and implement procedures designed to ensure the confidentiality of any information that identifies individual prescribers, pharmacists or recipients and that is collected, stored, retrieved, assessed or analyzed by the DUR/P&T Committee, staff of the DUR/P&T Committee, contractors to the DUR/P&T Committee or the Authority.

Stat. Auth.: ORS 413.042, 414.065, 414.355, 414.360, 414.365, 414.370, 414.380, OL 2011, ch 720 (HB 2100)

Stats. Implemented: ORS 414.065, OL 2011, ch 720 (HB 2100)

Hist.: DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12

Rule Caption: Implementation of Financial Solvency Requirements for Oregon Health Plan Coordinated Care Organizations.

Adm. Order No.: DMAP 13-2012(Temp)

Filed with Sec. of State: 3-20-2012

Certified to be Effective: 3-20-12 thru 9-15-12

Notice Publication Date:

Rules Adopted: 410-141-3340, 410-141-3345, 410-141-3350, 410-141-3355, 410-141-3360, 410-141-3365, 410-141-3370, 410-141-3375, 410-141-3380, 410-141-3385, 410-141-3390, 410-141-3395

Subject: OARs 410-141-3340 through 3395 establish the financial requirements for entities to be Coordinated Care Organizations under Oregon's Integrated and Coordinated Health Care Delivery System. CCOs will improve health, increase the quality, reliability, availability and continuity of care, as well as to reduce costs. CCOs will provide medical assistance recipients with health care services that are supported by alternative payment methodologies that focus on prevention and that use patient-centered primary care homes, evidence-based practices and health information technology to

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improve health and reduce health disparities. The Authority needs to adopt these rules to establish transitional processes, the application process, application criteria, financial solvency requirements and the client grievance system.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-3340

General Financial Reporting and Financial Solvency Matters; Transition

(1) Each CCO must demonstrate that it is able to provide coordinated care services efficiently, effectively and economically. CCOs shall maintain sound financial management procedures, maintain protections against insolvency and generate periodic financial reports for the submission to the OHA or DCBS as provided in these rules.

(2) These rules of the Authority have been developed in consultation with the Department of Consumer and Business Services (DCBS) in accordance with Section 13(3) of 2011 House Bill 3650, 2011 Oregon Laws chapter 602, and Chapter 8 of the Coordinated Care Organizations Implementation Proposal (January 24, 2012) approved by the Section 1, 2012 Senate Bill 1580, 2012 Oregon Laws chapter 8.

(3) The Authority will collaborate with DCBS to review CCO financial reports and evaluate financial solvency. Except as provided in this rule, CCOs are not required to file financial reports with both OHA and DCBS; DCBS will be the recipient of any required financial reports from CCOs.

(4) Initial applicants for certification as a CCO will submit all their information to the Authority as part of their application process, and the Authority will transmit that information directly to DCBS for its review. The Authority will consult with DCBS about the financial reports submitted with the application, in making its determination about the qualifications of the applicant.

(5) Upon certification, CCOs will submit their financial reports established in these rules directly to DCBS.

(6) For purposes of these financial reporting and solvency rules, OHA authorizes DCBS to act in accordance with these rules. If quarterly reports or other evidence suggest that a CCO's financial solvency is in jeopardy, OHA and DCBS will act as necessary to protect the public interest.

(7) Where these rules specify that the DCBS will request or receive information or provide a response or take any action, DCBS shall have such authority under these rules to act on behalf of OHA. A response to DCBS under these rules shall be deemed a response to the OHA on the matter, consistent with the objective providing a single point of reporting by CCOs.

(8) OHA and DCBS may address any proper inquiries to any CCO, licensee or its officers in relation to its activities or condition or any other matter connected with its transactions. Any such person so addressed shall promptly and truthfully reply to such inquiries using the form of communication requested by OHA or DCBS. The reply shall be timely, accurate and complete, and, if OHA or DCBS so requires, verified by an officer of such person. A reply is subject to the provisions of ORS 731.260.

(9) For purposes of financial statement preparation, reporting and determination of financial solvency, CCOs shall use and are subject to Statutory Accounting Principles as set forth by the NAIC in its Accounting Practices and Procedures Manual, as updated by the NAIC, except as provided subsection (10) of this section.

(10) CCOs that have converted from an prepaid managed health care organization (MCO) to a CCO that have not historically used NAIC reporting procedures may receive an extension of time in order to develop the necessary reporting capacity. To exercise this option, the CCO shall request a temporary exception that describes a plan to begin using NAIC reporting requirements no later than effective with the financial statement due as of December 31, 2012, subject to OHA approval.

(11) CCOs receiving a temporary exception from NAIC reporting requirements under subsection (10) of this section shall use reporting procedures authorized for prepaid managed health care organizations (MCO) in accordance with MCO contract requirements.

(12) These rules incorporate specific required reporting forms or items in order to supply information related to financial responsibility and financial management. The Authority or DCBS will provide supplemental instructions about the use of these forms. The forms and instructions will be posted on the Authority's website at: <http://www.cco.health.oregon.gov>.

(13) The standards established in OAR 410-141-3345 through 410-141-3395 are intended to be consistent with, and may utilize procedures and standards common to insurers and to DCBS in its administration of financial reporting and solvency requirements. Any reference in these rules to the Insurance Code or to rules adopted by DCBS thereunder shall not be deemed to require a CCO to be an insurer, but is adopted and incorporated

by reference as the Authority's standard. These rules implement and carry out the financial reporting and solvency criteria applicable to CCOs that contract with the Authority under ORS 414.651.

(14) "Premium" is defined as having the same meaning as "CCO payments" when the payment is made by the Authority to the CCO, for purposes of this rule. Premium also includes any other revenue received by the CCO for the provision of healthcare services over a defined period of time.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580

Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3345

Assets, Liabilities, Reserves

(1) In any determination of the financial condition of a CCO, there shall be allowed as assets only such assets as are owned by the CCO and which consist of:

(a) Cash in the possession or control of the CCO, including the true balance of any deposit in a solvent bank or trust company;

(b) Investments held in accordance with these rules, and due or accrued income items in connection therewith to the extent considered by DCBS to be collectible;

(c) Due premiums, deferred premiums, installment premiums, and written obligations taken for premiums, to the extent allowed by DCBS;

(d) The amount recoverable from a reinsurer if credit for reinsurance may be allowed to the CCO pursuant to OAR 410-141-3375;

(e) Deposits or equities recoverable from any suspended banking institution, to the extent deemed by DCBS to be available for the payment of losses and claims;

(f) Other assets considered by DCBS to be available for the payment of losses and claims, at values determined by DCBS.

(2) In addition to assets impliedly excluded by OAR 410-141-3345, the following expressly shall not be allowed as assets in any determination of the financial condition of a CCO:

(a) Advances to officers, employees, agents and other persons on personal security only;

(b) Stock of such CCO owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such CCO of an interest in another firm, corporation or business unit;

(c) Tangible personal property, except such property as the CCO is otherwise permitted to acquire and retain as an investment under these rules and which is deemed by DCBS to be available for the payment of losses and claims or which is otherwise expressly allowable, in whole or in part, as an asset;

(d) The amount, if any, by which the book value of any investment as carried in the ledger assets of the CCO exceeds the value thereof as determined under these rules.

(3) In any determination of the financial condition of a CCO, liabilities to be charged against its assets shall be calculated in accordance with these rules and shall include:

(a) The amount necessary to pay all of its unpaid losses and claims incurred on or prior to the date of the statement, whether reported or unreported to the CCO, together with the expenses of adjustment or settlement thereof;

(b) For insurance other than specified in subsection (3)(c) of this section, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, calculated in accordance with these rules;

(c) Reserves which place a sound value on its liabilities and which are not less than the reserves according to accepted actuarial standards consistently applied and based on actuarial assumptions relevant to contract provisions;

(d) Taxes, expenses and other obligations due or accrued at the date of the statement;

(e) Any additional reserves for asset valuation contingencies or loss contingencies required by these rules or considered to be necessary by DCBS for the protection of OHA or DCBS and the members of the CCO.

(4) If DCBS determines that a CCO's reserves, however calculated or estimated, are inadequate, OHA shall require the CCO to maintain reserves in such additional amount as is needed to make them adequate.

(5) Funds of a CCO may be invested in a bond, debenture, note, warrant, certificate or other evidence of indebtedness that are not investment grade as established by these rules, but the funds that a CCO may invest under this section shall not exceed 20 percent of the CCO's assets. For purposes of this rule CCOs shall be subject to the requirements of OAR 836-033-0105 through 836-033-0130.

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(6) A CCO shall not have any combination of investments in or secured by the stocks, obligations, and property of one person, corporation or political subdivision in excess of 10 percent of the CCO's assets, nor shall it invest more than 10 percent of its assets in a single parcel of real property or in any other single investment. This subsection does not apply to:

(a) Investments in, or loans upon, the security of the general obligations of a sovereign; or

(b) Investments by a CCO in all real or personal property used exclusively by such CCO to provide health services or in real property used primarily for its home office.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580

Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3350

Restricted Reserves, Capital and Surplus

(1) A CCO, unless exempt, shall establish a Restricted Reserve Account and maintain adequate funds in this account to meet OHA's Primary and Secondary Restricted Reserve requirements. Reserve funds are held for the purpose of making payments to Providers in the event of the CCO's insolvency.

(2) If a CCO holds a certificate of authority as an insurer or health care service contractor from DCBS, the CCO is not required to establish a Restricted Reserve Account or maintain Primary and Secondary Restricted Reserves as set forth by this [rule/Contract].

(3) Unless exempt under subsection (2) of this section, a CCO shall establish a Restricted Reserve Account with a third party financial institution for the purpose of holding the CCO's Primary and Secondary Restricted Reserve Funds. CCOs shall use the Model Depository Agreement to establish a Restricted Reserve Account.

(4) A Model Depository Agreement shall be used by the CCO to establish a Restricted Reserve Account. CCOs shall request the Model Depository Agreement form from OHA. CCOs shall submit the Model Depository Agreement to OHA at the time of application and the Model Depository Agreement shall remain in effect throughout the period of time that this Contract is in effect. The Model Depository Agreement cannot be changed without the Administrator or his/her designee's written authorization.

(5) The CCO shall not withdraw funds, change third party financial institutions, or change account numbers within the Restricted Reserve Account without the written consent of the Administrator of OHA or his/her designee.

(6) A CCO shall submit a copy of the Model Depository Agreement at the time of application for certification. If a CCO requests and receives written authorization from the Director of the Medical Assistance Programs of OHA or his/her designee to make a change to their existing Restricted Reserve Account, the CCO shall submit a Model Depository Agreement reflecting the changes to OHA within 15 days of the date of the change.

(7) The following instruments are considered eligible deposits for the purposes of OHA's Primary and Secondary Restricted Reserves:

(a) Cash;

(b) Certificates of Deposit; or

(c) Amply secured obligations of the United States, a state or a political subdivision thereof as determined by OHA;

(d) Additionally, the Primary Restricted Reserve amount may be satisfied by a Surety Bond provided it meets the requirements listed below:

(A) Such a bond is prepaid at the beginning of the Contract year for 18 months;

(B) Evidence of prepayment is provided to OHA;

(C) The Surety Bond is purchased by a surety bond company approved by the Oregon Insurance Division;

(D) The Surety Bond Agreement contains a clause stating the payment of the bond will be made to the third party entity holding the Restricted Reserve Account on behalf of the contracting company for deposit into the Restricted Reserve Account;

(E) The Surety Bond Agreement contains a clause that no changes to the Surety Bond Agreement will occur until approved by the OHA Administrator or his/her designee; and

(F) OHA approves the terms of the Surety Bond Agreement.

(8) A CCO's Primary and Secondary Reserve balances are determined by calculating the average monthly medical expense incurred. A CCO that has submitted quarterly financial statements under this Contract for the current quarter and the prior 3 quarters, the average monthly medical expense incurred is derived by adding together the "total hospital and medical" expense (NAIC Statement of Revenue and Expenses) for the prior four

quarters and dividing by 12. A newly formed CCO will use an average of hospital and medical expense projected for the first 4 quarters of operation. Each quarter the average expense liability will be recalculated using historical quarter data available. A CCO shall deposit into the Restricted Reserve Account the amount required by sections (9) and (10).

(9) If a CCO's average monthly medical expense incurred is less than or equal to \$250,000, the CCO shall deposit into the Restricted Reserve Account an amount equal to the average monthly medical expense incurred. This amount will be referred to as the CCO's Primary Reserve and the CCO shall have no Secondary Reserve, until such time as the average monthly medical expense exceeds \$250,000.

(10) If a CCO's average monthly medical expense is greater than \$250,000, the CCO is required to deposit into the Restricted Reserve Account funds equaling 50 percent of the difference between the average monthly medical expense and the Primary Reserve balance of \$250,000.

(11) A CCO shall calculate its average monthly medical expense each quarter and adjust its Restricted Reserves accordingly.

(12) Except as provided in Working Capital, CCOs shall possess and thereafter maintain capital or surplus, or any combination thereof, equal to the greater of \$2.5 million or the amount required from the application of the risk-based capital standards in OAR 410-141-3355.

(13) A CCO that possesses the amount required in subsection (12) as of the effective date of this rule must thereafter maintain that capital and surplus.

(14) For purposes of subsection (15), "Net healthcare revenue" is defined as direct healthcare premium less the following: amounts paid for reinsurance ceded, HRA and GME payments (if any received by a CCO), and MCO taxes. Net healthcare revenue includes all healthcare related revenue and fee-for-service revenue adjusted for the change in unearned premium reserves.

(15) Except as provided in Working Capital, if a CCO does not possess the minimum capital and surplus as of the effective date of these rules as specified in section (12), the CCO shall possess and thereafter maintain capital or surplus, or any combination thereof as provided as follows:

(a) 5% of annualized total net healthcare revenue as of August 1, 2012. The CCO shall calculate its authorized control level and file the RBC report in accordance with these rules;

(b) The greater of 5% annualized total net healthcare revenue or its authorized control level risk-based capital as of January 1, 2014;

(c) The greater of 6% of annualized total net healthcare revenue or 125% of its authorized control level risk-based capital as of January 1, 2015;

(d) The greater of 7% of annualized total net healthcare revenue or 150% of its authorized control level risk-based capital as of January 1, 2016;

(e) The greater of 8% of annualized total net healthcare revenue or 175% of its authorized control level risk-based capital as of January 1, 2017;

(f) The greater of 9% of annualized total net healthcare revenue or 200% of its authorized control level risk-based capital as of January 1, 2018;

(g) The greater of 10% of annualized total net healthcare revenue or 200% of its authorized control level risk-based capital as of January 1, 2019.

(16) Insurers that possess a certificate of authority issued by DCBS are exempt from this standard and shall follow the standards set forth in the Insurance Code.

(17) A CCO may use a subordinated surplus note to meet its minimum capital and surplus requirement provided it meets the standards in Statements of Statutory Accounting Principles #41 and DCBS has given prior approval of the form and content of the surplus note.

(18) If a CCO formerly was an MCO that has converted to a CCO, the CCO will initially be subject to financial responsibility and solvency standards applicable to prepaid managed health care organizations formerly applicable to the MCO prior to converting to a CCO ("converting CCO" for purposes of this rule). Effective January 1, 2014, the converting CCO shall comply with the minimum capital and surplus set forth in paragraphs (12)-(15) of this section.

(19) The converting CCO shall calculate its authorized control level and file the RBC report in accordance with this rule.

(20) Funds of a CCO at least equal to its required capital and surplus shall be invested and kept invested as follows:

(a) In amply secured obligations of the United States, a state or a political subdivision of this state;

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(b) In loans secured by first liens upon improved, unencumbered real property (other than leaseholds) in this state where:

(A) The lien does not exceed 50 percent of the appraised value of the property and the loan is for a term of five years or less;

(B) The lien does not exceed 66-2/3 percent of the appraised value of the property provided there is an amortization plan mortgage, deed of trust or other instrument under the terms of which the installment payments are sufficient to repay the loan within a period of not more than 25 years; or

(C) The investment is insured or guaranteed by the Federal Housing Administration, the United States Department of Veterans Affairs, or under Title I of the Housing Act of 1949 (providing for slum clearance and redevelopment projects) enacted by Congress on July 15, 1949.

(c) In deposits, certificates of deposit, accounts or savings or certificate shares or accounts of or in banks, trust companies, savings and loan associations or building and loan associations to the extent such investments are insured by the Federal Deposit Insurance Corporation.

(21) Investments made pursuant to this section shall be kept free of any lien or pledge.

(22) A CCO that is not a converting CCO shall possess \$500,000 working capital above the minimum capital and surplus requirement upon the contract date sufficient to pay initial expenses without causing the CCO to fall below the minimum capital and surplus required by these rules.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580

Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3355

Risk-based capital

(1) For the purpose of determining the reasonableness and adequacy of a CCO's capital and surplus, DCBS must consider at least the following factors, as applicable:

(a) The size of the CCO, as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(b) The number of lives insured;

(c) The extent of the geographical dispersion of the lives insured by the CCO;

(d) The nature and extent of the reinsurance program of the CCO;

(e) The quality, diversification and liquidity of the investment portfolio of the CCO;

(f) The recent past and projected future trend in the size of the investment portfolio of the CCO;

(g) The combined capital and surplus maintained by comparable CCOs;

(h) The adequacy of the reserves of the CCO;

(i) The quality and liquidity of investments in affiliates. DCBS may treat any such investment as a disallowed asset for purposes of determining the adequacy of combined capital and surplus whenever in the judgment of DCBS the investment so warrants;

(j) The quality of the earnings of the CCO and the extent to which the reported earnings include extraordinary items.

(2) As used in OAR 410-141-3355 and these financial solvency and monitoring rules:

(a) "NAIC" means the National Association of Insurance Commissioners;

(b) "RBC instructions" means the RBC report including risk-based capital instructions adopted by the NAIC, as the RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC;

(c) "RBC level" means a CCO's Company Action Level RBC, Regulatory Action Level RBC, Authorized Control Level RBC or Mandatory Control Level RBC, defined as follows;

(d) "Company Action Level RBC" means, with respect to any CCO, the product of 2.0 and its Authorized Control Level RBC;

(e) "Regulatory Action Level RBC" means the product of 1.5 and its Authorized Control Level RBC;

(f) "Authorized Control Level RBC" means the number determined under the risk-based capital formula in accordance with the RBC Instructions;

(g) "Mandatory Control Level RBC" means the product of .70 and the Authorized Control Level RBC;

(h) "RBC plan" means a comprehensive financial plan containing the elements specified in subsection (8). If DCBS rejects the RBC plan and it is revised by the CCO with or without DCBS's recommendation, the plan shall be called the "revised RBC plan;"

(i) "RBC report" means the report required in OAR 410-141-3355 (3) to (6);

(j) "Total adjusted capital" means the sum of:

(A) A CCO's capital and surplus (i.e. net worth) as determined in accordance with the statutory accounting applicable to the annual financial statements required to be filed under these rules; and

(B) Such other items, if any, as the RBC instructions may provide.

(3) A CCO shall, on or prior to each March 1 (the "filing date"), prepare and submit to DCBS a report of its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, a CCO shall file its RBC report with the NAIC in accordance with the RBC instructions. The CCO shall report in its annual financial statement the authorized control level calculated using its RBC report. However, its RBC report will be considered confidential under OAR 410-141-3385.

(4) A CCO's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take the following into account (and may adjust for the covariance between) determined in each case by applying the factors in the manner set forth in the RBC instructions:

(a) Asset risk;

(b) Credit risk;

(c) Underwriting risk; and

(d) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(5) An excess of capital (i.e. net worth) over the amount produced by the risk-based capital requirements contained in OAR 410-141-3355(1) to (22) and the formulas, schedules and instructions referenced in OAR 410-141-3355(1) to (22) is desirable in the business of a CCO. Accordingly, CCOs should seek to maintain capital above the RBC levels required by 410-141-3355(1) to (22). Additional capital is used and useful in the business of a risk-bearing entity and helps to secure a CCO against various risks inherent in, or affecting, the business of a CCO and not accounted for or only partially measured by the risk-based capital requirements contained in 410-141-3355(1) to (22).

(6) If a CCO files an RBC report that in the judgment of DCBS is inaccurate, then DCBS shall adjust the RBC report to correct the inaccuracy and shall notify the CCO of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBC report as so adjusted is referred to as an "adjusted RBC report."

(7) "Company Action Level Event" means any of the following events:

(a) The filing of an RBC report by a CCO that indicates that the CCO's total adjusted capital is greater than or equal to its Regulatory Action Level RBC but less than its Company Action Level RBC; or

(b) If a CCO has total adjusted capital that is greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the Health RBC instructions;

(c) Notification by DCBS to the CCO of an adjusted RBC report that indicates an event in subsection (7)(a) of this section, if the CCO does not challenge the adjusted RBC report under OAR 410-141-3355 (21); or

(d) If, pursuant to OAR 410-141-3355(21), a CCO challenges an adjusted RBC report that indicates the event in subsection (7)(a) of this section, the notification by DCBS to the CCO that DCBS has, after a hearing, rejected the CCO's challenge.

(8) In the event of a Company Action Level Event, the CCO shall prepare and submit to DCBS an RBC plan that shall:

(a) Identify the conditions that contribute to the Company Action Level Event;

(b) Contain proposals of corrective actions that the CCO intends to take and that would be expected to result in the elimination of the Company Action Level Event;

(c) Provide projections of the CCO's financial results in the current year and at least the two succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory balance sheets, operating income, net income, capital and surplus, and RBC levels. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense and benefit component;

(d) Identify the key assumptions impacting the CCO's projections and the sensitivity of the projections to the assumptions; and

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(e) Identify the quality of, and problems associated with, the CCO's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business and use of reinsurance, if any, in each case.

(9) The RBC plan shall be submitted:

(a) Within 45 days of the Company Action Level Event; or

(b) If the CCO challenges an adjusted RBC report pursuant to OAR 410-141-3355(21), within 45 days after notification to the CCO that DCBS has, after a hearing, rejected the CCO's challenge.

(10) Within 60 days after the submission by a CCO of an RBC plan to DCBS, DCBS shall notify the CCO whether the RBC plan shall be implemented or is, in the judgment of DCBS, unsatisfactory. If DCBS determines the RBC plan is unsatisfactory, the notification to the CCO shall set forth the reasons for the determination and may set forth proposed revisions that will render the RBC plan satisfactory, in the judgment of DCBS. Upon notification from DCBS, the CCO shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by DCBS, and shall submit the revised RBC plan to DCBS:

(a) Within 45 days after the notification from DCBS; or

(b) If the CCO challenges the notification from DCBS under OAR 410-141-3355(21), within 45 days after a notification to the CCO that DCBS has, after a hearing, rejected the CCO's challenge.

(11) In the event of a notification by DCBS to a CCO that the CCO's RBC plan or revised RBC plan is unsatisfactory, DCBS may at DCBS's discretion, subject to the CCO's right to a hearing under OAR 410-141-3355(21), specify in the notification that the notification constitutes a Regulatory Action Level Event.

(12) "Regulatory Action Level Event" means, with respect to a CCO, any of the following events:

(a) The filing of an RBC report by the CCO that indicates that the CCO's total adjusted capital is greater than or equal to its Authorized Control Level RBC but less than its Regulatory Action Level RBC;

(b) Notification by DCBS to a CCO of an adjusted RBC report that indicates the event in subsection (12)(a) of this section, if the CCO does not challenge the adjusted RBC report under OAR 410-141-3355(21);

(c) If, pursuant to OAR 410-141-3355(21), the CCO challenges an adjusted RBC report that indicates the event in subsection (12)(a) of this section, the notification by DCBS to the CCO that DCBS has, after a hearing, rejected the CCO's challenge;

(d) The failure of the CCO to file an RBC report by the filing date, unless the CCO has provided an explanation for the failure that is satisfactory to DCBS and has cured the failure within ten days after the filing date;

(e) The failure of the CCO to submit an RBC plan to DCBS within the time period set forth in subsection (10) of this section;

(f) Notification by DCBS to the CCO that:

(A) The RBC plan or revised RBC plan submitted by the CCO is, in the judgment of DCBS, unsatisfactory; and

(B) Notification constitutes a Regulatory Action Level Event with respect to the CCO, if the CCO has not challenged the determination under OAR 410-141-3355(21).

(g) If, pursuant to OAR 410-141-3355(21), the CCO challenges a determination by DCBS under subsection (12)(f) of this section, the notification by DCBS to the CCO that DCBS has, after a hearing, rejected the challenge;

(h) Notification by DCBS to the CCO that the CCO has failed to adhere to its RBC plan or revised RBC plan, but only if the failure has a substantial adverse effect on the ability of the CCO to eliminate the Company Action Level Event in accordance with its RBC plan or revised RBC plan and DCBS has so stated in the notification, if the CCO has not challenged the determination under OAR 410-141-3355(21); or

(i) If, pursuant to OAR 410-141-3355(21), the CCO challenges a determination by DCBS under subsection (12)(f) of this section, the notification by DCBS to the CCO that DCBS has, after a hearing, rejected the challenge.

(13) In the event of a Regulatory Action Level Event DCBS shall:

(a) Require the CCO to prepare and submit an RBC plan or, if applicable, a revised RBC plan;

(b) Perform such examination or analysis as DCBS deems necessary of the assets, liabilities and operations of the CCO including a review of its RBC plan or revised RBC plan; and

(c) Subsequent to the examination or analysis, issue an order specifying such corrective actions as DCBS shall determine are required (a "corrective order").

(14) In determining corrective actions, DCBS may take into account factors DCBS deems relevant with respect to the CCO based upon DCBS's

examination or analysis of the assets, liabilities and operations of the CCO, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the RBC instructions. The RBC plan or revised RBC plan shall be submitted:

(a) Within 45 days after the occurrence of the Regulatory Action Level Event;

(b) If the CCO challenges an adjusted RBC report pursuant to OAR 410-141-3355(21) and the challenge is not frivolous in the judgment of DCBS within 45 days after the notification to the CCO that DCBS has, after a hearing, rejected the CCO's challenge; or

(c) If the CCO challenges a revised RBC plan pursuant to OAR 410-141-3355 (21) and the challenge is not frivolous in the judgment of DCBS, within 45 days after the notification to the CCO that the care service CCO has, after a hearing, rejected the CCO's challenge.

(15) DCBS may retain actuaries and investment experts and other consultants as may be necessary in the judgment of DCBS to review the CCO's RBC plan or revised RBC plan, examine or analyze the assets, liabilities and operations (including contractual relationships) of the CCO and formulate the corrective order with respect to the CCO. The fees, costs and expenses relating to consultants shall be borne by the affected CCO or such other party as directed by DCBS.

(16) "Authorized Control Level Event" means any of the following events:

(a) The filing of an RBC report by the CCO that indicates that the CCO's total adjusted capital is greater than or equal to its Mandatory Control Level RBC but less than its Authorized Control Level RBC;

(b) The notification by DCBS to the CCO of an adjusted RBC report that indicates the event in subsection (16)(a) of this section, if the CCO does not challenge the adjusted RBC report under OAR 410-141-3355(21);

(c) If, pursuant to OAR 410-141-3355(21), the CCO challenges an adjusted RBC report that indicates the event in subsection (16)(a) of this section, notification by DCBS to the CCO that DCBS has, after a hearing, rejected the CCO's challenge;

(d) The failure of the CCO to respond, in a manner satisfactory to DCBS, to a corrective order (if the CCO has not challenged the corrective order under OAR 410-141-3355(21)); or

(e) If the CCO has challenged a corrective order under OAR 410-141-3355(21) and DCBS has, after a hearing, rejected the challenge or modified the corrective order, the failure of the CCO to respond, in a manner satisfactory to DCBS, to the corrective order subsequent to rejection or modification by DCBS.

(17) In the event of an Authorized Control Level Event with respect to a CCO, DCBS shall:

(a) Take such actions as are required under subsections (12) to (15) regarding a CCO with respect to which an Regulatory Action Level Event has occurred; or

(b) If DCBS deems it to be in the best interests of the members and creditors of the CCO and of the public, take such actions as are necessary to work with the Authority, which may terminate the Contract and three-way contract of the CCO and revoke or suspend its certification as a CCO and its certification for duals.

(18) "Mandatory Control Level Event" means any of the following events:

(a) The filing of an RBC report that indicates that the CCO's total adjusted capital is less than its Mandatory Control Level RBC;

(b) Notification by DCBS to the CCO of an adjusted RBC report that indicates the event in subsection (18)(a) of this section, if the CCO does not challenge the adjusted RBC report under OAR 410-141-3355(21); or

(c) If, pursuant to OAR 410-141-3355(21), the CCO challenges an adjusted RBC report that indicates the event in subsection (18)(a) of this section, notification by DCBS to the CCO that DCBS has, after a hearing, rejected the CCO's challenge.

(19) In the event of a Mandatory Control Level Event, DCBS shall take such actions as are necessary to work with the Authority, which may terminate the Contract and three-way contract of the CCO and revoke or suspend its certification as a CCO and its certification for duals. Notwithstanding the provisions of this rule, DCBS may forego action for up to 90 days after the Mandatory Control Level Event if DCBS finds there is a reasonable expectation that the Mandatory Control Level Event may be eliminated within the 90 day period.

(20) Upon the occurrence of any of the following events, a CCO may request a hearing for the purpose of challenging any determination or action by DCBS in connection with any event described in this rule. The CCO shall notify DCBS of its request for a hearing not later than the fifth day after notification by DCBS under any of the events described in this rule.

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Upon receipt of the CCO's request for a hearing, DCBS shall set a date for the hearing. The date shall be not less than 10 or more than 30 days after the date of the CCO's request. The events to which the opportunity for a hearing under this rule relates are as follows:

- (a) Notification to a CCO by DCBS of an adjusted RBC report;
- (b) Notification to a CCO by DCBS that:
 - (A) The CCO's RBC plan or revised RBC plan is unsatisfactory; and
 - (B) Notification constitutes a Regulatory Action Level Event with respect to the CCO.

(c) Notification to a CCO by DCBS that the CCO has failed to adhere to its RBC plan or revised RBC plan and that the failure has a substantial adverse effect on the ability of the CCO to eliminate the Company Action Level Event with respect to the CCO in accordance with its RBC plan or revised RBC plan; or

(d) Notification to a CCO by DCBS of a corrective order with respect to the CCO.

(21) DCBS may keep a CCO's RBC plan or the results or report of any examination or analysis conducted under 410-141-3355 if DCBS determines that disclosure of such information would jeopardize the CCO's corrective action plan.

(22) OAR 410-141-335 (1) to (22) shall not preclude or limit any other powers or duties of OHA or DCBS under other laws and rules.

Stat. Auth.: ORS 414.032
Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580
Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3360

Financial Reporting

(1) Every CCO shall file with DCBS, on or before March 1 of each year, a financial statement for the year ending December 31 immediately preceding. The CCO shall also file with DCBS, on or before May 15, August 15, and November 15 of each year, quarterly financial statements for the quarter ending March 31, June 30 and September 30, respectively. All financial statements shall be completed in accordance with NAIC annual statement instructions. OHA or DCBS may also require additional filings as OHA or DCBS determines necessary.

(2) The financial statement filed by a CCO under subsection (1) of this section shall be verified by the oaths of the president and secretary of the CCO or, in their absence, by two other principal officers.

(3) Each CCO shall have an annual audit conducted by an independent certified public accountant and shall file an audited financial report annually with DCBS. The annual audited financial report shall be in the form required of insurers by the Insurance Code, specifically ORS 731.488 and Oregon Administrative Rules OAR 836-011-0100 through 836-011-0220.

Stat. Auth.: ORS 414.032
Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580
Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3365

Solvency Monitoring/Corrective Actions

(1) DCBS shall examine every authorized CCO, including an audit of the financial affairs of such CCO, as often as DCBS determines an examination to be necessary but at least once each five years. An examination shall be conducted for the purpose of determining the financial condition of the CCO, its ability to fulfill its obligations and its manner of fulfillment, the nature of its operations and its compliance with these rules.

(2) When DCBS determines that an examination should be conducted, DCBS shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. In conducting the examination, each examiner shall consider the guidelines and procedures in the examiner handbook, or its successor publication, adopted by the National Association of Insurance Commissioners. DCBS may prescribe the examiner handbook or its successor publication and employ other guidelines and procedures that DCBS determines to be appropriate.

(3) When making an examination, DCBS may retain appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as needed. The cost of retaining such professionals and specialists shall be borne by the CCO that is the subject of the examination.

(4) At any time during the course of an examination, OHA or DCBS may take other action pursuant to these rules.

(5) Facts determined and conclusions made pursuant to an examination shall be presumptive evidence of the relevant facts and conclusions in any judicial or administrative action.

(6) Upon an examination or investigation DCBS may examine under oath all persons who may have material information regarding the property or business of the person being examined or investigated.

(7) Every person being examined or investigated shall produce all books, records, accounts, papers, documents and computer and other recordings in its possession or control relating to the matter under examination or investigation, including, in the case of an examination, the property, assets, business and affairs of the person.

(8) With regard to an examination, the officers, directors and agents of the person being examined shall provide timely, convenient and free access at all reasonable hours at the offices of the person being examined to all books, records, accounts, papers, documents and computer and other recordings. The officers, directors, employees and agents of the person must facilitate the examination.

(9) Not later than the 60th day after completion of an examination, the examiner in charge of the examination shall submit to DCBS a full and true report of the examination, verified by the oath of the examiner. The report shall comprise only facts appearing upon the books, papers, records, accounts, documents or computer and other recordings of the person, its agents or other persons being examined or facts ascertained from testimony of individuals concerning the affairs of such person, together with such conclusions and recommendations as reasonably may be warranted from such facts.

(10) DCBS shall make a copy of the report submitted under subsection (9) of this section available to the person who is the subject of the examination and shall give the person an opportunity to review and comment on the report. DCBS may request additional information or meet with the person for the purpose of resolving questions or obtaining additional information, and may direct the examiner to consider the additional information for inclusion in the report.

(11) Before DCBS files the examination report as a final examination report or makes the report or any matters relating thereto public, the person being examined shall have an opportunity for a hearing. A copy of the report must be mailed by certified mail to the person being examined. The person may request a hearing not later than the 30th day after the date on which the report was mailed. This subsection does not limit the authority of DCBS to disclose a preliminary or final examination report as otherwise provided in this section.

(12) DCBS shall consider comments presented at a hearing requested under subsection (11) of this section and may direct the examiner to consider the comments or direct that the comments be included in documentation relating to the report, although not as part of the report itself. DCBS may file the report as a final examination report at any time after consideration of the comments or at any time after the period for requesting a hearing has passed if a hearing is not requested.

(13) A report filed as a final examination report is subject to public inspection. DCBS, after filing any report, if DCBS considers it for the interest of the public to do so, may publish any report or the result of any examination as contained therein in one or more newspapers of the state without expense to the person examined.

(14) DCBS may disclose the content of an examination report that has not yet otherwise been disclosed or may disclose any of the materials described in this section as provided in OAR 410-141-3385.

(15) No cause of action may arise and no liability may be imposed against OHA or DCBS, an authorized representative of OHA or DCBS or any examiner appointed by OHA or DCBS for any statements made or conduct performed in good faith pursuant to an examination or investigation.

(16) No cause of action may arise and no liability may be imposed against any person for communicating or delivering information or data to OHA or DCBS or an authorized representative of OHA or DCBS or examiner pursuant to an examination or investigation if the communication or delivery was performed in good faith and without fraudulent intent or an intent to deceive.

(17) This section does not abrogate or modify in any way any common law or statutory privilege or immunity otherwise enjoyed by any person to which subsection (15) or (16) of this section applies.

(18) Any CCO or applicant for CCO certification examined under ORS 731.300 shall pay to DCBS the just and legitimate costs of the examination as determined by DCBS, including actual necessary transportation and traveling expenses.

(19) In addition to other powers of OHA or DCBS under these rules relating to the examination and investigation of CCOs, OHA or DCBS may also order any CCO to produce such books, records, accounts, papers, documents and computer and other recordings in the possession of the CCO or its affiliates as are necessary to ascertain the financial condition of the CCO

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or to determine compliance with these rules. If the CCO fails to comply with such an order, OHA or DCBS may examine the affiliates to obtain such information.

(20) A CCO shall pay the costs of an examination of the CCO under this section as provided in subsection (18).

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580

Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3370

Hazardous Operations

(1) Based upon standards established by these rules, if DCBS determines that the continued operation of a CCO is hazardous to patients or to the public in general, DCBS may order the CCO to take one or more of the following actions:

(a) Reduce the total amount of present and potential liability for policy benefits by reinsurance;

(b) Reduce, suspend or limit the volume of business being accepted or renewed;

(c) Reduce general insurance and commission expenses by methods specified by DCBS;

(d) Increase the capital and surplus of the CCO;

(e) Suspend or limit the declaration and payment of dividends by the CCO to its stockholders or members;

(f) Limit or withdraw from certain investments or discontinue certain investment practices to the extent DCBS determines such action to be necessary.

(2) DCBS may exercise authority under subsection (1) of this section in addition to or instead of any other authority that OHA or DCBS may exercise under these rules.

(3) DCBS may issue an order under this section with or without a hearing. A CCO subject to an order issued without a hearing may file a written request for a hearing to review the order. Such a request shall not stay the effect of the order. The hearing shall be held within 30 days after the filing of the request. DCBS shall complete the review within 30 days after the record for the hearing is closed, and shall discontinue the action taken under subsection (1) of this section if DCBS determines that none of the conditions giving rise to the action exists.

(4) DCBS may consider the following standards, either singly or in combination of two or more, to determine whether the continued operation of any CCO transacting insurance in this state might be determined to be hazardous to OHA or DCBS, the members, its creditors or the general public:

(a) Adverse findings reported in financial condition examination reports, audit reports, and actuarial opinions, reports or summaries;

(b) Whether the CCO has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the CCO, when considered in light of the assets held by the CCO with respect to such reserves and related actuarial items including but not limited to the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;

(c) The ability of an assuming reinsurer to perform and whether the CCO's reinsurance program provides sufficient protection for the CCO's remaining capital and surplus after taking into account the CCO's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(d) Whether the CCO's operating loss in the last 12-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets and cash dividends paid to shareholders, is greater than 50 percent of the CCO's remaining capital and surplus in excess of the minimum required;

(e) Whether the CCO's operating loss in the last 12-month period or any shorter period of time, excluding net capital gains, is greater than 20 percent of the CCO's remaining surplus in excess of the minimum required;

(f) Whether a reinsurer or obligor, or any entity within the CCO's insurance holding company system is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations and which, in the opinion of DCBS may affect the solvency of the CCO;

(g) Contingent liabilities, pledges or guaranties that either individually or collectively involve a total amount that in the opinion of DCBS may affect the solvency of the CCO;

(h) Whether any "controlling person" of a CCO is delinquent in the transmitting to, or payment of, net premiums to the CCO;

(i) The age and collectability of receivables;

(j) Whether the management of a CCO, including officers, directors or any other person who directly or indirectly controls the operation of the CCO, fails to possess and demonstrate the competence, fitness and reputation determined by DCBS to be necessary to serve the CCO in such position;

(k) Whether management of a CCO has failed to respond to inquiries relating to the condition of the CCO or has furnished false and misleading information concerning an inquiry;

(l) Whether the CCO has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to DCBS;

(m) Whether management of a CCO either has filed a false or misleading sworn financial statement or has released a false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the CCO;

(n) Whether the CCO has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;

(o) Whether the CCO has experienced or will experience in the foreseeable future cash flow or liquidity problems, or both;

(p) Whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles and standards of practice;

(q) Whether management persistently engages in material under reserving that results in adverse development;

(r) Whether transactions among affiliates, subsidiaries or controlling persons for which the CCO receives assets or capital gains, or both, do not provide sufficient value, liquidity or diversity to assure the CCO's ability to meet its outstanding obligations as they mature;

(s) Any other finding determined by DCBS to be hazardous to OHA or DCBS, the CCO's members, creditors or general public.

(5) For the purposes of making a determination of the financial condition of a CCO under OAR 836-013-0100 to 836-013-0120, DCBS may do one or more of the following:

(a) Disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired or otherwise subject to a delinquency proceeding;

(b) Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries or affiliates;

(c) Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(d) Increase the CCO's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the CCO will be called upon to meet the obligation undertaken within the next 12-month period.

(6) In addition to the requirements DCBS may impose under subsection (1) to (3) of this section, if DCBS determines that the continued operation of the CCO licensed to transact business in this state may be hazardous to DCBS, the members or the general public, DCBS may require the CCO to:

(a) File reports in a form acceptable to DCBS concerning the market value of the CCO's assets;

(b) In addition to regular annual statements, file interim financial reports on the form specified by DCBS;

(c) Correct corporate governance practice deficiencies, and adopt and utilize the governance practices acceptable to DCBS; or

(d) Provide a business plan to DCBS demonstrating corrective action the CCO will take to improve its financial condition.

(7) No domestic CCO shall reduce its combined capital and surplus by partial distribution of its assets, by payment in the form of a dividend to stockholders or otherwise, below:

(a) Its required capitalization; or

(b) A greater amount which DCBS, by rule or by order after hearing upon the motion of OHA or DCBS or the petition of any interested person, finds necessary to avoid injury or prejudice to the interest of OHA or DCBS, members or creditors.

(8) Whenever DCBS determines from any showing or statement made to DCBS or from any examination made by DCBS that the assets of a domestic CCO are less than its liabilities plus required capitalization, OHA may proceed immediately to terminate the Contract and three-way contract of the CCO and revoke or suspend its certification as a CCO and its certification for duals, or OHA may allow the CCO a period of time, not to

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exceed 90 days, in which to make good the amount of the impairment with cash or authorized investments.

(9) If the amount of any such impairment is not made good within the time prescribed by OHA under subsections (1) to (3) of this section, OHA shall proceed immediately to terminate the Contract and three-way contract of the CCO and revoke or suspend its certification as a CCO and its certification for duals.

Stat. Auth.: ORS 414.032
Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580
Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3375

Disallowance of Transactions

(1) DCBS shall disallow as an asset or as a credit against liabilities any reinsurance found by DCBS after a hearing thereon to have been arranged for the purpose principally of deception as to the ceding CCO's financial condition as of the date of any financial statement of the CCO. Without limiting the general purport of the foregoing provision, reinsurance of any substantial part of the CCO's outstanding risks contracted for in fact within four months prior to the date of any such financial statement and canceled in fact within four months after the date of such statement, or reinsurance under which the reinsurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception.

(2) DCBS shall disallow as an asset any deposit, funds or other assets of the CCO found by DCBS after a hearing thereon:

(a) Not to be in good faith the property of the CCO;

(b) Not freely subject to withdrawal or liquidation by the CCO at any time for the payment or discharge of claims or other obligations arising under its policies; and

(c) To be resulting from arrangements made principally for the purpose of deception as to the CCO's financial condition as of the date of any financial statement of the CCO.

Stat. Auth.: ORS 414.032
Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580
Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3380

Holding Company

(1) Every CCO that is a member of a holding company system shall be subject to ORS 732.551 to 732.572, except 732.554. For purposes of this rule, "holding company system" as it applies to a CCO means two or more affiliated persons, one or more of which is a CCO, and includes a financial holding company as referred to in section 103 of the federal Gramm-Leach-Bliley Act (P.L. 106-102). Such CCO shall also be subject to OAR 836-027-0001 through 836-027-0050 to the extent those rules relate to the filing of a registration statement (Form B filing).

(2) A transaction within a holding company system to which a CCO subject to registration is a party is subject to the following standards:

(a) The terms must be fair and reasonable;

(b) Charges or fees for services performed must be reasonable;

(c) Expenses incurred and payment received must be allocated to the CCO in conformity with customary insurance accounting practices consistently applied;

(d) The books, accounts and records of each party to the transaction must be so maintained as to disclose clearly and accurately the nature and details of the transaction, including accounting information necessary to support the reasonableness of the charges or fees to the respective parties;

(e) The combined capital and surplus of the CCO following any transaction with an affiliate or any shareholder dividend must be reasonable in relation to the CCO's outstanding liabilities and adequate to its financial needs.

Stat. Auth.: ORS 414.032
Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580
Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3385

Transparency

(1) Pursuant to ORS 414.018(3)(g), interactions between OHA or DCBS and CCOs shall be done in a transparent and public manner. Without limitation of the preceding sentence, OHA or DCBS shall publicly disclose all information pertaining to CCOs of a character that DCBS publicly discloses pertaining to insurers or health care service CCOs.

(2) Certain documents pertaining to a CCO's financial condition may be considered confidential, when so described in these rules. Financial Analysis Solvency Tools and analytical reports developed by the National Association of Insurance Commissioners are confidential. In addition, any work papers, recorded information, documents and copies thereof that are

produced or obtained by or disclosed to DCBS or any other person in the course of an examination or in the course of analysis by DCBS of the financial condition or market conduct of a CCO may be considered confidential, if the CCO, OHA, or DCBS specifically designates the confidential portions and cites an exemption from public disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. If DCBS, in its sole discretion, determines that the cited exemption does not apply or disclosure is necessary to protect the public interest, DCBS may make available work papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to DCBS or any other person in the course of the examination.

(3) The DCBS may use a confidential document, material or other information in administering these rules and in furthering a regulatory or legal action brought as a part of the OHA or DCBS's duties.

(4) In order to assist in the performance of DCBS's duties, DCBS may:

(a) Authorize sharing a confidential document, material or other information as appropriate among the administrative divisions and staff offices of the OHA or DCBS for the purpose of administering and enforcing the statutes within the authority of OHA or DCBS, in order to enable the administrative divisions and staff offices to carry out the functions and responsibilities of the administrative divisions and staff offices;

(b) Share a document, material or other information, including a confidential document, material or other information that is subject to subsection (3) of this section or that is otherwise exempt from disclosure under ORS 192.501 or 192.502, with other state, federal, foreign and international regulatory and law enforcement agencies and with the National Association of Insurance Commissioners and affiliates or subsidiaries of the National Association of Insurance Commissioners, if the recipient agrees to maintain the confidentiality of the document, material or other information;

(c) Receive a document, material or other information, including an otherwise confidential document, material or other information, from state, federal, foreign and international regulatory and law enforcement agencies and from the National Association of Insurance Commissioners and affiliates or subsidiaries of the National Association of Insurance Commissioners. As provided in this section, the DCBS shall maintain the confidentiality of documents, materials or other information received upon notice or with an understanding that the document, material or other information is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.

(5) Disclosing a document, material or other information to the OHA or DCBS under this section or sharing a document, material or other information as authorized in subsection (3) of this section does not waive an applicable privilege or claim of confidentiality in the document, material or other information.

(6) OHA or DCBS may release a final, adjudicated action, including a suspension or revocation of a CCO's certification, if the action is otherwise open to public inspection, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners or affiliates or subsidiaries of the National Association of Insurance Commissioners.

(7) All information, documents and copies thereof obtained by or disclosed to DCBS or any other person in the course of an examination or investigation made pursuant to OAR 410-141-3365 (19) are subject to the provisions of ORS 731.312.

Stat. Auth.: ORS 414.032
Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580
Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

410-141-3390

Insolvency of CCO

(1) In the event of a finding of impairment by DCBS or of a termination of certification or of the Contract with a CCO, members of the CCO shall be offered replacement coverage as provided in this section.

(2) All other CCOs and prepaid health plans in operating in the service area of the insolvent CCO shall offer members of the insolvent CCO enrollment, as ordered by OHA.

(3) If the other insurers and CCOs lack sufficient health care delivery resources to assure that health services will be available and accessible to all of the members of the insolvent CCO, OHA shall equitably allocate the members among all CCOs that operate within a portion of the service area of the insolvent CCO. OHA shall take into consideration the health care delivery resources of each CCO or prepaid health plan.

Stat. Auth.: ORS 414.032
Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580
Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

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410-141-3395

Hold harmless provisions

(1) For the purpose of this section only, and only in the event of a finding of impairment by DCBS or of a termination of certification or of the Contract with a CCO, any covered health care service furnished within the state by a provider to a member of a CCO shall be considered to have been furnished pursuant to a contract between the provider and the CCO with whom the member was enrolled when the services were furnished.

(2) Each contract between a CCO and a provider of health services shall provide that if the CCO fails to pay for covered health services as set forth in the contract, the member is not liable to the provider for any amounts owed by the CCO.

(3) If the contract between the contracting provider and the CCO has not been reduced to writing or fails to contain the provisions required by subsection (2) of this section, the member is not liable to the contracting provider for any amounts owed by the CCO.

(4) No contracting provider or agent, trustee or assignee of the contracting provider may maintain a civil action against a member to collect any amounts owed by the CCO for which the member is not liable to the contracting provider under this section.

(5) Nothing in this section impairs the right of a provider to charge, collect from, attempt to collect from or maintain a civil action against a member for any of the following:

(a) Deductible, copayment or coinsurance amounts;

(b) Health services not covered by the CCO;

(c) Health services rendered after the termination of the contract between the CCO and the provider, unless the health services were rendered during the confinement in an inpatient facility and the confinement began prior to the date of termination or unless the provider has assumed post-termination treatment obligations under the contract.

(6) Nothing in this section prohibits a member from seeking noncovered health services from a provider and accepting financial responsibility for these services, subject to requirements of the Authority about how those arrangements may be made under appropriate waiver.

(7) No CCO shall limit the right of a provider of health services to contract with the patient for payment of services not within the scope of the coverage offered by the CCO, subject to requirements of the Authority about how those arrangements may be made under appropriate waiver.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, 2011 OL Ch. 602, 2012 SB 1580

Hist.: DMAP 13-2012(Temp), f. & cert. ef. 3-20-12 thru 9-15-12

Rule Caption: Patient-Centered Primary Care Home program revisions and clarifications.

Adm. Order No.: DMAP 14-2012

Filed with Sec. of State: 3-22-2012

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Notice Publication Date: 3-1-2012

Rules Amended: 410-141-0860, 410-146-0020, 410-147-0362

Rules Repealed: 410-141-0860(T), 410-146-0020(T), 410-147-0362(T)

Subject: The Division will permanently amend OAR 410-141-0860 to modify the Oregon Health Plan Primary Care Manager provider qualification and enrollment criteria to include Patient Centered Primary Care Homes. The Division also will permanently amend OAR 410-146-0020 in the American Indian/Alaska Native Program and OAR 410-147-0362 in the Federally Qualified Health Clinics/Rural Health Clinics Program, filed in conjunction with and referencing the more detailed OAR 410-141-0860.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-0860

Oregon Health Plan Primary Care Manager and Patient Centered Primary Care Home Provider Qualification and Enrollment

(1) Definitions:

(a) ACA-qualified conditions will be posted on the agency website. The types of conditions include a mental health condition, substance use disorders, asthma, diabetes, heart disease, BMI over 25 or for patients under the age of 20, the equivalent measure would be BMI equal or greater than 85 percentile, HIV/AIDS, hepatitis, chronic kidney disease and cancer;(e) An ACA-qualified patient is a patient who meets the criteria described in these rules as authorized by Section 2703 of the Patient Protection and Affordable Care Act.

(b) ACA-qualified patients are individuals with:

(i) A serious mental health condition; or

(ii) At least two chronic conditions proposed by the state and approved by CMS; or

(iii) One chronic condition and at risk of another qualifying condition as described above;

(A) Providers and plans are to use information published by the US Preventive Services Task Force, Bright Futures, and HRSA Women's Preventive Services when making decisions about the particular risk factors for an additional chronic condition that may lead a patient with one chronic condition to meet the criteria of one chronic condition and at risk of another.

(B) The conditions and risk factors shall be documented in the patient's medical record.

(c) Core services are defined as:

(i) Comprehensive Care Management is identifying patients with high risk environmental or medical factors, including patients with special health care needs, who will benefit from additional care planning. Care management activities may include but are not limited to population panel management, defining and following self management goals, developing goals for preventive and chronic illness care, developing action plans for exacerbations of chronic illnesses, and developing end-of-life care plans when appropriate.

(ii) Care coordination is an integral part of the PCPCH. Care coordination functions will include the use of the person centered plan to manage such referrals and monitor follow up as necessary. The Division shall assign clients to a provider, clinic, or team to increase continuity of care and ensure responsibility for individual client care coordination functions, including but not limited to:

(A) Tracking ordered tests and notifying all appropriate care-givers and clients of results;

(B) Tracking referrals ordered by its clinicians, including referral status and whether consultation results have been communicated to clients and clinicians; and

(C) Directly collaborating or co-managing clients with specialty mental health and substance abuse, and providers of services and supports to people with developmental disabilities and people receiving long-term care services and supports. (The Division strongly encourages co-location of behavioral health and primary care services.);

(iii) Health promotion is demonstrated when a PCPCH provider supports continuity of care and good health through the development of a treatment relationship with the client, other primary care team members and community providers. The PCPCH provider shall promote the use of evidence-based, culturally sensitive wellness and prevention by linking the client with resources for smoking cessation, diabetes, asthma, self-help resources and other services based on individual needs and preferences. The PCPCH shall use health promotion activities to promote patient and family education and self-management of their ACA-qualifying conditions;

(iv) Comprehensive transitional care is demonstrated when a PCPCH emphasizes transitional care with either a written agreement or procedures in place with its usual hospital providers, local practitioners, health facilities and community-based services to ensure notification and coordinated, safe transitions, as well as improve the percentage of patients seen or contacted within one (1) week of facility discharges;

(v) Individual and family support services are demonstrated when a PCPCH has processes in place for:

(A) Patient and family education;

(B) Health promotion and prevention;

(C) Self-management supports; and

(D) Information and assistance to obtain available non-health care community resources, services and supports.

(vi) Referral to community and social support services is demonstrated through the PCPCH's processes and capacity for referral to community and social support services, such as patient and family education, health promotion and prevention, and self-management support efforts, including available community resources.

(d) Patient Centered Primary Care Home (PCPCH) pursuant to OAR 409-055-0010 (7) is defined as a health care team or clinic as defined in ORS 414.655, meets the standards pursuant to OAR 409-055-0040, and has been recognized through the process pursuant to OAR 409-055-0040.

(e) A PCPCH "team" is interdisciplinary and inter-professional and must include non-physician health care professionals, such as a nurse care coordinator, nutritionist, social worker, behavioral health professional, community health workers, personal health navigators and peer wellness specialists authorized through State plan or waiver authorities. (*Community health workers, personal health navigators and peer wellness

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specialists are individuals who meet criteria established by the Oregon Health Authority, have passed criminal history background check, and in the judgment of the Authority, hiring agency, and licensed health professional approving the patient centered plan, have the knowledge, skills, and abilities to safely and adequately provide the services authorized). These PCPCH professionals may operate in a variety of ways, such as free standing, virtual, or based at any of the clinics and facilities.(f) Person-centered plan is defined as the plan that shall be developed by the PCPCH and reflect the client and family/caregiver preferences for education, recovery and self-management as well as management of care coordination functions. Peer supports, support groups and self care programs shall be utilized to increase the client and caregivers knowledge about the client's health and health-care needs. The person-centered plan shall be based on the needs and desires of the client including at least the following elements:

- (i) Options for accessing care;
- (ii) Information on care planning and care coordination;
- (iii) Names of other primary care team members when applicable; and
- (iv) Information on ways the team member participates in this care coordination;
- (f) Primary Care Managers (PCM) must be trained and certified or licensed, as applicable under Oregon statutes and administrative rules, in one of the following disciplines:
 - (i) Doctors of medicine;
 - (ii) Doctors of osteopathy;
 - (iii) Naturopathic physicians;
 - (iv) Nurse Practitioners;
 - (v) Physician assistants.
- (vi) Naturopaths who have a written agreement with a physician sufficient to support the provision of primary care, including prescription drugs, and the necessary referrals for hospital care.
 - (2) Enrollment requirements:
 - (a) To enroll as a PCM, all applicants must:
 - (i) Be enrolled as Oregon Division of Medical Assistance Programs (Division) providers;
 - (ii) Make arrangements to ensure provision of the full range of PCM Managed Services, including prescription drugs and hospital admissions;
 - (iii) Complete and sign the PCM Application (DMAP 3030 (7/11)).
 - (iv) If the Division determines that the PCM or an applicant for enrollment as a PCM does not comply with the OHP administrative rules pertaining to the PCM program or the Division's General Rules, or if the Division determines that the health or welfare of Division clients may be adversely affected or in jeopardy by the PCM the Division may:
 - (A) Deny the application for enrollment as a PCM;
 - (B) Close enrollment with an existing PCM; or
 - (C) Transfer the care of those PCM clients enrolled with that PCM until such time as the Division determines that the PCM is in compliance.
 - (v) The Division may terminate their agreement without prejudice to any obligations or liabilities of either party already accrued prior to termination, except when the obligations or liabilities result from the PCM's failure to terminate care for those PCM members. The PCM shall be solely responsible for its obligations or liabilities after the termination date when the obligations or liabilities result from the PCM's failure to terminate care for those PCM members.
 - (b) To enroll as a PCPCH with the Division, all applicants must:
 - (i) Apply to and be "recognized" as a PCPCH by the Oregon Health Authority (Authority) as organized in accordance with relevant Oregon Office of Health Policy and Research (OHPR) administrative rules (OAR 409-055-0000 to 409-055-0090), the Division administrative rules (chapter 410, division 141), and OHPRs Oregon Patient Centered Primary Care Home Model, dated October 2011 and found at www.primarycarehome.oregon.gov. The Authority grants PCPCH recognition only when a practice, site, clinic or individual provider is successful in the application process with the Authority;
 - (A) The type of practice, site, clinic or individual provider that may apply to become a PCPCH, include physicians (family practice, general practice, pediatricians, gynecologists, obstetricians, Internal Medicine), Certified Nurse Practitioner and Physician Assistants, clinical practices or clinical group practices; FQHCs; RHCs; Tribal clinics; Community health centers; Community Mental Health Programs and Drug and Alcohol Treatment Programs with integrated Primary Care Providers.
 - (B) PCPCH services will occur under the direction of licensed health professionals, physicians, physician assistants, nurse practitioners, nurses, social workers, or professional counselors.
 - (ii) PCPCH providers must complete the enrollment process in order to receive reimbursement (OAR 410-120-1260), except as otherwise stated

in OAR 410-120-1295. The Provider Enrollment Attachment (attachment to the Provider Enrollment Agreement) sets forth the relationship between the Division and the PCPCH site (recognized clinic or provider) to receive payment for providing PCPCH services under OHP OAR 410-141-0860.

(iii) New PCPCH enrollment shall be effective on or after October 1, 2011 or the date established by the Division upon receipt of required information. (Note: PCPCH tier enrollment changes shall be effective the first of the next month or a date approved by the Division).

(iv) The PCPCH enrollment process requires the PCPCH submit a list of fee-for-service (FFS) clients to the Division in a format approved by the Division. The PCPCH must identify current OHP clients being treated within their practice. The PCPCH shall identify that patients are ACA qualified or not as defined in these rules.

(v) PCPCHs serving clients enrolled in a managed care organization (MCO, FCHP or PCO) must consult the MCO on the procedures for developing a OHP client list. The MCO shall submit the list of their identified clients to the Division. Identified client lists are submitted to the Division so that the Division can assign the appropriate clients to the PCPCH and begin making payments for services rendered, all in accordance with relevant OARs.

(vi) Termination of PCPCH enrollment shall be the date established by the Authority. All providers shall comply with Provider Sanctions as outlined in OAR 410-120-1400.

(3) Payment: The Division shall make per member per month (PMPM) payments based on the PCPCH clinic's recognized tier and on the patient's ACA status.

(a) PCPCH payments are made as follows:

(i) For fee-for-service (FFS) ACA-qualified patients, the amount of the PMPM shall be based on the PCPCH tier:

- (A) \$ 10 for tier 1;
- (B) \$15 for tier 2 and;
- (C) \$24 for tier 3.

(ii) For FFS non-ACA-qualified patients, the amount of the PMPM shall be based on the PCPCH tier:

- (A) \$2 for tier 1;
- (B) \$4 for tier 2 and;
- (C) \$6 for tier 3.

(b) For MCO enrolled ACA-qualified members MCO's are responsible for payment to PCPCH providers assigned to the PCPCH. MCOs shall make payments to PCPCH clinics in accordance with OAR 409-055-0030. If an MCO retains any portion of the PCPCH payment, that portion shall be used to carry out functions related to PCPCH and is subject to approval and oversight by the Division.

(c) MCOs that wish to use PCPCH payment methodology and/or amount different than Division must receive Division approval

(d) The Division shall not provide additional PMPM payment to the MCOs for non-ACA-qualified members. For MCO enrolled non-ACA-qualified members PCPCH payment responsibility will be integrated into MCOs capitation payments and covered services at the next opportunity to revise capitation rates expected on or near July 1, 2012.

(e) MCOs must use an alternative payment methodology that supports the Division's goal of improving the efficiency and quality of health services for primary care homes by decreasing the use of FFS reimbursement models. PMPM payment is an alternative methodology.

(f) It is the Division's intention that the PCPCH Program will not duplicate other similar services or programs such as PCM and medical case management, and the Authority shall not make PCPCH payments for patients who participate in these programs. The Division may review on a program to program basis if care coordination programs are complementary with PCPCH.

(4) Client Assignment:

(a) OHP clients' participation with PCPCH is voluntary. OHP clients can opt-out at any time from a PCPCH.

(b) The Division will provide client notice of PCPCH assignment including information about benefits of PCPCH and how to notify the Division if they wish to opt out.

(c) The Division shall remove PCPCH assignment from clients who choose not to participate in a PCPCH Program.

(d) Upon completion of PCPCH enrollment process and approval from CMS, the Division will implement PMPM payments for non-ACA patients who are not enrolled in an FCHP or PCO. The Division will integrate this service into rate setting and managed care responsibilities at the first available opportunity. This provision only affects the start up phase of the program and is acknowledgment of a more gradual implementation than was originally intended;

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(e) Clients assigned must have full medical eligibility with either Oregon Health Plan (OHP) Plus (BMH, BMP, BMM or BMD) or OHP Standard (KIT) benefit plans, this excludes CAWEM Plus (CWX) and QMB (MED) only.

(5) Documentation Requirements:

(a) The PCPCH must coordinate the care of all assigned clients who do not choose to opt out of the PCPCH Program, to ensure they have a "person-centered plan" that has been developed with the client or the client's caregiver. The PCPCH must provide an assigned client with at least one of the six "core" services as defined in Oregon State Medicaid Plan, each quarter and document the service(s) in the medical record in order to be eligible for payment.

(b) PCPCHs shall assure that the patient's engagement, education and agreement to participate in the PCPCH program are documented within six months of initial participation;

(c) PCPCHs shall assure that for each patient, providers are working with the patient to develop a person-centered plan within six months of initial participation and revise as needed;

(d) For ACA-qualified patients, PCPCH clinics shall provide one of the six core services or an activity that is defined in the service definition at least quarterly. Documentation of the services provided must be kept in the patient's medical record;

(e) PCPCHs shall assure that they notify the Division when a patient moves out of the service area, terminates care, or no longer receives primary care from the PCPCH clinic as stated in OAR 410-141-0080 and 410-141-0120. Patient assignment shall be terminated at the end of the month for which PCPCH services terminated, unless a move to another PCPCH provider begins primary care before the end of the month. In this situation, the disenrollment and payment will be prorated;

(f) PCPCH clinics and MCOs must report to the Division a complete list of their Medicaid PCPCH patients, no less than quarterly. The Division will not make payments for patients that are not reported on these quarterly reports or for patients where documentation requirements are not met; PCPCH clinics and MCOs may provide the Division information on new member assignment or termination member assignment on a more frequent basis if they desire;

(g) PCPCH clinics must log on to the PCPCH provider portal, which will be available at www.primarycarehome.oregon.gov, no less than quarterly. In conjunction with submission of the quarterly patient list, logging on to the PCPCH provider portal serves as evidence that the clinic has complied with the service and documentation requirements. Clinics will have the opportunity to track quality measures through the portal and use this as a panel management tool;

(h) PCPCH clinics that have their own information technology system can use their own system as an alternative to the PCPCH provider portal. To do this, PCPCH clinics must:

(i) Be able to document quarterly usage of the system for panel management purposes; and

(ii) Submit a request in writing to the Division to utilize their system as an alternative. The Division will respond to each request in writing.

(i) MCOs, no later than the 15th of January, April, July and October shall provide the Division with the following information for the preceding quarter:

- (A) Number of clinics or sites that meet PCPCH standards;
- (B) Number of Primary Care Providers in those service delivery sites;
- (C) Number of patients receiving primary care in those sites; and
- (D) Number of ACA-qualified patients receiving primary care at those sites

(j) PCPCH shall provide their Division PCPCH clinic number when referring a patient to another provider to ensure it is added to the claim as a referring provider. The PCPCH will also need to document the referral in the patient's medical record.

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

Stat. Auth.: ORS 413.042, 414.065;

Stats. Implemented: ORS 414.065

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 28-2011, f. 9-30-11, cert. ef. 10-1-11; DMAP 14-2012, f. & cert. ef. 3-22-12

410-146-0020

Memorandum of Agreement Reimbursement Methodology

(1) In 1996, a Memorandum of Agreement (MOA) between the Centers for Medicare and Medicaid Services (CMS) and the Indian Health Service (IHS) established the roles and responsibilities of CMS and IHS regarding the Division of Medical Assistance Programs' (Division) American Indian/Alaska Native (AI/AN) Program individuals. The MOA

addresses payment for Medicaid services provided to AI/AN individuals on and after July 11, 1996, through health care facilities owned and operated by AI/AN tribes and tribal organizations, which are funded through Title I or V of the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

(2) The IHS and CMS, pursuant to an agreement with the Office of Management and Budget (OMB), developed an all-inclusive rate to be used for billing directly to and reimbursement by Medicaid. This rate is sometimes referred to as the "OMB," "IHS," "All-Inclusive" (AIR), "encounter;" or "MOA" rate and is referenced throughout these rules as the "IHS rate." The IHS rate is updated and published in the Federal Register each fall:

(a) The rate is retroactive to the first of the year;

(b) The Division automatically processes a retroactive billing adjustment each year to ensure payment of the updated rate.

(3) IHS direct health care service facilities, established, operated, and funded by IHS; enroll as an AI/AN provider and receive the IHS rate.

(4) Under the MOA, tribal 638 health care facilities can choose to be designated a certain type of provider or facility for enrollment with Division. The designation determines how the Division pays for the Medicaid services provided by that provider or facility. Under the MOA, a tribal 638 health care facility may do one of the following:

(a) Operate as a Tribal 638 health care facility. The health center would enroll as AI/AN provider and choose reimbursement for services at either:

(A) The IHS rate; or

(B) A cost-based rate according to the Prospective Payment System (PPS). Refer to OARs 410-147-0360, Encounter Rate Determinations, 410-147-0440, Medicare Economic Index (MEI), 410-147-0480, Cost Statement (DMAP 3027) Instructions, and 410-147-0500, Total Encounters for Cost Reports; or

(b) If it so qualifies, operate as any other provider type recognized under the State Plan, and receive that respective reimbursement methodology.

(5) AI/AN and the Division's Federally Qualified Health Center (FQHC) and Rural Health Clinics (RHC) Program providers may be eligible to receive the supplemental/wraparound payment for services furnished to clients enrolled with a Prepaid Health Plan (PHP). Refer to AI/AN OAR 410-146-0420 and FQHC/ RHC administrative rules OAR chapter 410, division 147.

(6) AI/AN providers may be eligible for an administrative match contract with the Division. AI/AN providers are not eligible to participate in the Medicaid Administrative Claiming (MAC) Program if they:

(a) Receive reimbursement for services according to the cost-based PPS rate methodology; or

(b) Receive financial compensation for out-stationed outreach worker activities.

(7) An AIAN clinic that chooses to participate in the Patient Centered Primary Care Home Program (PCPCH) must meet the requirements and adhere to rules outlined in OAR 409-055-0000 through 409-055-0080 Office for Oregon Health Policy and Research and OAR 410-141-0860 Oregon Health Plan Primary Care Manager and Patient Centered Primary Care Home Provider Qualification and Enrollment. The PCPCH program is outside the Prospective Payment system and the IHS/MOA rate. Providers who choose to participate and meet all PCPCH related requirements shall receive a separate reimbursement per the per member per month (PMPM) payment established by OAR 410-141-0860.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 19-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 28-2011, f. 9-30-11, cert. ef. 10-1-11; DMAP 14-2012, f. & cert. ef. 3-22-12

410-147-0362

Change in Scope of Services

(1) As required by 42 USC § 1396a(bb)(3)(B), the Division of Medical Assistance Programs (Division) must adjust Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) Prospective Payment System (PPS) encounter rates based on any increase or decrease in the scope of FQHC or RHC services, as defined by 42 USC §§ 1396d(a)(2)(B)-(C).

(2) The Centers for Medicare and Medicaid Services (CMS) defines a "change in scope of services" as one that affects the type, intensity, duration, and/or amount of services provided by a health center. CMS' broad definition of change in scope of services allows the Division the flexibility to develop a more precise definition of what qualifies as a change in scope as it relates to the elements "type," "intensity," "duration," and "amount"

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and procedures for implementing these adjustments. This rule defines the Division's policy for implementing FQHC and RHC PPS rate adjustments based on a change in scope of services.

(3) A change in the scope of FQHC or RHC services may occur if the FQHC or RHC has added, dropped or expanded any service that meets the definition of an FQHC or RHC service as defined by 42 USC §§ 1396d(a)(2)(B-C).

(4) A change in the cost of a service is not considered in and of itself a change in the scope of services. An FQHC or RHC must demonstrate how a change in the scope of services impacts the overall picture of health center services rather than focus on the specific change alone. For example, while health centers may increase services to higher-need populations, this increase may be offset by growth in the number of lower intensity visits. Health centers therefore need to demonstrate an overall change to health centers' services.

(5) The following examples are offered as guidance to FQHCs and RHCs to facilitate understanding the types of changes that may be recognized as part of the definition of a change in scope of services. These examples should not be interpreted as a definitive nor comprehensive delineation of the definition of scope of service. Examples include:

(a) A change in scope of services from what was initially reported and incorporated in the baseline PPS rate. Examples of eligible changes in scope of services include, but are not limited to:

(A) Changes within medical, dental or mental health (including addiction, alcohol and chemical dependency services) service areas (e.g. vision, physical/occupation therapy, internal medicine, oral surgery, podiatry, obstetrics, acupuncture, or chiropractic);

(B) Services that do not require a face-to-face visit with an FQHC or RHC provider will be recognized (e.g. laboratory, radiology, case-management, supportive rehabilitative services, and enabling services.)

(b) A change in the scope of services resulting from a change in the types of health center providers. A change in providers alone without a corresponding change in scope of services does not constitute an eligible change. Examples of eligible changes include but are not limited to:

(A) A transition from mid-level providers (e.g. nurse practitioners) to physicians with a corresponding change in scope of services provided by the health center;

(B) The addition or removal of specialty providers (e.g., pediatric, geriatric or obstetric specialists) with a corresponding change in scope of services provided by the health center (e.g. delivery services);

(i) If a health center reduces providers with a corresponding removal of services, there may be a decrease in the scope of services;

(ii) If a health center hires providers to provide services that were referred outside of the health center, there may be an increase in the scope of services;

(c) A change in service intensity or service delivery model attributable to a change in the types of patients served including, but not limited to, homeless, elderly, migrant, or other special populations. A change in the types of patients served alone is not a valid change in scope of services. A change in the type of patients served must correspond with a change in scope of services provided by the health center;

(d) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the health center services, including new or expanded service facilities. A change in capital expenditures must correspond with a change in scope of services. (e.g. the addition of a radiology department);

(e) A change in applicable technologies or medical practices:

(A) Maintaining electronic medical records (EMR);

(B) Updating or replacing obsolete diagnostic equipment (which may also necessitate personnel changes); or

(C) Updating practice management systems;

(f) A change in overall health center costs due to changes in state or federal regulatory or statutory requirements. Examples include but are not limited to:

(A) Changes in laws or regulations affecting health center malpractice insurance;

(B) Changes in laws or regulations affecting building safety requirements; or

(C) Changes in laws or regulations relating to patient privacy.

(6) The following changes do not qualify as a change in scope of service, unless there is a corresponding change in services as described in sections (3)–(5):

(a) A change in office hours;

(b) Adding staff for the same service-mix already provided;

(c) Adding a new site for the same service-mix provided;

(d) A change in office location or office space; or

(e) A change in the number of patients served.

(7) Threshold change in cost per visit: To qualify for a rate adjustment, changes must result in a minimum 5% change in cost per visit. This minimum threshold may be met by changes that occur over the course of several years (e.g. health centers would use the cost report for the year in which all changes were implemented and the 5% cost/visit was met, as described in sections (13) and (14) of this rule). A change in the cost per visit is not considered in and of itself a change in the scope of services. The 5% change in cost per visit must be a result of one or more of the changes in the scope of services provided by a health center, as defined in sections (3)–(5) of this rule. The intent of this threshold is to avoid administrative burden caused by minor change in scope adjustments.

(8) If a FQHC or RHC has experienced an increase or decrease in the health center's scope of services, as described in sections (3)–(5) of this rule and that meets the threshold requirement of section (7) of this rule, the FQHC or RHC must submit to the Division a written application as outlined below. The Division may also initiate a review of whether a change in scope of services has occurred at a health center:

(a) A written narrative describing the specific changes in health center services, and how these changes relate to a change in the health center's overall picture of services;

(b) An estimate of billable Medicaid encounters for the forthcoming 12-month period so the financial impact to the Division can be accounted for;

(c) A cost statement. All costs and expenses reported must be in agreement with the principles of reasonable cost reimbursement as found at 42 CFR 413, Centers for Medicare and Medicaid Services Publication 15-1 (Provider Reimbursement Manual), and any other regulations mandated by the Federal government. Any situations not covered will be based on Generally Accepted Accounting Principals (GAAP). See Change in Scope Cost Report Instructions;

(d) Certification by the Addiction and Mental Health Division (AMH) of a health center's outpatient mental health program is required if mental health services are provided by non-licensed providers. Refer to OAR 410-147-0320(3)(i) and (5)(h) for certification requirements; and

(e) A letter of licensure or approval by AMH is required for health centers providing addiction, alcohol and chemical dependency services. Refer to OAR 410-147-0320 (3) (j) and (5)(i); and

(f) The clinic is responsible for providing complete and accurate copies of the above documentation. Health centers may submit a maximum of one change in scope application per year.

(9) Upon receipt of a health center's written change in scope of services request, the FQHC/RHC Program manager will:

(a) Review all documents for completeness, accuracy and compliance with program rules. An incomplete application will result in a delay in the Division's review until the complete application is received; and

(b) Respond to the health center with a decision within 90 days of receipt of a complete application.

(10) Providers may appeal this decision in accordance with the provider appeal rules set forth in OAR 410-120-1560.

(11) Approved change in scope of service requests will result in PPS rate adjustments:

(a) A separate mental health or dental PPS encounter rate will be calculated if a FQHC or RHC adds dental or mental health (including addiction, and alcohol and chemical dependency) services, and costs associated with these service categories were not included in the original cost statements used to determine the baseline PPS encounter rate;

(b) If costs associated with dental or mental health services were included in the original cost statements, whether negligible or significant, health centers have the option of having an adjusted single encounter rate, or requesting a separate dental or mental health rate.

(12) The new rate will be effective beginning the first day of the quarter immediately following the date the Division approves the change in scope of services adjustment (e.g. January, April, July, or October 1):

(a) The Division will not implement adjusted PPS rates (for qualifying change in scope of service requests) retroactive to the date a change in scope of services was implemented by the health center;

(b) It is a health center's responsibility to request a timely change in scope of service rate adjustment.

(13) For changes occurring on or after October 1, 2008, the effective date of this policy, FQHCs and RHCs are required to:

(a) For anticipated changes, health centers should submit prospective costs for the Division to calculate a new per visit rate. These costs will be based on reasonable cost projections and reviewed by the Division. Health

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centers may later request a subsequent rate adjustment based on actual costs;

(b) For gradual or unanticipated changes, health centers must provide at least six months of actual costs beginning the date on which the change in the cost per visit threshold is met, or beginning in the calendar year of the FQHC/RHC's fiscal year in which the changes were implemented and the cost threshold was met. For example, a health center implements a change in scope of services in 2008, but the additional costs incurred do not meet the 5% threshold criteria. In 2009 the health center implements additional scope of service changes. Additional costs incurred in 2009 together with the costs incurred for 2008 meet the 5% threshold. The health center would report costs for 2009;

(c) Health centers may submit both actual costs (for prior changes) as well as projected costs (for anticipated changes). Prior to submitting both actual and projected costs, health centers should work with the Division's FQHC/RHC Program manager to confirm the appropriate time periods of costs to submit.

(14) For changes that occurred prior to the effective date of this policy, October 1, 2008, FQHCs and RHCs are required to:

(a) Submit cost reports for either:

(A) The first year of actual costs beginning the date on which a change in the cost per visit threshold is met; or

(B) The calendar year or the FQHC/RHC's fiscal year in which the changes were implemented and the cost threshold was met;

(b) For changes that occurred over multiple and overlapping time periods, FQHC/RHCs will submit actual costs for the time period beginning when all changes were in effect. For example, if changes occurred in 2003 and 2004, health centers would submit their 2004 cost report that would include costs for changes implemented in both 2003 and 2004;

(c) Rate adjustments calculated using costs from prior fiscal years will be adjusted by the Medicare Economic Index (MEI) to present.

(15) FQHC and RHCs clinics that choose to participate in the Patient Centered Primary Care Home (PCPCH) Program must meet the requirements and adhere to rules outlined in OAR 409-055-0000 through 409-055-0080 and 410-141-0860, Oregon Health Plan Primary Care Manager and Patient Centered Primary Care Home Provider Qualification and Enrollment:

(a) The PCPCH Program is outside the Prospective Payment system. Providers who choose to participate and meet all related requirements shall receive a separate payment per the PMPM payment established by OAR 410-141-0860;

(b) If a provider has a PPS rate that includes costs for operating a medical home or health home but would like to participate as a PCPCH, then they must submit a change in scope for a change in service delivery method.

(c) Becoming a PCPCH does not qualify as a change in scope.

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

Stat. Auth.: ORS 413.042, 414.065, 413.032

Stats. Implemented: ORS 414.065, 413.032

Hist.: DMAP 10-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 28-2011, f. 9-30-11, cert. ef. 10-1-11; DMAP 14-2012, f. & cert. ef. 3-22-12

Rule Caption: FCHP Non-contracted hospital reimbursement rate methodology change.

Adm. Order No.: DMAP 15-2012

Filed with Sec. of State: 3-22-2012

Certified to be Effective: 3-22-12

Notice Publication Date: 2-1-2012

Rules Amended: 410-120-1295

Rules Repealed: 410-120-1295(T)

Subject: The General Rules Program administrative rules govern the Division payments for services provided to clients. The Division temporarily amended OAR 410-120-1295 effective to October 1, 2011, to allow providers to be reimbursed at the correct rate for services rendered on or after Oct. 1. The formula established by the reimbursement methodology in ORS 414.743 gives correct and appropriate information to hospitals and managed care organizations when applying the formula to claims for reimbursement for services rendered to medical assistance clients. The statute is based on the budget period that coordinates with the managed care and Division contracts. The Division intends to permanently amend this rule.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-120-1295

Non-Participating Provider

(1) For purposes of this rule, a provider enrolled with the Division of Medical Assistance Programs (Division) that does not have a contract with a Division-contracted Prepaid Health Plan (PHP) is referred to as a non-participating provider.

(2) For covered services that are subject to reimbursement from the PHP, a non-participating provider, other than a hospital governed by (3) below, must accept from the Division-contracted PHP, as payment in full, the amount that the provider would be paid from the Division if the client was fee-for-service (FFS).

(3) For covered services provided on and after October 1, 2011, the Division-contracted Fully Capitated Health Plan (FCHP) that does not have a contract with a hospital, is required to reimburse, and hospitals are required to accept as payment in full, the following reimbursement:

(a) Non-participating Type A and Type B hospital: The FCHP shall reimburse a non-participating Type A and Type B hospital fully for the cost of covered services based on the cost-to-charge ratio used for each hospital in setting the capitation rates paid to the FCHP for the contract period (ORS 414.727);

(b) All other non-participating hospitals (not designated as a rural access or Type A and Type B hospital): As specified in ORS 414.743, the FCHP shall reimburse inpatient and outpatient services using a Medicare payment methodology at a specified percentage point less than the percentage of Medicare costs used by the Oregon Health Authority (Authority) when calculating the base hospital capitation payment to FCHP's, excluding any supplemental payments.

(i) Effective for services on or after October 1, 2011, for a hospital providing 10 percent or more of the hospital admissions and outpatient hospital services to enrollees of the plan, the percentage of the Medicare reimbursement shall be equal to 64 percent;

(ii) Effective for services on or after October 1, 2011, for a hospital providing less than 10 percent of the hospital admissions and outpatient hospital services to enrollees of the plan, the percentage of the Medicare reimbursement shall be equal to 66 percent.

(4) A non-participating hospital must notify the FCHP within 2 business days of an FCHP patient admission when the FCHP is the primary payer. Failure to notify does not, in and of itself, result in denial for payment. The FCHP is required to review the hospital claim for:

(a) Medical appropriateness;

(b) Compliance with emergency admission or prior authorization policies;

(c) Member's benefit package;

(d) The FCHP contract and the Division's administrative rules.

(5) After notification from the non-participating hospital, the FCHP may:

(a) Arrange for a transfer to a contracted facility, if the patient is medically stable and the FCHP has secured another facility to accept the patient;

(b) Perform concurrent review; and/or

(c) Perform case management activities.

(6) In the event of a disagreement between the FCHP and hospital, the provider may appeal the decision by asking for an administrative review as specified in OAR 410-120-1580.

Stat. Auth.: ORS 409.040, 409.050 & 414.065

Stats. Implemented: ORS 414.025, 414.065, 414.705 & 414.743

Hist.: OMAP 10-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 22-2004, f. & cert. ef. 3-22-04; OMAP 23-2004(Temp), f. & cert. ef. 3-23-04 thru 8-15-04; OMAP 33-2004, f. 5-26-04, cert. ef. 6-1-04; OMAP 75-2004(Temp), f. 9-30-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 4-2005(Temp), f. & cert. ef. 2-9-05 thru 7-1-05; OMAP 33-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 35 2005, f. 7-21-05, cert. ef. 7-22-05; OMAP 49-2005(Temp), f. 9-15-05, cert. ef. 10-1-05 thru 3-15-06; OMAP 63-2005, f. 11-29-05, cert. ef. 1-1-06; OMAP 66-2005(Temp), f. 12-13-05, cert. ef. 1-1-06 thru 6-28-06; OMAP 72-2005(Temp), f. 12-29-05, cert. ef. 1-1-06 thru 6-28-06; OMAP 28-2006, f. 6-22-06, cert. ef. 6-23-06; OMAP 42-2006(Temp), f. 12-15-06, cert. ef. 1-1-07 thru 6-29-07; DMAP 2-2007, f. & cert. ef. 4-5-07; DMAP 24-2007, f. 12-11-07 cert. ef. 1-1-08; DMAP 28-2009(Temp), f. 9-11-09, cert. ef. 10-1-09 thru 3-25-10; DMAP 35-2009(Temp), f. & cert. ef. 12-4-09 thru 3-25-10; DMAP 38-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 38-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 4-2010, f. & cert. ef. 3-26-10; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 30-2011(Temp), f. & cert. ef. 10-20-11 thru 3-25-12; DMAP 15-2012, f. & cert. ef. 3-22-12

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

Adm. Order No.: DMAP 16-2012(Temp)

Filed with Sec. of State: 3-26-2012

Certified to be Effective: 3-26-12 thru 9-21-12

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ADMINISTRATIVE RULES

Rules Adopted: 410-141-3015, 410-141-3020, 410-141-3030, 410-141-3050, 410-141-3060, 410-141-3070, 410-141-3080, 410-141-3140, 410-141-3145, 410-141-3160, 410-141-3170, 410-141-3180, 410-141-3200, 410-141-3220, 410-141-3260, 410-141-3261, 410-141-3262, 410-141-3263, 410-141-3264, 410-141-3265, 410-141-3266, 410-141-3268, 410-141-3270, 410-141-3280, 410-141-3300, 410-141-3320, 410-141-3420

Subject: These rules establish the requirements for Coordinated Care Organizations (CCO) under Oregon's Integrated and Coordinated Health Care Delivery System. CCOs will improve health, increase the quality, reliability, availability and continuity of care, as well as to reduce costs. CCOs will provide medical assistance recipients with health care services that are supported by alternative payment methodologies that focus on prevention and that use patient-centered primary care homes, evidence-based practices and health information technology to improve health and reduce health disparities. The Authority needs to adopt these rules to establish transitional processes, the application process, application criteria, financial solvency requirements and the client grievance system.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-3015

Certification Criteria for Coordinated Care Organizations

(1) Applicants shall submit applications to the Authority describing their capacity and plans for meeting the goals and requirements established for the Oregon Integrated and Coordinated Health Care Delivery System, including being prepared to enroll all eligible individuals within the CCO's proposed service area. The Authority shall use the Request for Applications (RFA) procurement process described in OAR 410-141-3010.

(2) In addition to the requirements for CCOs expressed in the laws establishing Health System Transformation, the Authority interprets the qualifications and expectations for CCO certification within the context of the Oregon Health Policy Board's report, Coordinated Care Organizations Implementation Proposal: HB 3650 Health System Transformation (Jan. 24, 2012).

(3) Applicants must describe their demonstrated experience and capacity for:

(a) Managing financial risk and establishing financial reserves;

(b) Meeting the following minimum financial requirements:

(A) Maintaining restricted reserves of \$250,000 plus an amount equal to 50 percent of the entity's total actual or projected liabilities above \$250,000;

(B) Maintaining a net worth in an amount equal to at least 5 percent of the average combined revenue in the prior two quarters of the participating health care entities.

(c) Operating within a fixed global budget;

(d) Developing and implementing alternative payment methodologies that are based on health care quality and improved health outcomes;

(e) Coordinating the delivery of physical health care, mental health and chemical dependency services, oral health care and covered long-term care services;

(f) Engaging community members and health care providers in improving the health of the community and addressing regional, cultural, socioeconomic and racial disparities in health care that exist among the entity's enrollees and in the entity's community.

(4) In selecting one or more CCOs to serve a geographic area, the Authority shall:

(a) For members and potential members, optimize access to care and choice of providers;

(b) For providers, optimize choice in contracting with CCOs; and

(c) Allow more than one CCO to serve the geographic area if necessary to optimize access and choice under this subsection.

(5) Evaluation of CCO applications shall account for the developmental nature of the CCO system. The Authority recognizes that CCOs and partner organizations will need time to develop capacity, relationships, systems and experience to fully realize the goals envisioned by the Oregon Integrated and Coordinated Health Care Delivery System. The Authority shall pay particular attention to how the application describes community involvement in the governance of the CCO and to the CCO's strategic plan for developing its community health assessment and community health improvement plan:

(a) In all cases, CCOs must have plans in place to meet the criteria laid out in these rules and the application process and to make sufficient

progress in implementing plans and realizing the goals established in contract;

(b) Each criterion will be listed, followed by the elements that must be addressed during the initial certification described in this rule, without limiting the information that is requested in the RFA concerning these criteria.

(6) Each CCO shall have a governance structure that meets the requirements of ORS 414.625. The applicant must:

(a) Clearly describe how it meets governance structure criteria from ORS 414.625, how the governance structure makeup reflects community needs and supports the goals of health care transformation, the criteria used to select governance structure members; and how it will assure transparency in governance;

(b) Identify key leaders who are responsible for successful implementation and sustainable operation of the CCO;

(c) Describe how its governance structure will reflect the needs of members with severe and persistent mental illnesses and members receiving DHS Medicaid-funded long-term care services and supports.

(7) Each CCO must convene a community advisory council (CAC) that meets the requirements of ORS 414.625. The applicant must clearly describe how it meets the requirements for selection and implementation of a CAC consistent with ORS 414.625, how the CAC will be administered to achieve the goals of community involvement and the development, adoption and updating of the community health assessment and community health improvement plan.

(8) CCOs shall partner with their local public health authority, hospital system, type B AAA, APD field office and local mental health authority to develop a shared community health assessment that includes a focus on health disparities in the community:

(a) Since community health assessments will evolve over time as relationships develop and CCOs learn what information is most useful, initial CCO applicants may not have time to conduct a comprehensive community assessment before becoming certified;

(b) The applicant shall describe how it will develop its health assessment, meaningfully and systematically engaging representatives of critical populations and community stakeholders and its community advisory council to create a health improvement plan for addressing community need that builds on community resources and skills and emphasizes innovation.

(9) The CCO must describe its strategy to adopt and implement a community health improvement plan consistent with OAR 410-141-3145.

(10) Dental care organizations: On or before July 1, 2014, each CCO shall have a formal contractual relationship with any DCO in its service area.

(11) CCOs shall have agreements in place with publicly funded providers to allow payment for point-of-contact services including immunizations, sexually transmitted diseases and other communicable diseases, family planning and HIV/AIDS prevention services. Applicants shall confirm that these agreements have been developed, unless good cause can be shown:

(a) In addition, CCOs shall have agreements in place with the local mental health authority consistent with ORS 414.153. Applicants shall confirm that these agreements have been developed unless good cause can be shown;

(b) The Authority shall review CCO applications to ensure that statutory requirements regarding county agreements are met, unless good cause is shown why such agreement is not feasible.

(12) CCOs must provide integrated person-centered care and services designed to provide choice, independence and dignity:

(a) The applicant must describe its strategy to assure that each member receives integrated person-centered care and services designed to provide choice, independence and dignity;

(b) The applicant must describe its strategy for providing members the right care at the right place and the right time and to integrate and coordinate care across the delivery system.

(13) CCOs must develop mechanisms to monitor and protect against underutilization of services and inappropriate denials; provide access to qualified advocates; and promote education and engagement to help members be active partners in their own care. Applicants must:

(a) Describe their planned or established policies and procedures that protect member rights, including access to qualified peer wellness specialists, personal health navigators, and qualified community health workers where appropriate;

(b) Describe planned or established mechanisms for a complaint, grievance, and appeals resolution process, including how that process shall be communicated to members and providers.

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(14) CCOs must operate in a manner that encourages patient engagement, activation and accountability for the member's own health. Applicants shall describe how they plan to:

(a) Actively engage members in the design and, where applicable, implementation of their treatment and care plans;

(b) Ensure that member choices are reflected in the development of treatment plans and member dignity is respected.

(15) CCOs must assure that members have a choice of providers within the CCO's network. CCOs and their network providers must work together to develop best practices for care and service delivery to reduce waste and improve health and well-being of all covered populations:

(a) Applicants must describe how they will work with their providers to develop the partnerships necessary to allow for access to and coordination with medical, mental health and chemical dependency services providers, and dental care if the CCO includes a dental care organization, and to facilitate access to community social and support services, including DHS Medicaid-funded long-term care services, mental health crisis services and culturally and linguistically appropriate services;

(b) Applicants must describe their planned or established tools for provider use to assist in the education of members about care coordination and the responsibilities of both parties in the process of communication.

(16) CCOs must assure that each member has a consistent and stable relationship with a care team that is responsible for providing preventive and primary care and for comprehensive care management in all settings. The applicant shall demonstrate how it will support the flow of information, identify a lead provider or care team to confer with all providers responsible for a member's care, and use a standardized patient follow-up approach.

(17) CCOs must address the supportive and therapeutic needs of each member in a holistic fashion, using patient-centered primary care homes and individualized care plans to the extent feasible:

(a) Applicants shall describe their model of care or other models that support patient-centered primary care and adhere to ORS 414.625 requirements regarding individualized care plans, particularly for members with intensive care coordination needs;

(b) Applicants shall describe how its implementation of individualized care plans reflect member or family/caregiver preferences and goals to ensure engagement and satisfaction.

(18) CCOs shall assure that members receive comprehensive transitional care, including appropriate follow-up care, when entering or leaving an acute care facility or long-term care setting. Applicants shall:

(a) Describe their strategy for improved transitions in care so that members receive comprehensive transitional care and members' experience of care and outcomes are improved;

(b) Demonstrate how hospitals and specialty services will be accountable to achieve successful transitions of care and establish service agreements that include the role of patient-centered primary care homes;

(c) Describe their arrangements, including memorandum of understanding, with Type B Area Agencies on Aging or the Department's offices of Aging and Persons with Disabilities concerning care coordination and transition strategies for members.

(19) CCOs shall provide members with assistance in navigating the health care delivery system and accessing community and social support services and statewide resources, including the use of certified health care interpreters, community health workers and personal health navigators. The applicant must describe its planned policies for informing members about access to non-traditional providers, if available through the CCO, including personal health navigators, peer wellness specialists where appropriate, and community health workers.

(20) Services and supports shall be geographically located as close to where members reside as possible and are, if available, offered in non-traditional settings that are accessible to families, diverse communities and underserved populations. Applicants must describe:

(a) Delivery system elements that respond to member needs for access to coordinated care services and supports;

(b) Planned or established policies for the delivery of coordinated health care services for members in long-term care settings;

(c) Planned or established policies for the delivery of coordinated health care services for members in residential treatment settings or long term psychiatric care settings.

(21) Each CCO shall prioritize working with members who have high health care needs, multiple chronic conditions, mental illness or chemical dependency, including members with severe and persistent mental illness covered under the State's 1915(i) State Plan Amendment. The CCO shall involve those members in accessing and managing appropriate preventive, health, remedial and supportive care and services to reduce the use of

avoidable emergency department visits and hospital admissions. The applicant must describe how it will:

(a) Use individualized care plans to the extent feasible to address the supportive and therapeutic needs of each member, particularly those with intensive care coordination needs;

(b) Reflect member or family/caregiver preferences and goals to ensure engagement and satisfaction.

(22) Each CCO shall participate in the learning collaborative described in ORS 442.210. Applicants shall confirm their intent to participate.

(23) Each CCO shall implement, to the maximum extent feasible, patient-centered primary care homes, including developing capacity for services in settings that are accessible to families, diverse communities and underserved populations:

(a) The applicant must describe its plan to develop and expand capacity to use patient-centered primary care homes to ensure that members receive integrated, person-centered care and services, and that members are fully informed partners in transitioning to this model of care;

(b) The applicant shall require its other health and services providers to communicate and coordinate care with patient-centered primary care homes in a timely manner using health information technology.

(24) CCOs' health care services must focus on improving health equity and reducing health disparities. Applicants must:

(a) Describe their strategy for ensuring health equity (including interpretation/cultural competence) and elimination of avoidable gaps in health care quality and outcomes, as measured by gender, race, ethnicity, language, disability, sexual orientation, age, mental health and addictions status, geography, and other cultural and socioeconomic factors;

(b) Engage in a process that identifies health disparities associated with race, ethnicity, language, health literacy, age, disability (including mental illness and substance use disorders), gender, sexual orientation, geography, or other factors through community health assessment;

(c) Collect and maintain race, ethnicity and primary language data for all members on an ongoing basis in accordance with standards jointly established by the Authority and the Department of Human Services.

(25) CCOs are encouraged to use alternative payment methodologies, consistent with ORS 414.653. The applicant must describe its plan to move toward and begin to implement alternative payment methods alone or in combination with delivery system changes to achieve better care, controlled costs and better health for members.

(26) Each CCO shall use health information technology (HIT) to link services and care providers across the continuum of care to the greatest extent practicable. The applicant must describe:

(a) Its initial and anticipated levels of electronic health record adoption and health information exchange infrastructure and capacity for collecting and sharing patient information electronically, and its HIT improvement plan for meeting transformation expectations;

(b) Its plan to ensure that each network provider participates in a health information organization (HIO) or is registered with a statewide or local direct enabled health information service provider.

(27) Each CCO must report on outcome and quality measures identified by the Authority under ORS 414.638 and participate in the All Payer All Claims (APAC) data reporting system. The applicant must provide assurances that:

(a) It has the capacity to report and demonstrate an acceptable level of performance with respect to Authority-identified metrics;

(b) It will submit APAC data in a timely manner according to program specifications.

(28) Each CCO shall be transparent in reporting progress and outcomes. Applicants must:

(a) Describe how it will assure transparency in governance;

(b) Agree to timely provide access to certain financial, outcomes, quality and efficiency metrics that will be transparent and publicly reported and available on the internet.

(29) Each CCO shall use best practices in the management of finances, contracts, claims processing, payment functions and provider networks. The applicant must describe:

(a) Is planned or established policies for ensuring best practices in areas identified by ORS 414.625;

(b) Whether the CCO will use a clinical advisory panel (CAP) or other means to ensure clinical best practices;

(c) Plans for an internal quality improvement committee that develops and operates under an annual quality strategy and work plan with feedback loops, and an internal utilization review oversight committee that monitors

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utilization against practice guidelines and treatment planning protocols and policies.

(30) Each CCO must demonstrate sound fiscal practices and financial solvency, and must possess and maintain resources needed to meet their obligations:

(a) Initially, the financial applicant must submit required financial information that allows the Department of Consumer and Business Services, Insurance Division, on behalf of the Authority, to confirm financial solvency and assess fiscal soundness;

(b) The applicant shall provide information relating to assets and financial and risk management capabilities.

(31) Each CCO may provide coordinated care services within a global budget. Applicants must submit budget cost information consistent with its proposal for providing coordinated care services within the global budget.

(32) CCO shall operate, administer and provide for integrated and coordinated care services within the requirements of the medical assistance program in accordance with the terms of the contract and rule. The applicant must provide assurances about compliance with requirements applicable to the administration of the medical assistance program.

(33) Each CCO shall provide covered Medicaid services, other than DHS Medicaid-funded long-term care services, to members who are dually eligible for Medicare and Medicaid. The applicant must be prepared to participate in the CMS Medicare/Medicaid Alignment Demonstration, if the Authority obtains necessary federal approvals.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3020

Administration of Oregon Integrated and Coordinated Health Care Delivery System Regulation and Rule Precedence

(1) The Authority and its Division of Medical Assistance Programs (Division) and Addictions and Mental Health Division (AMH) may adopt reasonable and lawful policies, procedures, rules and interpretations to promote the orderly and efficient administration of the Oregon Integrated and Coordinated Health Care Delivery System and medical assistance programs. This includes the Oregon Health Plan (OHP) pursuant to ORS Chapter 414, subject to the rulemaking requirements of Oregon Revised Statutes and Oregon Administrative Rule (OAR) procedures.

(2) In applying its policies, procedures, rules and interpretations, the Authority shall construe them as much as possible to be consistent. In the event that Authority policies, procedures, rules, and interpretations are inconsistent, the Authority shall apply the following order of precedence:

(a) For purposes of the provision of covered coordinated care services to Authority clients, including but not limited to authorizing and delivering service, or denials of authorization or services, the Authority, clients, enrolled providers and the coordinated care organizations (CCO) shall apply the following order of precedence:

(A) Those federal laws and regulations governing the operation of the medical assistance program and any waivers granted the Authority by the Centers for Medicare and Medicaid Services (CMS) to operate medical assistance programs;

(B) Oregon Revised Statutes governing medical assistance programs;

(C) Generally for CCOs, requirements applicable to providing coordinated care services to clients are provided in OAR chapter 410 division 141, administrative rules for the Oregon Integrated and Coordinated Care Delivery System, the Division's General Rules, 410-120-0000 through 410-120-1980 and the provider rules applicable to the category of health service;

(D) Generally for enrolled fee-for-service providers, requirements applicable to the provision of covered medical assistance to clients are provided in the Division's General Rules, OAR 410-120-0000 through 410-120-1980, the Prioritized List and program coverage described in OAR chapter 410 division 141 and the provider rules applicable to the category of health service; and

(E) Any other applicable properly promulgated rules adopted by the Division, AMH and other offices or units within the Authority necessary to administer medical assistance programs, such as Electronic Data Transaction rules in OAR 943-120-0100 to 943-120-0200; and

(F) The basic framework for provider enrollment in OAR 943-120-0300 through 943-120-0380 generally applies to providers enrolled with the Authority, subject to more specific requirements applicable to the administration of medical assistance programs. For purposes of this rule, "more specific" means the requirements, laws and rules applicable to the provider type and covered health services.

(b) For purposes of contract administration solely between the Authority and its CCOs, the contract terms and the requirements in section (2)(a) of this rule governing the provision of covered coordinated health services to clients.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3030

Implementation and Transition

Implementation of the Oregon Integrated and Coordinated Health Care Delivery System through coordinated care organizations (CCOs) is essential to achieve the objectives of health transformation and cost savings. The ability of CCOs to meet transformation expectations will be phased in over time to allow CCOs to develop the necessary organizational infrastructure. During this initial implementation period, the Authority holds the following expectations:

(1) Contract provisions, including an approved CCO strategy or plan for implementing health services transformation, shall describe how the CCO must comply with transformation requirements under these CCO rules.

(2) Local and community involvement will be encouraged and the Authority will work with CCOs to achieve flexibilities that may be appropriate to achieve community-directed objectives.

(3) Upon request, the Authority will assign innovator agents to work with CCOs, consistent with SB 1580 (Enrolled) (2012).

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3050

CCO Enrollment for Children Receiving Health Services

Pursuant to OAR 410-141-3060, the Department or Oregon Youth Authority (OYA) shall select Coordinated Care Organizations (CCO) for a child receiving Department or OYA services in an area where a CCO is available. If a CCO is not available in an area, the Authority or the Department shall enroll the child in accordance with OAR 410-141-0050.

(1) The Authority shall, to the maximum extent possible, ensure that all children are enrolled in CCOs at the next available enrollment date following eligibility determination, redetermination, or upon review by the Authority, unless the Authority authorizes disenrollment from a CCO:

(a) Except as provided in OAR 410-141-3060 (Coordinated Care Enrollment Requirements), 410-141-3080 (Disenrollment from Coordinated Care Health Plans) or ORS 414.631(2) children are not exempt from mandatory enrollment in a CCO on the basis of third party resources (TPR) coverage;

(b) The Authority shall review decisions to use fee-for-service (FFS) open card for a child if the child's circumstances change and at the time of redetermination consider whether the Authority or the Department shall enroll the child in a CCO.

(2) When a child is transferred from one CCO to another CCO, or from FFS or a PHP to a CCO, the CCO must facilitate coordination of care consistent with OAR 410-141-3160:

(a) CCOs must work closely with the Authority to ensure continuous CCO enrollment for children;

(b) If the Authority determines that it should disenroll a child from a CCO, the CCO shall continue to be responsible for providing health services until the Authority's established disenrollment date to provide for an adequate transition to the next CCO.

(3) When a child experiences a change of placement that may be permanent or temporary, the Authority shall verify the address change information to determine whether the child no longer resides in the CCO's service area:

(a) A temporary absence as a result of a temporary placement out of the CCO's service area does not represent a change of residence if the Authority determines that the child is reasonably likely to return to the CCO's service area at the end of the temporary placement;

(b) A child receiving CAF services placed in behavioral rehabilitation services (BRS) settings shall be enrolled in the CCO serving the region where the BRS setting is located, unless the CCO requests an out of area exception, and the Authority grants the exception for continuity of care.

(4) If the Authority or the Department enrolls the child in a CCO on the same day the child is admitted to psychiatric residential treatment services (PRTS), the CCO shall pay for covered health services during that placement, even if the location of the facility is outside the CCO's service area:

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(a) The child is presumed to continue to be enrolled in the CCO with which the child was most recently enrolled. The Authority considers an admission to a PRTS facility a temporary placement for purposes of CCO enrollment. Any address change associated with the placement in the PRTS facility is not a change of residence for purposes of CCO enrollment and may not be a basis for disenrollment from the CCO, unless the provisions in OAR chapter 410 division 141 apply. If the Authority determines that a child was disenrolled for reasons not consistent with these rules, the Authority or Department shall re-enroll the child with the appropriate CCO and assign an enrollment date that provides for continuous coverage with the appropriate CCO. If the child was enrolled in a different CCO in error, the Authority shall disenroll the child from that CCO and recoup the CCO payments;

(b) Immediately upon discharge from long-term psychiatric care and before admission to a PRTS, the Authority or the Department shall enroll a child in a CCO. At least two weeks before discharge from a long-term psychiatric care facility to a PRTS facility, the long-term care facility shall consult with the Authority about which CCO shall provide health care for the child. The long-term care facility shall make every reasonable effort within the laws governing confidentiality to consult with the assigned CCO in order to provide for continuity of care upon discharge.

(5) Except for OAR 410-141-3060 and 410-141-3080, if a child is enrolled in a CCO after the first day of an admission to PRTS, the enrollment effective date shall be immediately upon discharge.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3060

Enrollment Requirements

(1) An Oregon Health Plan (OHP) client who is eligible for or receiving health services must be enrolled in a Coordinated Care Organization (CCO) to receive the health services for which the individual is eligible, except as provided in ORS 414.631(2), (3), (4) and (5) and 414.632(2).

(2) Mandatory enrollment does not apply to:

(a) An individual who is a noncitizen and who is eligible only for labor and delivery services and emergency treatment services;

(b) An individual who is an American Indian and Alaskan Native beneficiary;

(c) An individual who is dually eligible for Medicare and Medicaid and enrolled in a PACE program;

(d) An individual exempted from mandatory enrollment by rule of the Authority;

(e) An individual who resides in an area that is not served by a CCO or where the CCO's provider network is inadequate.

(3) In any area that is not served by a CCO but is served by a prepaid managed care health services organization (PHP), an individual must enroll with the PHP to receive any of the health services offered by the PHP.

(4) Selection of CCOs in accordance with this rule is a condition of eligibility for OHP clients. If, upon reapplication, OHP clients do not select CCOs in accordance with this rule, the Authority shall select the CCO. This selection shall be based on which CCOs the clients were previously enrolled in:

(a) Service areas with sufficient dental care service capacity through DCOs shall be called mandatory DCO service areas. A client shall select a DCO in a mandatory DCO service area;

(b) Service areas without sufficient dental care service capacity through DCOs shall be called voluntary DCO service areas. In voluntary DCO service areas, a client may choose to:

(A) Select any DCO open for enrollment; or

(B) Remain in the Medicaid FFS dental care delivery system.

(c) If unable to enroll in a CCO due to lack of capacity or availability under section (2)(e) or (3), the client may to select any PHP available for enrollment.

(5) The following are exemptions to mandatory enrollment in CCOs that allow clients, to enroll with a PHP or remain in the Medicaid FFS delivery systems for physical, dental or mental health care:

(a) Continuity of Care:

(A) The client has an established relationship with a Division enrolled practitioner from whom the client receives ongoing treatment for a covered medical or dental condition, and;

(B) Subject to OAR 410-141-0080(1)(b)(B)(vi)(III), the Division enrolled practitioner is not a member of the CCO's participating provider panel the client would be enrolled in, and;

(C) Loss of continuity of care for the covered medical or dental condition would have a significant negative effect on the health status of the

client, as determined by the Authority through medical review, to change practitioners and receive treatment from the CCO's participating provider panel;

(D) Exemptions from mandatory enrollment in CCOs for continuity of care may be granted for a period of four months. The Authority may grant extensions, upon request, subject to review of unique circumstances. A 12-month exemption may be granted if the reason for the exemption is not likely to change or is due to a chronic or permanent condition or disability.

(b) Clients shall be exempt from mandatory enrollment with a CCO, if the client became eligible through a hospital hold process and is placed in the Adults/Couples category. The client shall remain FFS for the first six months of eligibility unless a change occurs with their eligibility or the category. At that time, the exemption shall be removed and the client shall be enrolled into an open CCO. The exemption shall not affect the mandatory enrollment requirement into a DCO;

(c) The client is a child in the legal custody of the Oregon Youth Authority (OYA) or Children, Adults and Families (CAF) (Child Welfare Services), and the child is expected to be in a substitute care placement for less than 30 calendar days, unless:

(A) There is no FFS access; or

(B) There are continuity of care issues.

(d) The client is in the third trimester of her pregnancy when first determined eligible for OHP, or at redetermination, and wants to continue obtaining maternity services from a practitioner who is not a participating provider with a CCO in the service area:

(A) In order to qualify for such exemption at the time of redetermination, the client must not have been enrolled with an FCHP or PCO or CCO during the three months preceding redetermination;

(B) If the client moves out of her CCO's service area during the third trimester, the client may be exempted from enrollment in the new service area for continuity of care if the client wants to continue obstetric-care with her previous physician, and that physician is within the travel time or distance indicated in 410-141-3220;

(C) If the practitioner is a PCM, the client shall enroll with that practitioner as a PCM member;

(D) If the practitioner is not enrolled with the Division as a PCM, then the client may remain in the Medicaid FFS delivery system until 60 days after the birth of her child. After the 60-day period, the client must enroll in a CCO.

(e) The client has been accepted by the Medically Fragile Children's Unit of the Addictions and Mental Health Division;

(f) Other just causes as determined by the Authority through medical review, which include the following factors:

(A) The cause is beyond the control of the client;

(B) The cause is in existence at the time that the client first becomes eligible for OHP;

(C) Enrollment would pose a serious health risk; and

(D) The lack of reasonable alternatives.

(6) The primary person in the household group and benefit group as defined in OAR 461-110-0110, 461-110-0210, and 461-110-0720, shall select CCOs on behalf of all OHP clients in the benefit group. CCO selection shall occur at the time of application for OHP in accordance with section (4) of this rule:

(a) All OHP clients in the benefit group shall enroll in the same CCO for coordinated care services except for dental care unless exempted under the conditions stated in this rule;

(b) If the client is not able to choose CCOs on his or her own, the client's representative shall make the selection;

(c) CAF or OYA shall select CCOs for a child receiving CAF (Child Welfare Services) or OYA services, consistent with OAR 410-141-3050, with the exception of children in subsidized adoptions;

(d) Enrollment in a CCO of a client receiving Medicare and who resides in a service area served by CCOs shall be as follows:

(A) If the client, who is Medicare Advantage eligible, selects a CCO, the client will be enrolled with the CCO that corresponds to the Medicare Advantage plan;

(B) If the client is enrolled as a private member of a Medicare Advantage plan, the client may choose to remain enrolled as a private member or to enroll in the CCO that corresponds to the Medicare Advantage plan;

(i) If the client chooses to remain as a private member in the Medicare Advantage plan, the client shall remain in the Medicaid FFS delivery system for physical health care services but shall select a DCO and MHO where available;

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(ii) If the client chooses to disenroll from the Medicare Advantage plan and then, within 60 calendar days of disenrollment, chooses the CCO that corresponds to the Medicare Advantage plan from which the client disenrolled, the client shall be allowed to enroll in the CCO even if the CCO is not open for enrollment to other clients;

(iii) A Fully Dual Eligible (FDE) client who has been exempted from enrollment in a CCO may not be enrolled in a CCO that has a corresponding Medicare Advantage plan unless the exemption was done for a provider who is on the CCO's panel.

(7) If the OHP client resides in a mandatory service area and fails to select a CCO and a DCO (pending contractual arrangements with a CCO under ORS 414.625) at the time of application for the OHP, the Division may enroll the client with a CCO and a DCO as follows:

(a) The client shall be assigned to and enrolled with a CCO and a DCO which meet the following requirements:

(A) Is open for enrollment;

(B) Serves the county in which the client resides;

(C) Has practitioners located within the community-standard distance for average travel time for the client.

(b) The Authority shall send notification to the client, which shall provide information of the assignments and the right to change assignments within 30 calendar days of enrollment. A change in assignment shall be honored if there is another CCO or DCO open for enrollment in the county in which the client resides;

(c) Enrollments resulting from assignments shall be effective the first of the month or week after the Authority enrolls and notifies the client of enrollment and the name of the CCO and DCO: If enrollment is initiated by an Authority worker on or before Wednesday, the date of enrollment shall be the following Monday; if enrollment is initiated after Wednesday, the date of enrollment shall be one week from the following Monday. Monthly enrollment in a mandatory service area where there is only one CCO or DCO shall be initiated by an auto-enrollment program of the Authority effective the first of the month following the month-end cutoff. Monthly enrollment in service areas where there is a choice of CCOs, shall be auto-enrolled by computer algorithm.

(8) The provision of coordinated care services to a member shall begin on the first day of enrollment with the CCO except for:

(a) A newborn whose mother was enrolled at the time of birth. The date of enrollment shall be the newborn's date of birth;

(b) Individuals, other than newborns, who are hospitalized on the date enrolled. The date of enrollment with a CCO shall be the first possible enrollment date after the date the client is discharged from inpatient hospital services;

(c) For members who are re-enrolled within 30 calendar days of disenrollment, the date of enrollment shall be the date specified by the Authority that may be retroactive to the date of disenrollment;

(d) For adopted children or children placed in an adoptive placement, the date of enrollment shall be the date specified by the Authority.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3070

Pharmaceutical Drug List Requirements

(1) Prescription drugs are a covered service based on the funded Condition/Treatment Pairs. Coordinated Care Organizations (CCO) shall pay for prescription drugs, except:

(a) As otherwise provided, mental health drugs that are in Class 7 & 11 (based on the National Drug Code (NDC)) as submitted by the manufacturer to First Data Bank);

(b) Depakote, Lamictal and those drugs that the Authority specifically carved out from capitation according to sections (8) and (9) of this rule;

(c) Any applicable co-payments;

(d) For drugs covered under Medicare Part D when the client is fully dual eligible.

(2) CCOs are encouraged, but not required, to use the statewide Practitioner-Managed Prescription Drug Plan under ORS 414.330 to 414.337. CCOs may use a restrictive drug list as long as it allows access to other drug products not on the drug list through some process such as prior authorization (PA). The drug list must:

(a) Include (FDA) Federal Drug Administration- approved drug products for each therapeutic class sufficient to ensure the availability of covered drugs with minimal prior approval intervention by the provider of pharmaceutical services;

(b) Include at least one item in each therapeutic class of over-the-counter medications; and

(c) Be revised periodically to assure compliance with this requirement.

(3) CCOs shall provide their participating providers and their pharmacy subcontractor with:

(a) Their drug list and information about how to make non-drug listed requests;

(b) Updates made to their drug list within 30 days of a change that may include, but 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, CCOs must provide (within 24 hours of receipt of the drug prior authorization request) for the dispensing of at least a 72-hour supply of a drug that requires prior authorization.

(5) CCOs shall authorize the provision of a drug requested by the Primary Care 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 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) CCOs may not authorize payment for any Drug Efficacy Study Implementation (DESI) Less Than Effective (LTE) drugs which have reached the FDA Notice of Opportunity for Hearing (NOOH) stage, as specified in OAR 410-121-0420 (DESI)(LTE) Drug List. The DESI LTE drug list is available at: <http://www.cms.hhs.gov/MedicareDrugRebateProgram/12LTEIRSDrugs.asp>.

(8) A CCO may seek to add drugs to the list contained in section (1) of this rule by submitting a request to the Authority no later than March 1 of any given contract year. The request must contain 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 Authority should consider this drug for carve out.

(9) If a CCO requests that a drug not be paid within the global budget, the Authority shall exclude the drug from global budget for the following January contract cycle if the Authority determines that the drug has an approved FDA indication for the treatment of a severe mental health condition such as major depressive, bi-polar, or schizophrenic disorders.

(10) The Authority shall pay for a drug that is not included in the global budget pursuant to the Pharmaceutical Services Program rules (chapter 410, division 121). A CCO may not reimburse providers for carved out drugs.

(11) CCOs shall submit quarterly utilization data, within 60 days of the date of service, as part of the CMS Medicaid Drug Rebate Program requirements pursuant to Section 2501 of the Affordable Care Act.

(12) CCOs may not provide payment for drugs made by manufacturers that do not have valid rebate agreements in place with the Centers for Medicare and Medicaid Services (CMS) as part of the Medicaid Drug Rebate Program.

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410-141-3080

Disenrollment from Coordinated Care Organizations

(1) All member-initiated requests for disenrollment from a CCO must be initiated, orally or in writing, by the primary person in the benefit group enrolled with a CCO, where primary person and benefit group are defined in OAR 461-110-0110 and 461-110-0720. For members who are not able to request disenrollment on their own, the request may be initiated by the member's representative.

(2) Requests for disenrollment shall be honored:

(a) Without cause under the following time frames and effective dates:

(A) After six months of enrollment. The effective date of disenrollment shall be the first of the month following the Authority's approval;

(B) At redetermination and the primary person requests disenrollment without cause. The effective date shall be the first of the month following the date that of redetermination.

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(b) With cause: Under the following time frames and effective dates:

(A) At any time;

(B) At time of disenrollment from a Medicare Advantage plan the member shall also be disenrolled from the corresponding FCHP or PCO. The disenrollment effective date shall be the first of the month that the member's Medicare Advantage plan disenrollment is effective;

(C) Members receiving Medicare and 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 disenrollment effective date shall be the first of the month following the date of request for disenrollment;

(D) If a CCO does not, because of moral or religious objections, cover the service the member seeks;

(E) The member needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time, and not all related services are available within the network, and the members' PCP or another provider determines that receiving the services separately would subject the 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 member's health care needs. Examples of sufficient cause include but are not limited to:

(i) The member moves out of the CCO's service area;

(ii) The 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) The need for continuity of care that is not in conflict with OAR 410-141-0060 or this rule. Participation in the OHP, including coordinated and integrated care, does not guarantee that any OHP 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 OHP 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 CCO.

(G) For pregnant women disenrollment shall be approved if the following conditions are met:

(i) The client is in the third trimester of pregnancy and has just been determined eligible for OHP, or is client who has just been re-determined eligible and was not enrolled in a FCHP or PCO within the past 3 months; and

(ii) The member's new CCO does not contract with the member's current OB provider and the CCO member wishes to continue obtaining maternity services from that non-participating OB provider; and

(iii) The request to change CCO is made prior to the date of delivery.

(c) In addition to the disenrollment constraints listed in subsections (a) and (b), above, member disenrollment requests are subject to the following requirements:

(A) The member must join another CCO, unless the member meets the exemptions to enrollment set forth OAR 410-141-0060(4);

(B) If the only CCO available in a mandatory service area is the CCO from which the member wishes to disenroll, the member may not disenroll without cause;

(C) If the Authority fails to make a disenrollment determination by the first day of the second month following the month in which the member files a request for disenrollment, the disenrollment is considered approved.

(3) CCO's may request member disenrollment for the following reasons:

(a) The Authority may disenroll members for cause when requested by the CCO, subject to American with Disabilities Act requirements. Examples of cause include, but are not limited to the following:

(A) Missed appointments. The provider or CCO shall establish the number of missed appointments. The number must be the same as for all other patients. The provider must document they have attempted to ascertain the reasons for the missed appointments and must assist the member in receiving services. This rule does not apply to Medicare members who enrolled in a FCHP's or PCO's Medicare Advantage plan;

(B) If the member's behavior is disruptive, unruly, or abusive to the point that the member's continued enrollment in the CCO seriously impairs the PHP's ability to furnish services to either the member or other members, subject to the requirements in (2)(a)(B)(vii);

(C) If the 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 CCO seriously impairs the CCO's ability to furnish services to either the member or other members, subject to the requirements in this rule;

(D) The 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 committed in any provider or CCO's premises. The CCO shall report any illegal acts to law enforcement authorities or to the Children, Adults and Families (CAF) Fraud Unit as appropriate;

(E) Clients exempted from mandatory enrollment with a CCO, due to the client's eligibility through a hospital hold process and placed in the Adults/Couples category as required under 410-141-0060;

(F) Members may not be disenrolled solely because of the following:

(i) A physical or mental disability;

(ii) An adverse change in the member's health;

(iii) The member's utilization of services, either excessive or lack thereof;

(iv) The member requests a hearing;

(v) The member has been diagnosed with End Stage Renal Disease (ESRD);

(vi) The member exercises the option to make decisions regarding medical care with which the CCO disagrees;

(vii) The member engages in uncooperative or disruptive behavior, including but not limited to threats or acts of physical violence, resulting from the member's special needs, except when continued enrollment in the CCO seriously impairs the CCO's ability to furnish services to either the member or other members.

(G) CCO requests for disenrollment of members shall be submitted in writing to their CCO coordinator for approval. The CCO 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:

(i) The provider shall notify the CCO at the time the problem is identified. The notification must describe the problem and allow time for appropriate intervention by the CCO. The CCO shall document the notification in the member's clinical record;

(ii) The CCO shall contact the member either verbally or in writing, depending on the severity of the problem, to inform the member of the problem that has been identified, and attempt to develop an agreement with the member regarding the issues. If contact is verbal, the CCO shall document it in the member's record. The CCO shall inform the member that the continued behavior may result in disenrollment from the CCO;

(iii) The CCO shall provide individual education, counseling, or other interventions with the member in a serious effort to resolve the problem;

(iv) The CCO shall contact the member's caseworker regarding the problem and, if needed, involve the caseworker and other appropriate agencies' caseworkers in reaching a resolution, within the laws governing confidentiality;

(v) If the severity of the problem and intervention warrants, the CCO shall develop a care plan that details how the problem is going to be addressed and coordinate a case conference. Involvement of the provider, caseworker, member, family, and other appropriate agencies is encouraged;

(vi) Any additional information or assessments requested by the Authority's CCO coordinator.

(H) If the member's behavior is uncooperative or disruptive, including but not limited to threats or acts of physical violence, as the result of the member's special needs or disability, the CCO must also document the following:

(i) A written assessment of the relationship of the behavior to the special needs or disability of the member and whether the member'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 member poses a direct threat to the health or safety of others, the CCO 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 will actually occur; and whether reasonable modifications of policies, practices, or procedures will mitigate the risk to others;

(ii) A CCO-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 member's condition to assess the behavior, the behavioral history, and previous history of efforts to manage behavior;

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(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 CCO's rationale for concluding that the member's continued enrollment in the CCO seriously impairs the CCO's ability to furnish services to either the member or other members;

(vi) If PCP terminates the provider/patient relationship, the CCO shall attempt to locate another PCP on their panel who will accept the member as their patient. All terminations of provider/patient relationships must comply with the CCO's policies and must be consistent with CCO or PCP's policies for commercial members.

(I) Requests will be reviewed according to the following process:

(i) If there is sufficient documentation, the request shall be evaluated by the CCO's coordinator or a team of CCO coordinators who may request additional information from Ombudsman Services, AMH or other agencies as needed; If the request involves the member's mental health condition or behaviors related to substance abuse, the CCO coordinator should also confer with the OHP Coordinator in AMH;

(ii) If there is not sufficient documentation, the CCO coordinator shall notify the CCO within two business days of what additional documentation is required before the request may be considered;

(iii) The CCO coordinators shall review the request and notify the CCO of the decision within ten working days from receipt of sufficient documentation. Written decisions, including reasons for denials, shall be sent to the CCO within 15 working days from receipt of request or additional sufficient documentation.

(J) If the request is approved the CCO coordinator must send the member written notification within 14 days after the request was approved, with a copy to the CCO, member's caseworker and the Authority. The notice must provide the disenrollment date, the reason for disenrollment, and the notice of member's right to file a complaint and request a hearing. If the member requests a hearing, the member shall continue to be disenrolled until a hearing decision reversing that disenrollment has been sent to the member and the CCO:

(i) In cases where the member is also enrolled in the FCHP's or PCO's Medicare Advantage plan and the plan has received approval from CMS 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 shall be 30 days after the approval date, except as otherwise provided in this rule:

(I) The CCO coordinator shall determine when enrollment in another CCO is appropriate. If appropriate, the CCO coordinator will contact the member's Authority caseworker to arrange enrollment. The Authority may require the member and the benefit group to obtain services from FFS providers until the time they can be enrolled in another CCO;

(II) When the disenrollment date has been determined, the Authority shall send a letter to the member, the member's caseworker and the CCO. The letter shall inform the member of the requirement to be enrolled in another CCO, if applicable;

(III) If the CCO coordinator approves a CCO's disenrollment request because of the 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 member commits fraudulent or illegal acts as stated in 410-141-3080(2)(a), the following additional procedures shall apply:

(IV) The member shall be disenrolled on the date of the CCO's disenrollment request;

(V) All members in the member's benefit group, as defined in OAR 461-110-0720, may be disenrolled if the CCO requests;

(VI) At the time of enrollment into another CCO, the CCO shall notify the new CCO that the member and benefit group were previously disenrolled from another CCO at that CCO's request;

(VII) If a member has been disenrolled for cause is re-enrolled in the CCO, the CCO may request a disenrollment review by the CCO's coordinator. A member may not be disenrolled from the same CCO for a period of more than 12 months. If the member is reenrolled after the 12-month period and is again disenrolled for cause, the Authority shall review the disenrollment for further action.

(b) CCO's may also request disenrollment for the following:

(A) If the member is enrolled in the CCO on the same day the member is admitted to the hospital, the CCO shall be responsible for the hospitalization. If the member is enrolled after the first day of the inpatient stay, the member shall be disenrolled, and the date of enrollment shall be the

next available enrollment date following discharge from inpatient hospital services;

(B) The member has surgery scheduled at the time their enrollment is effective with the CCO, the provider is not on the CCO's provider panel, and the 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;

(D) Excluding the DCO, the CCO determines that the member has a third party insurer. If after contacting the Authority, the disenrollment is not effective the following month, the CCO may contact the Authority to request disenrollment;

(E) If a CCO has knowledge of a member's change of address, the CCO shall notify the Authority. The Authority shall verify the address information and disenroll the member. If the member no longer resides in the CCO's service area. The Authority shall disenroll members if the member is out of the CCO's service area for more than three 3 months, unless previous arrangements are made with the CCO. The effective date of disenrollment shall be the date specified by the Authority and the Authority shall recoup the balance of that month's CCO payment;

(F) The member is an inmate 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 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 CCO is responsible for identifying the members and providing sufficient proof of incarceration to the Authority for review of the disenrollment request. The Authority shall approve disenrollment requests from CCOs for members who have been incarcerated for at least 14 calendar days and are currently incarcerated. CCOs are responsible for inpatient services only during the time a member was an inmate;

(G) The member is in a state psychiatric institution.

(4) The Authority may initiate and disenroll members as follows:

(a) If the Authority determines that the member has sufficient third party resources such that health care and services may be cost effectively provided on a FFS basis, the Authority may disenroll the member. The effective date of disenrollment shall be the end of the month in which the Authority makes the determination. The Authority may specify a retroactive disenrollment effective date if the member's third party coverage is through the CCO, or in other situations agreed to by the CCO and the Authority;

(b) If the member moves out of the CCO's service area, the disenrollment effective date shall be the date specified by the Authority. The Authority will recoup the balance of that month's capitation payment from the CCO;

(c) If the member is no longer eligible under the OHP Medicaid Demonstration Project or CHIP, the Authority shall specify the disenrollment effective date;

(d) If the member dies, the effective date of disenrollment shall be through the date of death;

(e) When a non-Medicare contracting CCO is assumed by another CCO that is a Medicare Advantage plan, members with Medicare shall be disenrolled from the existing CCO. The effective date of disenrollment shall be the day prior to the month the new CCO assumes the existing CCO;

(f) If the Authority determines that the CCO's member has enrolled with their Employer Sponsored Insurance (ESI) through FHIAP the effective date of the disenrollment shall be the member's effective date of coverage with FHIAP:

(A) Unless specified otherwise in these rules or in the Authority notification of disenrollment to the CCO, all disenrollments are effective the end of the month after the request for disenrollment is approved by the Authority;

(B) The Authority shall inform the members of the disenrollment decision in writing, including the right to request a contested case hearing. OHP clients may request a Authority hearing if they dispute a disenrollment decision by the Authority;

(C) If the OHP client requests a hearing, the client shall continue to be disenrolled until a hearing decision reversing that disenrollment is sent to the client.

Stat. Auth.: ORS 414.032

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410-141-3140

Emergency and Urgent Care Services

(1) CCOs shall have written policies, procedures, and monitoring systems that ensure the provision of appropriate urgent, emergency, and triage services 24-hours a day, 7-days-a-week for all members. CCOs shall:

(a) Communicate these policies and procedures to participating providers;

(b) Regularly monitor participating providers' compliance with these policies and procedures; and

(c) Take any corrective action necessary to ensure participating provider's compliance. CCOs shall document all monitoring and corrective action activities.

(2) CCOs shall have written policies, procedures, and monitoring processes to ensure that a practitioner provides a medically or dentally appropriate response as indicated to urgent or emergency calls consisting of the following elements:

(a) Telephone or face-to-face evaluation of the member to determine the nature of the situation and the member's immediate need for services, including but not limited to mental health crisis services and use of community health workers, peer specialists or health care navigators, if applicable;

(b) Capacity to conduct the elements of an assessment that is needed to determine the interventions necessary to begin stabilization;

(c) Development of a course of action at the conclusion of the assessment;

(d) Provision of services and referral needed to address the urgent or emergency situation, begin post-stabilization care or provide outreach services in the case of a member requiring mental health services, a member who cannot be transported or a member who is homebound;

(e) Provision for notifying a referral emergency room, when applicable, concerning the presenting problem of an arriving member, and whether or not the practitioner will meet the member at the emergency room; and

(f) Provision for notifying other providers when necessary to request approval to treat members.

(3) CCOs shall ensure the availability of an after-hours call-in system adequate to triage urgent care and emergency calls from members or a member's long-term care provider or facility. The CCO representative shall return urgent calls appropriate to the member's condition but in no event more than 30 minutes after receipt. If information is not adequate to determine if the call is urgent, the CCO representative shall return the call within 60 minutes to fully assess the nature of the call. If information is adequate to determine the call may be emergent in nature, the CCO shall return the call.

(4) If a screening examination in an emergency room leads to a clinical determination by the examining physician that an actual emergency medical condition exists under the prudent layperson standard, the CCO must pay for all services required to stabilize the patient, except as otherwise provided in section (6) of this rule. The CCO may not require prior authorization for emergency services:

(a) The CCO may not retroactively deny a claim for an emergency screening examination because the condition, which appeared to be an emergency medical condition under the prudent layperson standard, turned out to be non-emergency;

(b) The CCO may not limit what constitutes an emergency medical condition based on lists of diagnoses or symptoms;

(c) The CCO may not deny a claim for emergency services merely because the PCP was not notified, or because the CCO was not billed within 10 calendar days of the service.

(5) When a member's PCP, designated practitioner or other CCO representative instructs the member to seek emergency care, in or out of the network, the CCO shall pay for the screening examination and other medically appropriate services. Except as otherwise provided in section (6) of this rule, the CCO shall pay for post-stabilization care that was:

(a) Pre-authorized by the CCO;

(b) Not pre-authorized by the CCO if the CCO (or the on-call provider) failed to respond to a request for pre-authorization within one hour of the request, or the member could not contact the CCO or provider on call; or

(c) If the CCO and the treating physician cannot reach an agreement concerning the member's care and a CCO representative is not available for consultation, the CCO must give the treating physician the opportunity to consult with a CCO physician. The treating physician may continue with care of the member until a CCO physician is reached or one of the criteria is met.

(6) The CCO's responsibility for post-stabilization care it has not authorized ends when:

(a) The participating provider with privileges at the treating hospital assumes responsibilities for the member's care;

(b) The participating provider assumes responsibility for the member's care through transfer;

(c) A CCO representative and the treating physician reach an agreement concerning the member's care; or

(d) The member is discharged.

(7) CCOs shall have methods for tracking inappropriate use of emergency care and shall take action, including individual member counseling, to improve appropriate use of urgent and emergency care settings. In partnership with CCOs, DCOs shall take action to improve appropriate use of urgent and emergency care settings for dental health related care:

(a) CCOs shall educate members about how to appropriately access care from emergency rooms, urgent care/walk-in clinics and less intensive interventions other than their primary care home;

(b) CCOs shall apply innovative strategies that they could employ to decrease unnecessary hospital utilization.

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410-141-3145

Community Health Assessment and Community Health Improvement Plans

(1) CCOs must develop a community health assessment process, including conducting the assessment and development of the resultant community health improvement plan (Plan). CCOs must use the assessment and plan to inform the model of care and to realize health system transformation triple aim goals for the community served by the CCO.

(2) CCOs must work with the Authority, including the Office of Equity and Inclusion, to identify the components of the community health assessment. CCOs are encouraged to partner with their local public health authority, hospital system, type B AAA, APD field office and local mental health authority, using existing resources when applicable and avoiding duplication where practicable.

(3) In developing and maintaining a needs assessment, CCOs must meaningfully and systematically engage representatives of critical populations and community stakeholders to create a community health improvement plan for addressing community needs that build on community resources and skills and emphasizes innovation including but not limited to the following:

(a) Emphasis on disproportionate, unmet, health-related need;

(b) Emphasis on primary prevention;

(c) Building a seamless continuum of care;

(d) Building community capacity;

(e) Emphasis on collaborative governance of community benefit.

(4) The CCO's Community Advisory Council shall oversee the community health assessment and adopt a community health improvement plan to serve as a strategic population health and health care system service plan for the community served by the CCO. The Council shall annually publish a report on the progress of the Plan.

(5) The Plan adopted by the Council must describe the scope of the activities, services and responsibilities that the CCO shall consider upon implementation. The activities, services and responsibilities defined in the plan may include, but are not limited to:

(a) Analysis and development of public and private resources, capacities and metrics based on ongoing community health assessment activities and population health priorities;

(b) Health policy;

(c) System design;

(d) Outcome and quality improvement;

(e) Integration of service delivery; and

(f) Workforce development.

(6) CCOs and their participating providers must work together to develop best practices of culturally and linguistically appropriate care and service delivery to reduce health disparities and improve member health and well-being.

(7) Through their community health assessment and community health improvement plan, CCOs shall identify health disparities associated with race, ethnicity, language, health literacy, age, disability, gender, sexual orientation, geography, or other factors in their service areas. CCOs shall collect and maintain data on race, ethnicity and primary language for all members on an ongoing basis in accordance with standards jointly established by the Authority and DHS. CCOs shall track and report on any qual-

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ity measure by these demographic factors and shall develop, implement and evaluate strategies to improve health equity among members.

(8) CCOs shall develop and periodically review and update its community needs assessment and community health improvement plan to ensure the provision of all medically appropriate covered coordinated care services, including urgent care and emergency services, preventive services and ancillary services, in those categories of services included in CCO contracts or agreements with the Authority.

(9) CCOs shall communicate these policies and procedures to providers, regularly monitor providers' compliance with these policies and procedures, and take any corrective action necessary to ensure provider compliance. CCOs shall document all monitoring and corrective action activities.

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410-141-3160

Integration and Care Coordination

(1) In order to achieve the objectives of providing CCO members' integrated person centered care and services, CCOs must assure that health, mental health, chemical dependency and oral health services are consistently provided to members in all age groups and all covered populations when medically appropriate and consistent with the needs identified in the community health assessment and community health improvement plan. CCOs must develop, implement and participate in activities supporting a continuum of care that integrates mental health, addiction, oral health and physical health interventions in ways that are whole to the member and serve members in the most integrated setting appropriate to their needs:

(a) CCOs provide care coordination, treatment engagement, preventive services, community based service, behavioral health services and follow up services for members with serious mental health or chemical dependency conditions requiring medication-assisted therapies, residential and hospital levels of care. CCOs proactively screen for and identify members with mental health and chemical dependency issues, arranging and facilitating the provision of care, developing crisis intervention plans, as appropriate, and coordinating other services and supports for the member that supports them in the most appropriate and independent setting, including their own home or independent supported living;

(b) CCOs must enter into contracts with providers of residential chemical dependency treatment services not later than July 1, 2013. CCO must notify the Authority within 30 calendar days of executing a contract with providers of residential chemical dependency treatment, not later than July 1, 2013;

(c) By July 1, 2014, each CCO must have a formal contractual relationship with any dental care organization that serves members in the area where they reside;

(d) CCOs must have adequate, timely and appropriate access to hospital and specialty services. Hospital and specialty service agreements must be established that include the role of patient-centered primary care homes and that specify processes for requesting hospital admission or specialty services; performance expectations for communication and medical records sharing for specialty treatments, at the time of hospital admission or discharge, for after-hospital follow up appointments;

(e) CCOs must demonstrate how hospitals and specialty services will be accountable to achieve successful transitions of care. CCOs shall transition members out of hospital settings into the most appropriate independent and integrated community settings. This includes transitional services and supports for children, adolescents and adults with serious behavioral health conditions facing admission to or discharge from acute psychiatric care, residential treatment settings and the state hospital.

(2) CCOs shall develop evidence-based or innovative strategies for use within their delivery system networks to ensure access to integrated and coordinated care, especially for members with intensive care coordination needs. CCOs must:

(a) Demonstrate that each member has a primary care provider or primary care team that is responsible for coordination of care and transitions;

(b) Ensure that members with high health needs, multiple chronic conditions, mental illness or chemical dependency are involved in accessing and managing appropriate preventive, health, mental health, chemical dependency, remedial and supportive care and services;

(c) Use and require its provider network to use individualized care plans to the extent feasible to address the supportive and therapeutic needs of each member, particularly those with intensive care coordination needs, including members with severe and persistent mental illness receiving home and community based services covered under the state's 1915(1)

State Plan Amendment, and those receiving DHS Medicaid-funded long-term care services. Plans should reflect member or family/caregiver preferences and goals to ensure engagement and satisfaction;

(d) Implement systems to assure and monitor improved transitions in care so that members receive comprehensive transitional care, and improve members' experience of care and outcomes, particularly for transitions between hospitals and long-term care;

(e) Demonstrate that participating providers have the tools and skills necessary to communicate in a linguistically and culturally appropriate fashion with members and their families or caregivers and to facilitate information exchange between other providers and facilities (e.g., addressing issues of health literacy, language interpretation, having electronic health record capabilities);

(f) Work across provider networks to develop partnerships necessary to allow for access to and coordination with social and support services, including crisis management and community prevention and self-managed programs;

(g) Communicate its integration and coordination policies and procedures to participating providers, regularly monitor providers' compliance with these policies and procedures and take any corrective action necessary to ensure provider compliance. CCOs shall document all monitoring and corrective action activities.

(3) CCOs must develop and use Patient Centered Primary Care Home (PCPCH) capacity by implementing a network of PCPCHs to the maximum extent feasible:

(a) PCPCHs should become the focal point of coordinated and integrated care, so that members have a consistent and stable relationship with a care team responsible for comprehensive care management;

(b) CCOs must develop mechanisms that encourage providers to communicate and coordinate care with the PCPCH in a timely manner, using electronic health information technology, where available;

(c) Where there is insufficient PCPCH capacity, the CCO must engage other primary care provider (PCP) models to be the primary point of care and care management for members;

(d) The CCO must develop services and supports for primary care that are geographically located as close as possible to where members reside and are, if available, offered in nontraditional settings that are accessible to families, diverse communities and underserved populations.

(4) If a CCO implements other models of patient-centered primary health care in addition to the use of PCPCH, the CCO must be able to demonstrate that the other model of patient-centered primary health care will assure member access to coordinated care services that provide effective wellness and prevention, coordination of care, active management and support of individuals with special health care needs, a patient and family-centered approach to all aspects of care, and an emphasis on whole-person care in order to address a patient's physical and behavioral health care needs.

(5) If the member is living in a long-term care (LTC) nursing facility or community based care facility, or other residential facility, the CCO must communicate with the member and the long-term care provider or facility about integrated and coordinated care services:

(a) The CCO shall establish procedures for coordinating member health services, and how it will work with long-term care providers or facilities to develop partnerships necessary to allow for access to and coordination of CCO services with long-term care services and crisis management services;

(b) CCOs shall coordinate transitions to DHS Medicaid-funded long-term care by communicating with local AAA/APD offices when members are being discharged from an inpatient hospital stay, or transferred between different LTC settings;

(c) CCOs shall develop a Memorandum of Understanding (MOU) or contract with the local type B AAA or the local office of DHS' APD, detailing their system coordination agreements regarding members' receiving Medicaid-funded LTC services.

(6) For members who are discharged to post hospital extended care, at the time of admission to a skilled nursing facility (SNF) the CCO shall notify the appropriate AAA/APD office and begin appropriate discharge planning. The CCO is not responsible for the post hospital extended care benefit unless the member was a member of the CCO during the hospitalization preceding the nursing facility placement. The CCO shall notify the SNF and the member no later than two full working days before discharge from post hospital extended care. For members who are discharged to Medicare Skilled Care, the CCO shall notify the appropriate AAA/APD office when the CCO learns of the admission.

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(7) When a member's care is being transferred from one CCO to another or for OHP clients transferring from fee-for-service or PHP to a CCO, the CCO shall make every reasonable effort within the laws governing confidentiality to coordinate, including but not limited to ORS 414.679 transfer of the OHP client into the care of a CCO participating provider.

(8) CCOs shall establish working relationships with the Local Mental Health Authorities (LMHAs) and Community Mental Health Programs (CMHPs) operating in the service area to maintain a comprehensive and coordinated mental health delivery system and to ensure member access to mental health services, some of which are not provided under the global budget.

(9) CCOs shall ensure that members receiving services from extended or long-term psychiatric care programs (e.g., secure residential facilities, PASSAGES projects, state hospital) shall receive follow-up services as medically appropriate to ensure discharge within five working days of receiving notification of discharge readiness.

(10) CCOs shall coordinate with Community Emergency Service Agencies (e.g., police, courts and juvenile justice, corrections, and the LMHAs and CMHPs) to promote an appropriate response to members experiencing a mental health crisis.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3170

Intensive Care Coordination (Exceptional Needs Care Coordination (ENCC))

(1) CCOs are responsible for intensive care coordination services, otherwise known as Exceptional Needs Care Coordination (ENCC). Even if the CCO uses another term, these rules set forth the elements and requirements for intensive case management. Where the term ENCC appears in rule or contract, it shall be given the meaning in this rule.

(2) CCOs shall make intensive care coordination services available to members identified as aged, blind, or disabled, who have complex medical needs, high health care needs, multiple chronic conditions, chemical dependency or mental illness, including members with mental illness and members with severe and persistent mental illness receiving home and community-based services under the state's 1915(1) State Plan Amendment. Intensive care coordination services may be requested by the member, the member's representative, physician, other medical personnel serving the member, or the member's agency case manager.

(3) CCOs shall respond to requests for intensive care coordination services with an initial response by the next working day following the request.

(4) CCOs shall periodically inform all participating providers of the availability of intensive care coordination services, provide training for patient centered primary care homes and other primary care providers' staff on intensive care coordination services and other support services available for members.

(5) CCOs shall assure that the case manager's name and telephone number are available to agency staff and members or member representatives when intensive care coordination services are provided to the member.

(6) CCOs shall make intensive care coordination services available to coordinate the provision of coordinated care services to members who exhibit inappropriate, disruptive, or threatening behaviors in a practitioner's office or clinic or other health care setting.

(7) CCOs shall implement procedures to share the results of its identification and assessment of any member appropriate for intensive care coordination services, with participating providers serving the member so that those activities are not duplicated. Information sharing shall be consistent with ORS 414.679 and applicable privacy requirements.

(8) CCOs must have policies and procedures, including a standing referral process for direct access to specialists, in place for identifying, assessing and producing a treatment plan for each member identified as having a special health care need. Each treatment plan shall be:

(a) Developed by the member's designated practitioner with the member's participation;

(b) Include consultation with any specialist caring for the member;

(c) Approved by the CCO in a timely manner if this approval is required; and

(d) In accordance with any applicable quality assurance and utilization review standards.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3180

Record Keeping and Use of Health Information Technology

(1) Coordinated Care Plans (CCOs) shall have written policies and procedures that ensure maintenance of a record keeping system that includes maintaining the security of records as required by the Health Insurance Portability and Accountability Act (HIPAA), 42 USC § 1320-d et seq., and the federal regulations implementing the Act, and complete Clinical Records that document the coordinated care services received by the members. CCOs shall communicate these policies and procedures to participating providers, regularly monitor participating providers' compliance with these policies and procedures and take any corrective action necessary to ensure compliance. CCOs shall document all monitoring and corrective action activities. These policies and procedures shall ensure that records are secured, safeguarded and stored in accordance with applicable Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR).

(2) A member must have access to the member's personal health information in the manner provided in 45 C.F.R. 164.524 and ORS 179.505(9) so the member may share the information with others involved in the member's care and make better health care and lifestyle choices. CCO's participating providers may charge the member for reasonable duplication costs when the member seeks copies of their records.

(3) Notwithstanding ORS 179.505, a CCO, its provider network and programs administered by the Department of Human Services, Aging and People with Disabilities shall use and disclose member information for purposes of service and care delivery, coordination, service planning, transitional services and reimbursement, in order to improve the safety and quality of care, lower the cost of care and improve the health and well-being of the members.

(4) A CCO and its provider network shall use and disclose sensitive diagnosis information including HIV and other health and mental health diagnoses, within the CCO for the purpose of providing whole-person care. Individually identifiable health information must be treated as confidential and privileged information subject to ORS 192.553 to 192.581 and applicable federal privacy requirements. Redisclosure of individually identifiable information outside of the CCO and the CCO's providers for purposes unrelated to this section or the requirements of ORS 414.625, 414.632, 414.635, 414.638, 414.653 or 414.655 remains subject to any applicable federal or state privacy requirements.

(5) The CCO must document its methods and findings to ensure across the organization and the network of providers there is documentation of the following coordinated care services and supports:

(a) Each member has a consistent and stable relationship with a care team that is responsible for comprehensive care management and service delivery;

(b) The supportive and therapeutic needs of the member is addressed in a holistic fashion, using patient centered primary care homes and individualized care plans to the extent feasible;

(c) Members receive comprehensive transitional care, including appropriate follow-up, when entering and leaving an acute care facility or a long-term care setting, including engagement of the member and family in care management and treatment planning;

(d) Members receive assistance in navigating the health care delivery system and in accessing community and social support services and statewide resources, including the use of certified health care interpreters, as defined in ORS 413.550, community health workers and personal health navigators who meet competency standards established in ORS 414.665 or who are certified by the Home Care Commission under ORS 410.604;

(e) Members have access to advocates, including qualified peer wellness specialists where appropriate, personal health navigators, and qualified community health workers who are part of the member's care team to provide assistance that is culturally and linguistically appropriate to the member's need to access appropriate services and participate in processes affecting the member's care and services;

(f) Members are encouraged within all aspects of the integrated and coordinated health care delivery system to use wellness and prevention resources and to make healthy lifestyle choices.

(6) CCOs shall facilitate the adoption and use of electronic health records (EHRs) by its provider network. To achieve advanced EHR adoption, CCOs shall:

(a) Identify EHR adoption rates; rates may be divided by provider type and geographic region;

(b) Develop and implement strategies to increase adoption rates of certified EHRs;

(c) Consider establishing minimum requirements for EHR adoption over time. Requirements may vary by region or provider type.

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(7) CCOs shall facilitate the adoption and use of electronic health information exchange (HIE) in a way that allows all participating providers to exchange a member's health, mental health, and dental health information with any other provider in that CCO. CCOs shall ensure that every participating provider is:

(a) Registered with a statewide or local Direct-enabled Health Information Service Provider (HISP); or

(b) A member of an existing Health Information Organization (HIO) with the ability for providers on any EHR system (or with no EHR system) to be able to share electronic information with any other provider within the CCO network.

(8) CCOs shall establish minimum requirements for HIE, including rates of e-prescribing and electronic lab orders, over time.

(9) CCOs should initially identify their current HIT capacity and develop and implement a plan for improvement in the following areas:

(a) Analytics that are regularly and timely used in reporting to its provider network (e.g. to assess provider performance, effectiveness and cost-efficiency of treatment);

(b) Quality reporting (to facilitate quality improvement within the CCO as well as to report the data on quality of care that will allow the Authority to monitor the CCOs performance);

(c) Patient engagement through HIT (using existing tools such as e-mail); and

(d) Other appropriate uses for HIT (e.g. telehealth, mobile devices).

(10) CCOs shall maintain health information systems that collect, analyze, integrate, and report data and can provide information on areas including but not limited to the following:

(a) Names and phone numbers of the member's primary care physician or clinic, primary dentist and mental health practitioner;

(b) Copies of Client Process Monitoring System (CPMS) enrollment forms;

(c) Copies of long-term psychiatric care determination request forms;

(d) Evidence that the member has been informed of rights and responsibilities;

(e) Complaint and appeal records;

(f) Disenrollment requests for cause and the supporting documentation;

(g) Coordinated care services provided to enrollees, through an encounter data system; and

(h) Based on written policies and procedures, the record keeping system developed and maintained by CCOs and their participating providers shall include sufficient detail and clarity to permit internal and external review to validate encounter submissions and to assure medically appropriate services are provided consistent with the documented needs of the member. The system shall conform to accepted professional practice and facilitate an adequate system to allow the CCO to ensure that data received from providers is accurate and complete by:

(A) Verifying the accuracy and timeliness of reported data;

(B) Screening the data for completeness, logic, and consistency; and

(C) Collecting service information in standardized formats to the extent feasible and appropriate.

(11) CCOs and their provider network shall cooperate with the Division, AMH, the Department of Justice Medicaid Fraud Unit, and CMS, or other authorized state or federal reviewers, for purposes of audits, inspection and examination of members' clinical records, whether those records are maintained electronically or in physical files. Documentation must be sufficiently complete and accurate to permit evaluation and confirmation that coordinated care services were authorized and provided, referrals made, and outcomes of coordinated care and referrals sufficient to meet professional standards applicable to the health care professional and meet the requirements for health oversight and outcome reporting in these rules.

(12) Across the CCO's provider network, all clinical records shall be retained for seven years after the date of services for which claims are made. If an audit, litigation, research and evaluation, or other action involving the records is started before the end of the seven-year period, the clinical records must be retained until all issues arising out of the action are resolved.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3200

Outcome and Quality Measures

(1) CCOs shall address objective outcomes, quality measures, and benchmarks, for ambulatory care, inpatient care, chemical dependency and mental health treatment, oral health care (to the extent that dental services

are the responsibility of a CCO under an agreement with a DCO) and all other health services provided by or under the responsibility of the CCO, as specified in the CCO's contract with the Authority.

(2) CCOs shall maintain an effective process for monitoring, evaluating, and improving the access, quality and appropriateness of services provided to members consistent with the needs and priorities identified in the CCO's community needs assessment, community health improvement plan, and the standards in the CCO's contract. CCOs must have in effect mechanisms to:

(a) Detect both underutilization and overutilization of services;

(b) Evaluate performance and customer satisfaction;

(c) Evaluate grievance, appeals and contested case hearings, consistent with OAR 410-141-3266; and

(d) Assess the quality and appropriateness of coordinated care services provided to members who are aged, blind or disabled, who have high health care needs, multiple chronic conditions, mental illness or chemical dependency; who received Medicaid funded long term care benefits; or who are children receiving CAF (Child Welfare) or OYA services.

(3) CCOs must implement policies and procedures that assure it will timely collect data that will allow the CCO to conduct and report on its outcome and quality measures and report its performance. CCOs shall submit to the Authority the CCO's annual written evaluation of outcome and quality measures established for the CCO, or other reports as the Authority may require in response to the measures adopted by the Metrics and Scoring Committee.

(4) CCOs must adopt practice guidelines consistent with 42 CFR 438.236 that address health care, mental health care, chemical dependency treatment or dental care concerns identified by members or their representatives and to implement changes which have a favorable impact on health outcomes and member satisfaction in consultation with its consumer advisory council or clinical review panel.

(5) CCOs shall be accountable for both core and transformational measures of quality and outcomes:

(a) Core measures will be triple-aim oriented measures that gauge CCO performance against key expectations for care coordination, consumer satisfaction, quality and outcomes. The measures will be uniform across CCOs and shall encompass the range of services included in CCO global budgets (e.g. behavioral health, hospital care, women's health);

(b) Transformational metrics shall assess CCO progress toward the broad goals of health systems transformation and require systems transitions and experimentation in effective use. This subset may include newer kinds of indicators (for which CCOs have less measurement experience) or indicators that entail collaboration with other care partners.

(6) CCOs must provide the required data to the All Payer All Claims data system established in ORS 442.464 and 442.466.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3220

Accessibility

(1) Consistent with the community health assessment and health improvement plan, CCOs must assure that members have access to high quality care. The CCO shall accomplish this developing a provider network that demonstrates communication, collaboration and shared decision making across the various providers and care settings, developed and implemented over time, that meets access-to-care standards, and allows for appropriate choice for members, with the goal that services and supports should be geographically as close as possible to where members reside and, to the extent necessary, offered in nontraditional settings that are accessible to families, diverse communities, and underserved populations.

(2) CCOs shall ensure access to integrated and coordinated care as outlined in OAR 410-141-3160, which includes access to a primary care provider or primary care team that is responsible for coordination of care and transitions.

(3) In developing its access standards, the CCO should anticipate access needs, so that the members get the right care at the right time and place, using a patient-centered approach.

(4) CCOs shall have policies and procedures which ensure that for 90% of their members in each service area, routine travel time or distance to the location of the PCPCH or PCP does not exceed the community standard for accessing health care participating providers. The travel time or distance to PCPCHs or PCPs shall not exceed the following, unless otherwise approved by the Authority:

(a) In urban areas – 30 miles, 30 minutes or the community standard, whichever is greater;

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(b) In rural areas – 60 miles, 60 minutes or the community standard, whichever is greater.

(5) CCOs shall have an access plan that establishes standards for access, outlines how capacity is determined and establishes procedures for monthly monitoring of capacity and access, and for improving access and managing risk in times of reduced participating provider capacity. The access plan shall also identify populations in need of interpreter services and populations in need of accommodation under the Americans with Disabilities Act.

(6) CCOs shall make the services it provides including: primary care, specialists, pharmacy, hospital, vision, ancillary, mental health and substance abuse services, as accessible to members for timeliness, amount, duration and scope as those services are to other members within the same service area. If the CCO is unable to provide those services locally, it must so demonstrate to the Authority and provide reasonable alternatives for members to access care that must be approved by the Authority. CCOs shall have a monitoring system that will demonstrate to the Authority, that the CCO has surveyed and monitored for equal access of members to referral providers of pharmacy, hospital, vision, ancillary, mental health and substance abuse services:

(a) CCOs must screen all eligible members for mental illness or chemical dependency to promote prevention, early detection, intervention and referral to treatment, especially at initial contact or physical exam or at initial prenatal examination, when a member shows evidence of mental illness or chemical dependency or when a member over utilizes services;

(b) CCOs must use a universal screening process that assesses members for critical risk factors that trigger intensive care coordination for high-needs members.

(7) CCOs shall have policies and procedures and a monitoring system to ensure that members who are aged, blind, or disabled, or who have complex or high health care needs, multiple chronic conditions, mental illness or chemical dependency or who are children receiving Department or OYA services have access to primary care, dental care, mental health providers and referral, and involves those members in accessing and managing appropriate preventive, health, remedial and supportive care and services.

(8) CCOs shall have policies and procedures that ensure scheduling and rescheduling of member appointments are appropriate to the reasons for, and urgency of, the visit. The member shall be seen, treated, or referred as within the following timeframes:

(a) Emergency Care – Immediately or referred to an emergency department depending on the member's condition;

(b) Urgent Care – Within 48 hours or as indicated in initial screening, in accordance with OAR 410-141-0140;

(c) Well Care – Within 4 weeks or within the community standard;

(d) Emergency Dental Care (when dental care is provided by the CCO) – Seen or treated within 24-hours;

(e) Urgent Dental Care (when dental care is provided by the CCO) – Within one to two weeks or as indicated in the initial screening in accordance with OAR 410-123-1060; and

(f) Routine Dental Care (when dental care is provided by the CCO) – Seen for routine care within an average of eight weeks and within 12 weeks or the community standard, whichever is less, unless there is a documented special clinical reason which would make access longer than 12 weeks appropriate;

(g) Non-Urgent Mental Health Care or Chemical Dependency Treatment – Seen for an intake assessment within 2 weeks from date of request.

(9) CCOs shall develop policies and procedures for communicating with, and providing care to members who have difficulty communicating due to a medical condition or who are living in a household where there is no adult available to communicate in English or where there is no telephone:

(a) The policies and procedures shall provide qualified interpreter services by phone, in person, in CCO administrative offices, especially those of member services and complaint and grievance representatives and in emergency rooms of contracted hospitals;

(b) CCOs shall ensure the provision of qualified interpreter services for covered coordinated care services including medical, mental health or dental care (when the CCO is responsible for dental care) visits, and home health visits, to interpret for members with hearing impairment or in the primary language of non-English speaking members. All interpreters shall be linguistically appropriate and be capable of communicating in English and the members' primary language and able to translate clinical information effectively. Interpreter services shall be sufficient for the provider to under-

stand the member's complaint; to make a diagnosis; respond to member's questions and concerns; and to communicate instructions to the member;

(c) CCOs shall ensure the provision of coordinated care services which are culturally appropriate, i.e., demonstrating both awareness for and sensitivity to cultural differences and similarities and the effect on the members' care;

(d) CCOs shall have written policies and procedures that ensure compliance with requirements of the Americans with Disabilities Act of 1990 in providing access to covered coordinated care services for all members and shall arrange for services to be provided by non-participating referral providers when necessary;

(e) CCOs shall have a plan for ensuring compliance with these requirements and shall monitor for compliance.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3260

Grievance and Appeal System

(1) The grievance system means the overall system that includes grievances and appeals handled at the CCO level and access to the state's contested case hearing process.

(2) The CCO must establish written internal grievance and appeal system procedures, subject to approval by the Authority for:

(a) Accepting, processing and responding to all grievances and appeals from CCO members, consistent with contractual requirements and OAR 410-141-3260 through 410-141-3266; and

(b) Under which members, their representatives or subcontractors/providers, with consent from the member, may challenge the denial of coverage of, or payment for, medical assistance;

(c) The grievance and appeal system must include:

(A) A grievance process;

(B) An appeal process; and

(C) Access to the Division's contested case hearing process.

(d) The CCO must ensure members' confidentiality in all written, oral and posted material and that there shall be no retaliation for utilizing the grievance system process.

(3) The CCO must ensure that members' grievances and appeals are handled in confidence consistent with 410-141-3180. The CCO must safeguard the member's right to confidentiality of information about grievances and appeals as follows:

(a) The CCO must implement and monitor written policies and procedures to:

(A) Ensure that all information concerning a member's grievance or appeal is kept confidential, consistent with appropriate use or disclosure as treatment, payment, or health care operations of the CCO, as those terms are defined in 45 CFR 164.501; and

(B) Protect those individuals who file grievances and appeals from retaliation.

(b) The CCO and any practitioner whose authorizations, treatments, services, items, quality of care or requests for payment are alleged to be involved in the grievance or appeal have a right to use this information without a signed release from the member for purposes of:

(A) Resolving the grievance or appeal;

(B) Maintaining the grievance or appeals log; and

(C) Health oversight by the Division.

(c) The CCO must request an authorization for release of information, except as provided in in this rule or as otherwise authorized by all other applicable confidentiality laws, from the member regarding the grievance or appeal if the CCO needs to communicate with other individuals to resolve the grievance or appeal;

(d) The CCO must have a copy of this authorization for release of information in the member's appeal records;

(e) The CCO must have the authorization for release of information form included in their policies and procedures.

(4) The CCO must provide members with any reasonable assistance in completing forms and taking other procedural steps related to filing and disposition of a grievance, CCO level appeal or request for a contested case hearing including, but not limited to:

(a) Assistance from qualified community health workers, qualified peer wellness specialists or personal health navigators to participate in processes affecting the member's care and services;

(b) Free interpreter services;

(c) Toll-free phone numbers that have adequate TTY/TTD and interpreter capabilities; and

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(d) Reasonable accommodation or policy and procedure modifications as required by any disability of the member.

(5) The CCO may not discourage a member or their representative from using any aspect of the grievance, appeal, and hearing process or encourage the withdrawal of a grievance, appeal or hearing request already filed.

(6) The CCO may not request disenrollment of a member:

(a) On the basis of implementation of a contested case hearing decision; or
(b) A member's request for a grievance, appeal or contested case hearing.

(7) The CCO must make available in all CCO administrative offices and in those medical and dental offices where staff have been designated by the CCO to respond to grievances or appeals a supply of blank:

- (a) Complaint forms;
 - (b) Hearing Request forms (DHS 443);
 - (c) Notice of Hearing Rights forms (DMAP 3030); and
 - (d) Appeal forms.
- (8) Authority to File:

- (a) A member or their representative may:
- (A) File a grievance;
 - (B) File a CCO level appeal; and
 - (C) Request a contested case hearing.

(b) A subcontractor/provider, acting on behalf and with written consent of the member, may file a CCO level appeal;

(c) A subcontractor/provider may not act as the member's authorized representative for filing a grievance or requesting a hearing.

(9) The CCO and its subcontractors/providers must cooperate with DHS' Governor's Advocacy Office, the Authority's Ombudsman and hearing representatives in all of the Authority's activities related to members' grievances, appeals and hearings including providing all requested written materials.

(10) The CCO must provide the information specified at §438.10 (g)(1) (Information requirements) to all providers and subcontractors at the time they enter into a contract.

(11) If the CCO chooses to delegate the grievance and appeal process, except the adjudication of final appeals, it must:

(a) Ensure that all subcontracts, as applicable, meet the requirements consistent with 410-141-3260 through 410-141-3266;

(b) Monitor the subcontractor's performance on an ongoing basis;

(c) Perform a formal review at least once a year of compliance with these delegated responsibilities and subcontractor performance, deficiencies or areas for improvement; and

(d) Upon identification of deficiencies or areas of improvement, ensure corrective action is taken by the subcontractor and monitor ongoing compliance.

(13) Record Keeping and Reporting Requirements:

(a) A CCO must maintain records of member grievances and appeals, which contain sufficient information to accurately reflect:

(A) The process in place to track requests for OHP services or payment denied by the CCO or any of its subcontractors/providers; and

(B) The number of denied claims for services in the most recent calendar year.

(b) The CCO must:

(A) Maintain logs of all member grievances and appeals; and

(B) Retain grievances and appeals logs for seven years.

(c) The Division must review the CCO's procedures for compliance with grievance system federal, state and contractual requirements as part of the state quality strategy.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

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410-141-3261

Requirements for CCO Grievance Process

(1) Grievance requirements apply only to those situations in which the member and their representative express concern or dissatisfaction about any matter other than an "action."

(2) The CCO must have written policies and procedures conforming to 42 CFR 438.406 and 438.408, which clearly explain and ensure at a minimum how the CCO acknowledges the receipt, disposition and documentation of each grievance from members or their representative including:

(a) Acknowledging receipt to the member and representative of each grievance;

(b) Consistent with confidentiality requirements, ensuring that the CCO's staff person who is designated to receive grievances begins to obtain

documentation of the facts concerning the grievance upon receipt of the grievance;

(c) Informing a member of their right to file a grievance and how to do so, and providing assistance by qualified community health workers, qualified peer specialists or personal health navigators in order to participate in the grievance process;

(d) Promptly transmitting to staff who have authority to act upon the grievance; and

(e) Investigating and resolving the grievance in accordance with these rules;

(f) Ensuring that the practitioner or staff person who make decisions on the grievance are:

(i) Not involved in any previous level of review or decision-making; and

(ii) Health care professionals with appropriate clinical expertise in treating the member's condition or disease if the grievance:

(I) Concerns denial of expedited resolution of an appeal; or

(II) Involves clinical issues.

(g) How the CCO informs members, both orally and in writing, about their grievance procedures;

(h) How the CCO designates staff members or a designee who are responsible for receiving, processing, directing, and responding to grievances;

(i) How the requirement of a log is maintained by the CCO for documentation of all oral and written grievances.

(3) The member or their representative may file a grievance:

(a) Either orally or in writing; and

(b) Either with the Division or the CCO.

(4) The CCO's procedures must provide for the disposition of grievances within the following timeframes:

(a) The CCO must resolve each grievance and provide notice of the disposition as expeditiously as the member's health condition requires within the timeframes established in this rule;

(b) For standard disposition of grievances and notice to the affected parties, within five working days from the date of the CCO's receipt of the grievance, the CCO must either:

(A) Make a decision on the grievance and notify the member and their representative; or

(B) Notify the member and their representative in writing that a delay in the CCO's decision of up to 30 calendar days from the date the grievance was received by the CCO is necessary to resolve the grievance. The CCO shall specify the reasons the additional time is necessary.

(5) The CCO's decision about the disposition of a grievance must be communicated to the member and their representative orally or in writing within the timeframes specified in section (4) of this rule:

(a) An oral decision about a grievance must address each aspect of the member's grievance and explain the reason for the CCO's decision;

(b) A written decision must be provided if the grievance was received in writing. The written decision on the grievance must review each element of the member's grievance and address each of those concerns specifically, including the reasons for the CCO's decision.

(6) The CCO must address the analysis of all grievances in the context of quality improvement activity pursuant to 410-141-3200 and 410-141-3260.

(7) All grievances that the member chooses to resolve through another process and that the CCO is notified of, must be noted in the grievance log.

(8) Members who are dissatisfied with the disposition of a grievance may present their grievance to DHS' Governor's Advocacy Office.

(9) The CCO must maintain a grievance log of all reported oral and written grievances, which includes:

(a) The member's name and medical care ID number;

(b) Date reported;

(c) The grievance and the nature of the grievance;

(d) Disposition & date of disposition;

(e) A separate and distinct record for each corresponding grievance in the log, which includes:

(A) Documentation of the review or investigation, resolution and reasons for the decision; and

(B) Written decisions and correspondence with the member.

(10) The CCO must:

(a) Have written procedures for the review and analysis of grievances received by the CCO; and

(b) Monitor the completeness and accuracy of the written log on a monthly basis, which includes, at a minimum, completeness, accuracy,

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timeliness of documentation and compliance with written procedures for receipt, disposition and documentation of grievances and compliance with Division rules.

Stat. Auth.: ORS 414.032
Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3262

Requirements for CCO Appeal

(1) A member, their representative or a subcontractor/provider, with the member's consent, who disagrees with a notice of action (notice) has the authority to file an appeal with their CCO.

(2) For purposes of this rule, an appeal includes a request from the Division to the CCO for review of action.

(3) The member may request an appeal either orally or in writing directly to their CCO for any action by the CCO unless the member requests an expedited resolution, the member must follow an oral filing with a written, signed and dated appeal. If the member files an oral appeal, the CCO must send the member an appeal request form.

(4) The member must file the appeal no later than 45 calendar days from the date on the notice.

(5) The CCO must have written policies and procedures for handling appeals that:

(a) Address how the CCO will accept, process and respond to such appeals, including how the CCO will acknowledge receipt of each appeal;

(b) Ensure that members who receive a notice are informed of their right to file an appeal and how to do so;

(c) Ensure that each appeal is transmitted timely to staff having authority to act on it;

(d) Consistent with confidentiality requirements, ensure that the CCO's staff person who is designated to receive appeals begins to obtain documentation of the facts concerning the appeal upon receipt of the appeal;

(e) Ensure that each appeal is investigated and resolved in accordance with these rules; and

(f) Ensure that the individuals who make decisions on appeals are:

(A) Not involved in any previous level of review or decision making; and

(B) Health care professionals who have the appropriate clinical expertise in treating the member's condition or disease if an appeal of a denial is based on lack of medical appropriateness; or if an appeal involves clinical issues.

(g) Include a provision that the CCO must document appeals in an appeals log maintained by the CCO that complies with OAR 410-141-3260 and consistent with contractual requirements.

(h) Ensure oral requests for appeal an action are treated as appeals to establish the earliest possible filing date for the appeal; and

(i) Ensure the member is informed that the member must in writing unless the person filing the appeal requests expedited resolution;

(j) Provide the member a reasonable opportunity to present evidence and allegations of fact or law in person as well as in writing;

(k) Provide the member an opportunity before and during the appeals process to examine the member's file, including medical records and any other documents or records to be considered during the appeals process.

(6) Parties to the appeal include:

(a) The CCO;

(b) The member and the member's representative, if applicable;

(c) The legal representative of a deceased member's estate.

(7) The CCO must resolve each appeal and provide the member and their representative with a notice of appeal resolution as expeditiously as the member's health condition requires and within the following periods for:

(a) Standard resolution of appeal: no later than 16 calendar days from the day, the CCO receives the appeal;

(b) Expedited resolution of appeal (when granted by the CCO): no later than three working days from the date the CCO receives the appeal. In addition, the CCO must:

(A) Inform the member and their representative of the limited time available;

(B) Make reasonable efforts to call the member to tell them of the resolution within three calendar days after receiving the request; and

(C) Mail written confirmation of the resolution to the member within three calendar days.

(c) The CCO may extend these timeframes up to 14 calendar days if approved to do so by the Division when:

(A) The member or their representative requests the extension; or

(B) The CCO shows, to the satisfaction of the Division that there is need for additional information; that is unattainable for a 16-day resolution and the delay is in the member's interest.

(d) If the Division approves the extension requested by the CCO, the CCO must give the member and their representative a written notice of the reason for the delay.

(8) For all appeals, the CCO must provide written notice of appeal resolution to the member and also to their representative when the CCO knows there is a representative for the member.

(9) The written notice of appeal resolution must include the following information:

(a) The results of the resolution process and the date the CCO completed the resolution; and

(b) For appeals not resolved wholly in favor of the member:

(A) Reasons for the resolution and a reference to the particular sections of the statutes and rules involved for each reason identified in the Notice of Appeal Resolution relied upon to deny the appeal;

(B) Unless the appeal was referred to the CCO from the Division as part of a contested case hearings process, the right to request a hearing and how to do so;

(C) The right to request to receive benefits while the hearing is pending and how to do so; and

(D) That the member may be held liable for the cost of those benefits if the hearing decision upholds the CCO's Action.

(10) Unless the appeal was referred to the CCO as part of a contested case hearing process, a member may request a hearing not later than 45 calendar days from the date on the Notice of Appeal Resolution.

(11) If the appeal was referred to the CCO from the Division as part of a contested case hearing process, within two business days from the date of the appeal resolution, the CCO must transmit the:

(a) Notice of Appeal Resolution; and

(b) Complete record of the appeal to the Division's Hearings Unit.

(12) If the appeal was made directly by the member or their representative, and the Notice of Appeal Resolution was not favorable to the member, the CCO must, if a contested case hearing is requested, submit the record to the Division's Hearings Unit within two business days of the Division's request.

(13) Documentation:

(a) The CCO's records must include, at a minimum, a log of all appeals received by the CCO and contain the following information:

(A) Member's name and Medical Care ID number;

(B) Date of the Notice;

(C) Date and nature of the appeal;

(D) Whether continuing benefits were requested and provided; and

(E) Resolution and resolution date of the appeal.

(b) The CCO must maintain a complete record for each appeal included in the log for no less than 45 days to include:

(A) Records of the review or investigation; and

(B) Resolution, including all written decisions and copies of correspondence with the member.

(c) The CCO must review the written appeals log on a monthly basis for:

(A) Completeness;

(B) Accuracy;

(C) Timeliness of documentation;

(D) Compliance with written procedures for receipt, disposition and documentation of appeals; and

(E) Compliance with OHP rules.

(d) The CCO must address the analysis of appeals in the context of quality improvement activity consistent with OAR 410-141-3200 OHP CCO Quality Improvement System and 410-141-3260 General Requirements for CCO Grievance System;

(e) The CCO must have written policies and procedures for the review and analysis of all appeals received by the CCO. The analysis of the grievance system must be reviewed by the CCO's Quality Improvement Committee consistent with contractual requirements and comply with the quality improvement standards.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3263

Notice of Action

(1) A Notice of Action must be provided to a Division of Medical Assistance Programs (Division) member when a service authorization decision by a coordinated care organization (CCO) or its subcontractor/provider

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constitutes an action as defined in 410-141-3260 (General Requirements for CCO Grievance System).

(2) Language and Format Requirements:

(a) The Notice must be written in a Division-approved format and meet the language and format requirements in accordance with 410-141-3280 (Potential Member Informational Requirements);

(b) Content of Notice: The notice must include, but is not limited, to the following:

(A) The date of the Notice;

(B) Name of the CCO and telephone number;

(C) Primary Care Practitioner's (PCP), Primary Care Dentist's (PCD) or Behavioral Health Professional's name;

(D) Member's name and Medical Care ID number;

(E) Date of service or date of service request;

(F) Name of subcontractor/provider who provided/requested the service;

(G) Effective date of the action;

(H) The action the CCO or its subcontractor/provider has taken or intends to take;

(I) Reasons for the action, with enough specificity to clearly explain the actual reason for the denial including but not limited to the following:

(i) The service required pre-authorization and it was not pre-authorized;

(ii) The individual was not a member on the date of service or was not a member on the date of a requested service;

(iii) The provider was not on the CCO's panel and prior approval was not obtained (if such prior authorization would have been required under Oregon Health Plan (OHP) rules;

(iv) If the denial is based on service placement on the OHP Prioritized List, the Notice must specify whether other conditions were considered as a co-morbidity factor.

(J) The service or benefit that was requested and whether the service or payment for the service is being denied, terminated, suspended or reduced;

(K) If the requested service is not medically appropriate, specifically explain why;

(L) A reference to the particular citations of the statutes and rules involved for each reason identified in the Notice pursuant to paragraph (H) of this section, with enough specificity to clearly justify the action taken by the CCO, in compliance with the notice requirements in ORS 183.415;

(M) Information about the member's right to:

(i) File an appeal with the CCO; and

(ii) Request a contested case hearing. The following must be attached to the Notice:

(I) Hearing Request (DHS 443); and

(II) Notice of Hearing Rights (DMAP 3030).

(N) The circumstances under which expedited resolution may be requested and instructions for doing so;

(O) The member's right to:

(i) Have benefits continue pending resolution of the appeal;

(ii) How to request that benefits be continued.

(P) The circumstances under which the member may be required to pay the costs of these services.

(3) Timing of Notice: The CCO must mail the notice within the following timeframes:

(a) For termination, suspension, or reduction of previously authorized covered services:

(A) At least 10 calendar days before the date of action, except as permitted under paragraphs (B) or (C) of this section;

(B) No later than the date of action if:

(i) The CCO or subcontractor/provider has factual information confirming the death of the member;

(ii) The CCO or subcontractor/provider receives a clear written statement signed by the member that:

(I) They no longer wish services; or

(II) Gives information that requires termination or reduction of services and indicates that they understand that this must be the result of supplying that information.

(iii) The member has been admitted to an institution where they are ineligible under OHP for further services from the CCO;

(iv) The member's whereabouts are unknown and the post office returns the mail indicating no forwarding address;

(v) The CCO establishes the fact that the member has been accepted for Medicaid services by another State, territory or commonwealth;

(vi) A change in the level of medical or dental care is prescribed by the member's PCP or PCD; or

(vii) The date of action will occur in less than 10 calendar days, in accordance with 42 CFR 483.12 (a)(5)(ii), (Admission, transfer and discharge rights) which provides exceptions to the 30 days notice requirements of 483.12(a)(5)(i), related to discharges or transfers and long term care facilities.

(C) The CCO may shorten the period of advance notice to five calendar days before the date of the action if:

(i) The CCO has facts indicating that an action should be taken because of probable fraud by the member; and

(ii) When the facts have been verified, if possible, through secondary sources.

(b) For denial of payment, at the time of any action affecting the claim;

(c) For standard service authorization decisions that deny or limit services, as expeditiously as the member's health condition requires that may not exceed 14 calendar days following receipt of the request for service, except that:

(A) A possible extension of up to 14 additional calendar days if the:

(i) Member or the subcontractor/provider requests an extension; or

(ii) CCO justifies to the Division upon request:

(I) A need for additional information; and

(II) How the extension is in the member's interest.

(B) If the CCO extends the timeframe, in accordance with paragraph

(A) of this section, it must:

(i) Give the member written notice of the reason for the decision to extend the timeframe; and

(ii) Inform the member of the right to file a grievance if they disagree with that decision;

(iii) Issue and carry out its determination as expeditiously as the member's health condition requires and no later than the date the extension expires.

(d) For service authorization decisions not reached within the timeframes specified in subsection (c) of this section, (which constitutes a denial and is thus an adverse action), on the date that the timeframes expire; and

(e) For expedited service authorizations, for cases in which the CCO determines or a subcontractor/provider indicates, that following the standard timeframe could seriously jeopardize the member's life or health or ability to attain, maintain or regain maximum function, as expeditiously as the member's health condition requires and no later than three business days after receipt of the request for service, except that the CCO may extend this time period up to 14 calendar days if the:

(A) Member or subcontractor/provider, with the member's consent, requests an extension; or

(B) CCO justifies to the Division, upon request:

(i) A need for additional information; and

(ii) How the extension is in the member's interest.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3264

Contested Case Hearings

(1) An individual who is or was a member at the time of the Notice of Action is entitled to a contested case hearing with the Office of Administrative Hearings (OAH) if a CCO has denied requested coordinated care services, payment of a claim, or terminates, discontinues or reduces a course of treatment or any other action:

(a) If the member requests a contested case hearing directly with the Division, the decision in the Notice of Action is the document that will trigger the right to request the hearing;

(b) If the member requests a hearing after appealing to the CCO and receiving a CCO's Notice of Appeal Resolution, the decision in the Notice of Appeal Resolution is the document that will trigger the right to request a hearing;

(c) Contested case hearings are conducted pursuant to ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for OAH, OAR 137-003-0501 to 137-003-0700, OAR 410-120-1860, 410-120-1865, and this rule.

(2) Except for section (3), the Division must receive a written hearing request no later than the 45th day following the date of the Notice of Action or Notice of Appeal Resolution.

(3) If the member requests continuation of benefits, and the Authority grants it, during the hearing process, the Division must receive a written

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hearing request no later than the 10th day following the date of the Notice of Action or Notice of Appeal Resolution. If granted continuation of benefits shall continue until:

(a) The member withdraws the request for hearing;
(b) The OAH issues a final order in a contested case adverse to the member; or

(c) The time period or service limits of a previously authorized service are over.

(4) The Authority representative shall review the hearing request, documentation related to the hearing issue and computer records to determine:

(a) Whether the individual requesting the hearing is or was a member at the time they requested the service; and

(b) Whether the hearing request was timely.

(5) CCOs shall immediately send to the Authority any member's hearing request, including a copy of the Notice of Action or Notice of Appeal Resolution.

(6) If the member requests a hearing, the Authority shall send a copy of the hearing request to the CCO.

(7) If the member has not previously asked for an appeal with the CCOs, the CCO shall use the appeal process:

(a) The CCO shall review the appeal and issue a decision as a Notice of Appeal Resolution within 16 calendar days;

(b) The CCOs shall provide the Notice of Appeal Resolution in writing to the member.

(8) When a member requests a hearing, the CCO shall provide to the Authority all documentation to support their Notice of Action or Notice of Appeal Resolution, including any attempts to resolve the issue.

(9) Information about the member used for hearings is confidential and must comply with ORS 411.320, ORS 414.679, 42 CFR 431.300 et seq, the HIPAA Privacy Rules, and other applicable federal and state confidentiality laws and regulations. The OAH and the CCO shall safeguard the member's right to confidentiality of information used in the hearing as follows:

(a) The OAH, member and their representative, the CCO and any practitioner whose authorization, treatment, services, items, or request for payment is involved in the hearing may use this information for purposes of the hearing without a signed release from the member. The OAH may also use this information, pursuant to OAR 410-120-1360, for health oversight, and for other purposes authorized or required by law. The information may also be disclosed to the OAH and the assigned Administrative Law Judge and to the Court of Appeals if the member seeks judicial review of the final order;

(b) Except as provided in ORS 414.679 or subsection (a) of this section, the OAH must ask the member for a release of information regarding the hearing to other individuals. Before any information related to the hearing is disclosed under this subsection that requires a release, the OAH must have an authorization for release of information documented in the hearing file.

(10) The Authority shall refer the hearing request, the Notice of Action and the Notice of Appeal Resolution, if applicable, to the OAH. The OAH shall schedule the hearing:

(a) The parties to the hearing are the member, the CCO, the member's representative, if applicable, or the representative of a deceased member's estate;

(b) The OAH shall issue a final order ordinarily within 90 calendar days from the earlier of the following: the date the member requested an appeal to the CCO or the date the Authority received a hearing request, not including the number of days the member subsequently took to request a hearing.

(11) If the OAH's final order is adverse to the member, the CCO may recover the cost of the services furnished to the member while the hearing is pending, to the extent that they were furnished solely because of the requirements of this section, and in accordance with 42 CFR 438.420.

(12) If the OAH's final order is adverse to the CCO, the CCO must authorize the service they denied, retroactive to the date of the denial, even if the individual is no longer a member.

(13) The following applies when the OAH's decision or the CCO reverses its action in the appeal process:

(a) The CCO must correct the action, retroactive to the date of the action, even if the individual is no longer a member;

(b) If the action denied, limited, or delayed coordinated care services that the CCO did not provide pending the outcome of the hearing, the CCO must authorize or provide the services promptly and as expeditiously as the member's health, mental health or dental condition requires;

(c) If the action denied authorization of coordinated care service that CCO provided pending outcome of the hearing, the CCO must pay for the services in accordance with the Authority's policy and regulations in effect when the member made the request for services.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3265

Request for Expedited Appeal or Contested Case Hearing

(1) Each CCO shall establish and maintain an expedited review process for appeals, when the CCO determines, based upon a member or the provider making or supporting a request on the member's behalf, indicates that taking the time for a standard resolution could seriously jeopardize the member's life, health, mental health or dental health, or ability to attain, maintain or regain maximum function.

(2) The CCO must ensure that punitive action is not taken against a provider who requests an expedited resolution or supports a member's appeal.

(3) If the CCO provides an expedited appeal, but denies the coordinated care services or items requested, the CCO shall inform the member of the right to request an expedited contested case hearing and shall provide the member with a Notice of Appeal Resolution, Hearing Request Form (DHS 443) and Notice of Hearing Rights (DMAP 3030).

(4) If the CCO denies a request for expedited resolution on appeal, it must:

(a) Transfer the appeal within the time frame for standard resolution in accordance with OAR 410-141-0262;

(b) Make reasonable efforts to give the member prompt oral notice of the denial, and follow-up within 2 calendar days with a written notice.

(5) A member who believes that taking the time for a standard resolution of a request for hearing could seriously jeopardize the member's life or health, mental health or dental health, or ability to attain, maintain or regain maximum function may request an expedited hearing.

(6) The CCO shall submit relevant documentation to the Division Medical Director within 2 working days for a decision as to the necessity of an expedited hearing. The Medical Director shall decide within 2 working days from the date of receiving the clinical documentation applicable to the request, whether the member is entitled to an expedited hearing.

(7) If the Medical Director denies a request for expedited hearing, the Authority must:

(a) Handle the request for hearing in accordance with OAR 410-141-3264; and

(b) Make reasonable efforts to give the member prompt oral notice of the denial, and follow-up within 2 calendar days with a written notice.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3266

CCO Responsibility for Documentation and Quality Improvement Review of the Grievance System

(1) The CCO's documentation shall include, at a minimum, a log of all oral and written complaints and appeals received by the CCO. The log shall identify the member and the following additional information:

(a) For complaints, the date of the complaint, the nature of the complaint, the disposition and date of disposition;

(b) For appeals, the date of the Notice of Action, the date and nature of the appeal, whether continuing coordinated care benefits were requested and provided, the resolution and date of resolution. If a contested case hearing was requested, whether continuing coordinated care benefits were requested and provided, and the effect of the final order of the hearing.

(2) The CCO shall also maintain a record for each of the complaints and appeals included in the log. The record shall include records of the review or investigation and resolution, including all written decisions and copies of correspondence with the member. The CCO shall retain documentation of complaints and appeals for seven years.

(3) The CCO shall have written procedures for the review and analysis of the grievance system, including all complaints and appeals received by the CCO. The analysis of the grievance system shall be forwarded to the CCO's committee responsible for quality improvement to comply with the Quality Improvement standards:

(a) CCOs shall monitor the completeness and accuracy of the written log, monthly;

(b) Monitoring of complaints and appeals shall include a review of, at a minimum, completeness, accuracy, timeliness of documentation, and compliance with written procedures for receipt, disposition, and documen-

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tation of complaints and appeals, and compliance with rules applicable to the Oregon Integrated and Coordinated Care System.

(4) The Authority must review the CCO's procedures for compliance with grievance system requirements as part of the State quality strategy and to monitor and enforce consumer rights and protections within the Oregon Integrated and Coordinated Health Care Delivery System and ensure a consistent response to complaints of violations of consumer rights and protections.

(5) The CCO shall review and report to the Authority complaints that raise issues related to racial/ethnic background, gender, religion, sexual orientation, socioeconomic status, culturally or linguistically appropriate service requests, disability status and other identity factors for consideration in improving services for health equity.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3268

Process for Resolving Disputes on Formation of CCO

(1) The dispute resolution process described in this rule applies only when, under ORS 414.635:

(a) An entity is applying to the Authority for certification as a CCO (applicant);

(b) A health care entity (HCE) and the applicant (together, the "parties" for purposes of this rule) have failed to agree upon terms for a contract; and

(c) One or more of the following occurs:

(A) The applicant states that the HCE is necessary for the applicant to qualify as a CCO;

(B) An HCE states that its inclusion is necessary for the applicant to be certified as CCO; or

(C) In reviewing the applicant's information, the Authority identifies the HCE as necessary for the applicant to qualify as a CCO.

(2) If an applicant and HCE disagree about whether the HCE is necessary for the applicant's certification as a CCO, the applicant or HCE may request the Authority to review the issue.

(3) If the Authority determines the HCE is not necessary for the applicant's certification, the process described in this rule does not apply.

(4) If the Authority determines or the parties agree the HCE is necessary for the applicant's certification, the following applies:

(a) The HCE and the applicant shall participate in good faith contract negotiations. The parties must take the following actions in an attempt to reach a good faith resolution:

(A) The applicant must provide a written offer of terms and conditions to the HCE. The HCE must explain the area of disagreement to the applicant;

(B) The applicant's or HCE's chief financial officer, chief executive officer, or an individual authorized to make decisions on behalf of the HCE or applicant must have at least one face-to-face meeting in a good faith effort to resolve the disagreement.

(b) The applicant or HCE may request the Authority to provide technical assistance. The Authority also may offer technical assistance, with or without a request. The Authority's technical assistance is limited to clarifying the CCO certification process, criteria, and other program requirements.

(5) If the applicant and HCE cannot reach agreement on contract terms within 10 calendar days of the face-to-face meeting, either party may request arbitration. The requesting party must notify the other party in writing to initiate referral to an independent third party arbitrator. The party initiating the referral must provide a copy of the notification to the Authority.

(6) After notification that one party initiated arbitration, the parties shall attempt to agree upon the selection of the arbitrator and complete the paperwork required to secure the arbitrator's services. If the parties are unable to agree, each party shall appoint an arbitrator, and these arbitrators shall select the final arbitrator.

(7) The parties shall pay for all arbitration costs. In consideration of potentially varied financial resources between the parties, which may pose a barrier to the use of this process, the parties may ask the arbitrator to allocate costs between the parties based on ability to pay.

(8) Within 10 calendar days of a referral to an arbitrator, the applicant and HCE must submit to each other and to the arbitrator:

(a) Their most reasonable contract offer; or

(b) The HCE's statement that a contract is not desirable and an explanation of why this is reasonable.

(9) Within 10 calendar days of receiving the other party's offer or the HCE's statement that a contract is not desirable, each party must submit to the arbitrator and the other party their advocacy briefs regarding whether

the HCE is reasonably or unreasonably refusing to contract with the applicant.

(10) The arbitrator shall apply the following standards when making a determination about whether a HCE reasonably or unreasonably refused to contract with the applicant:

(a) An HCE may reasonably refuse to contract when an applicant's reimbursement to an HCE for a health service is below the reasonable cost to provide the service. The arbitrator shall apply federal or state statutes or regulations that establish specific reimbursements, such as payments to federally qualified health centers, rural health centers and tribal health centers; and

(b) An HCE may reasonably refuse to contract if that refusal is justified in fact or by circumstances, taking into consideration the HST legislative policies. Facts or circumstances outlining what is a reasonable or unreasonable refusal to contract include, but are not limited to:

(A) Whether contracting with the applicant would impose demands that the HCE, taking into consideration the legislative policies described in the HST laws, cannot reasonably meet without significant negative impact on HCE costs, obligations or structure, in the context of the proposed reimbursement arrangement or other CCO requirements, including, but not limited to, the use of electronic health records, service delivery requirements or quality or performance requirements;

(B) Whether the HCE's refusal affects access to covered services in the applicant's community. This factor alone cannot result in a finding that the refusal to contract is unreasonable; however, the HCE and applicant should make a good faith effort to work out differences in order to achieve beneficial community objectives and HST policy objectives;

(C) Whether the HCE has entered into a binding obligation to participate in the network of a different CCO or applicant, and that participation significantly reduces the HCE's capacity to contract with the applicant.

(11) The following outlines the arbitrator determination and the parties' final opportunity to settle:

(a) The arbitrator must evaluate the final offers or statement of refusal to contract and the advocacy briefs from each party and issue a determination within 15 calendar days of the receipt of the parties' information;

(b) The arbitrator shall provide the determination to the parties. The arbitrator and the parties may not disclose the determination to the Authority for 10 calendar days to allow the parties an opportunity to resolve the issue themselves. If the parties resolve the issue no later than the end of the 10th day, the arbitrator may not release the determination to the Authority;

(c) If the parties have not reached an agreement after 10 calendar days, the arbitrator must provide its decision to the Authority. After submission to the Authority, the arbitrator's determination becomes a public record, subject to protection of trade secret information if identified by one of the parties prior to the arbitrator's submission of the determination.

(12) If the parties cannot agree, the Authority shall evaluate the arbitrator's determination and may take the following actions:

(a) The Authority may certify an applicant if the arbitrator determined the applicant made a reasonable attempt to contract with the HCE or the HCE's refusal to contract was unreasonable;

(b) The Authority may refuse to certify an applicant when the arbitrator determined the applicant did not reasonably attempt to contract with the HCE or the HCE's refusal to contract was reasonable, and the Authority determines that participation from that the HCE remains necessary for certification of applicant as a CCO;

(c) The Authority may not pay fee-for-service reimbursements to an HCE if the arbitrator determined the HCE unreasonably refused to contract with the applicant; this applies to health services available through a CCO;

(d) In any circumstance within the scope of this rule when the parties have failed to agree, the current statutes regarding reimbursement to non-participating providers shall apply to certified CCOs and the HCE, consistent with ORS 414.743 for hospitals, and consistent with Authority rules for other providers.

(13) To be qualified to resolve disputes under this rule, the arbitrator must:

(a) Be a knowledgeable and experienced arbitrator;

(b) Be familiar with health care provider contracting matters;

(c) Be familiar with HST; and

(d) Follow the terms and conditions specified in this rule for the arbitration process.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

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410-141-3270

Marketing Requirements

(1) CCOs may not conduct, directly or indirectly, door-to-door, telephonic, electronic, mail or other cold call marketing practices to seek or influence the Medicaid client to enroll in that CCO.

(2) CCOs may engage in activities to existing members for outreach, health promotion and health education.

(3) The Authority must approve, prior to distribution, any written communication by the CCO or its subcontractors and providers that:

(a) Is intended solely for members; and

(b) Pertains to provider requirements for obtaining coordinated care services, care at service sites or benefits.

(4) CCOs may communicate with providers, caseworkers, community agencies and other interested parties for informational purposes. The intent of these communications should be informational only and not to entice or solicit membership. Communication methodologies may include, but are not limited to brochures, pamphlets, newsletters, posters, fliers, Web sites, health fairs or sponsorship of health-related events.

(5) The creation of name recognition, because of the CCO's health promotion or education activities, shall not constitute an attempt by the CCO to influence a client's enrollment.

(6) CCOs shall cooperate with the Authority in developing a comprehensive explanation of the services available from the CCO for the Division communications.

(7) Subcontractors may post a sign listing all OHP CCOs to which the provider belongs and display CCO-sponsored health promotional materials.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3280

Potential Member Information Requirements

(1) CCOs shall develop informational materials for potential members:

(a) CCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. Upon request, the CCO must make available to potential members information on participating providers. The information must include participating providers' name, location, languages spoken other than English, qualification and the availability of the PCPs, clinic and specialists, prescription drug formularies used and whether they are currently accepting members. A CCO or the Authority may include informational materials in the application packet for potential members;

(b) CCOs shall ensure that all CCO staff who have contact with potential members are fully informed of the CCO's and the Authority's rules applicable to enrollment, disenrollment, complaint and grievance policies and interpreter services, including which participating providers' offices have bilingual capacity;

(c) Information for potential members must comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-3270.

(2) Informational materials that CCOs develop for potential members in its service area shall meet the language requirements of, and be culturally sensitive to, people with disabilities or reading limitations, including substantial populations whose primary language is not English:

(a) CCOs shall follow the Authority's substantial household criteria required by ORS 411.970, which determines and identifies those populations considered to be non-English speaking households. The CCO shall provide informational materials, which at a minimum, shall include the member handbook in the primary language of each substantial population. Alternative forms may include but are not limited to audio tapes, close-captioned videos, large type, and Braille;

(b) CCOs shall write all written informational materials for potential members at the sixth grade reading level and printed in 12 point font or larger.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3300

Member Education Requirements

(1) CCOs shall have written procedures, criteria and an ongoing process of member education and information sharing that includes member orientation, member handbook and health education. Member education must:

(a) Include information about the coordinated care approach, and how to navigate the coordinated health care system;

(b) Clearly explain how members may receive assistance from certified health care interpreters, community health workers, and personal health navigators.

(2) Within 14 calendar days of a CCO's receiving notice of a member's enrollment, CCOs shall mail an educational packet to new members and to members returning to the CCO nine months or more after previous enrollment. The packet shall include, at a minimum, a member handbook, provider directory and welcome letter.

(3) For members who are ongoing enrollees, a CCO shall offer the member handbook and provider directory annually and send on request. The CCO shall offer these in print and online if available.

(4) A CCO shall electronically provide to the Authority for approval each version of the printed member handbook and provider directory. At a minimum, the member handbook shall contain the following:

(a) Revision date;

(b) Tag lines in English and other languages spoken by substantial populations of members. Substantial means 35 or more households that speak the same language and in which no adult speaks English. The tag lines must describe how members may access interpreter services, including sign interpreters, translations, and materials in other formats;

(c) CCO's office location, mailing address, Web address, if applicable, office hours and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient centered primary care home or other primary care team, with the member as a partner in care management, how to choose a PCP, how to make an appointment and the CCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members, and any restrictions on the member's freedom of choice among participating providers;

(f) What services the member may self-refer to either participating or non-participating providers;

(g) Policies on referrals for specialty care, including pre-authorization requirements and how to request a referral;

(h) Explanation of intensive care coordination services (formerly known as Exceptional Needs Care Coordination (ENCC)) and how members with special health care needs, who are aged, blind or disabled, or who have complex medical needs, high health needs, multiple chronic conditions, mental illness or chemical dependency can access intensive care coordination services;

(i) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(j) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(k) Information on contracted hospitals in the member's service area;

(l) Information on post-stabilization care after a member is stabilized in order to maintain, improve or resolve the member's condition;

(m) Member appeal rights, including information on the CCO's complaint process and information on the Authority's contested case hearing procedures;

(n) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(o) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the CCO for non-emergent care;

(p) The transitional procedures for new members to obtain prescriptions, supplies and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing practitioner, or obtain new orders during that period;

(q) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment, and the right to formulate advance directives;

(B) The CCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience.

(r) Whether or not the CCO uses physician incentives to reduce cost by limiting services;

(s) The member's right to request and obtain copies of their clinical records (and whether they may be charged a reasonable copying fee) and to request that the record be amended or corrected;

(t) How and when members are to obtain ambulance services;

(u) Possible resources for help with transportation to appointments with providers;

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(v) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(w) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(x) The CCO's confidentiality policy;

(y) How and where members are to access any benefits that are available under OHP but are not covered under the CCO's contract, including any cost sharing;

(z) When and how members can voluntarily and involuntarily disenroll from CCOs and change CCOs;

(aa) The CCO shall compile a printed provider directory and may offer the directly online, if available, for distribution to members, which may be part of their member handbook or separate, and shall include currently contracted provider names and specialty, non-English languages spoken, office location, telephone numbers including TTY, office hours, and accessibility for members with disabilities;

(bb) If the CCO handbook is returned with a new address, the CCO shall re-mail the handbook to the new address;

(cc) CCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and the CCO's internal changes. If changes affect the member's ability to use services or benefits, the CCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the CCO's member handbook and a CCO may not use it to substitute for any component of the CCO's member handbook.

(5) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. A CCO's practitioners or other individuals or programs approved by the CCO may provide health education. CCOs shall endeavor to provide health education in a culturally sensitive manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) CCOs shall ensure development and maintenance of an individualized health educational plan for members whom their practitioner has identified as requiring specific educational intervention. The Authority may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of intensive care coordination services, formerly known as ENCC and how to access intensive care coordination, through outreach to members with special health care needs, who are aged, blind or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness or chemical dependency;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) CCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the members' ability to access care or services from CCO's participating providers. The CCO shall provide the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the CCO sufficient notification to meet the 30 day notice requirement. The Authority shall review and approve the materials within two working days.

(6) Informational materials that CCOs develop for members shall meet the language requirements of, and be culturally sensitive to, members with disabilities or reading limitations, including substantial populations whose primary language is not English:

(a) CCOs shall translate materials for substantial populations of non-English speaking members in the CCO's caseload. The CCO shall provide informational materials which shall include but not be limited to the member handbook in the primary language of each substantial population. Alternative forms may include, but are not limited to audio recordings, close-captioned videos, large type and Braille;

(b) Form correspondence sent to members, including but not limited to, enrollment information, choice and member counseling letters and notices of action to deny, reduce or stop a benefit shall include instructions in the language of each substantial population of non-English speaking members on how to receive an oral or written translation of the material.

(7) CCOs shall provide an identification card to members, unless waived by the Authority, which contains simple, readable and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the CCO, members, and providers.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3320

Coordinated Care Organization Member Rights and Responsibilities

(1) CCO members shall have the following rights and are entitled to:

(a) Be treated with dignity and respect;

(b) Be treated by participating providers the same as other people seeking health care benefits to which they are entitled, and to be encouraged to work with the member's care team, including providers and community resources appropriate to the member's needs;

(c) Choose a Primary Care Physician (PCP) or service site, and to change those choices as permitted in the CCO's administrative policies;

(d) Refer oneself directly to mental health, chemical dependency or family planning services without getting a referral from a PCP or other participating provider;

(e) Have a friend, family member, or advocate present during appointments and other times as needed within clinical guidelines;

(f) Be actively involved in the development of their treatment plan;

(g) Be given information about their condition and covered and non-covered services to allow an informed decision about proposed treatments;

(h) Consent to treatment or refuse services, and be told the consequences of that decision, except for court ordered services;

(i) Receive written materials describing rights, responsibilities, benefits available, how to access services, and what to do in an emergency;

(j) Have written materials explained in a manner that is understandable to the member and be educated about the coordinated care approach being used in the community and how to navigate the coordinated health care system;

(k) Receive necessary and reasonable services to diagnose the presenting condition;

(l) Receive integrated person centered care and services designed to provide choice, independence and dignity and that meet generally accepted standards of practice and are medically appropriate;

(m) Have a consistent and stable relationship with a care team that is responsible for comprehensive care management;

(n) Receive assistance in navigating the health care delivery system and in accessing community and social support services and statewide resources including but not limited to the use of certified health care interpreters, and advocates, community health workers, peer wellness specialists and personal health navigators who are part of the member's care team to provide cultural and linguistic assistance appropriate to the member's need to access appropriate services and participate in processes affecting the member's care and services;

(o) Obtain covered preventive services;

(p) Have access to urgent and emergency services 24 hours a day, 7 days a week without prior authorization;

(q) Receive a referral to specialty practitioners for medically appropriate covered coordinated care services;

(r) Have a clinical record maintained which documents conditions, services received, and referrals made;

(s) Have access to one's own clinical record, unless restricted by statute;

(t) Transfer of a copy of the clinical record to another Provider;

(u) Execute a statement of wishes for treatment, including the right to accept or refuse medical, surgical, chemical dependency, or mental health treatment and the right to execute directives and powers of attorney for health care established under ORS 127;

(v) Receive written notices before a denial of, or change in, a benefit or service level is made, unless a notice is not required by federal or state regulations;

(w) Be able to make a complaint or appeal with the CCO and receive a response;

(x) Request a contested case hearing;

(y) Receive qualified health care interpreter services; and

(z) Receive a notice of an appointment cancellation in a timely manner.

(2) CCO members shall have the following responsibilities:

(a) Choose, or help with assignment to, a PCP or service site;

(b) Treat the CCO, practitioner, and clinic staff members with respect;

(c) Be on time for appointments made with practitioners and other providers and to call in advance to cancel if unable to keep the appointment or if he/she expects to be late;

(d) Seek periodic health exams and preventive services from his/her PCP or clinic;

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- (e) Use his/her PCP or clinic for diagnostic and other care except in an emergency;
- (f) Obtain a referral to a specialist from the PCP or clinic before seeking care from a specialist unless self-referral to the specialist is allowed;
- (g) Use urgent and emergency services appropriately, and notify the member's PCP or clinic within 72 hours of using emergency services;
- (h) Give accurate information for inclusion in the clinical record;
- (i) Help the practitioner, provider or clinic obtain clinical records from other providers which may include signing an authorization for release of information;
- (j) Ask questions about conditions, treatments, and other issues related to his/her care that is not understood;
- (k) Use information provided by CCO providers or care teams to make informed decisions about treatment before it is given;
- (l) Help in the creation of a treatment plan with the provider;
- (m) Follow prescribed agreed upon treatment plans;
- (n) Tell the practitioner or provider that his/her health care is covered under the OHP before services are received and, if requested, to show the practitioner or other provider the Division Medical Care Identification form;
- (o) Tell the Department or Authority worker of a change of address or phone number;
- (p) Tell the Department or Authority worker if the member becomes pregnant and to notify the worker of the birth of the member's child;
- (q) Tell the Department or Authority worker if any family members move in or out of the household;
- (r) Tell the Department or Authority worker if there is any other insurance available;
- (s) Pay for non-covered services under the provisions described in OAR 410-120-1200 and 410-120-1280;
- (t) Pay the monthly OHP premium on time if so required;
- (u) Assist the CCO in pursuing any third party resources available and reimburse the CCO the amount of benefits it paid for an injury from any recovery received from that injury; and
- (v) Bring issues, or complaints or grievances to the attention of the CCO.

Stat. Auth.: ORS 414.032
Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

410-141-3420

Billing and Payment

- (1) Providers must submit all billings for Coordinated Care Organization (CCO) members to the CCO within four months and twelve months, respectively, of the date of service, subject to other applicable Division billing rules. Providers must submit billings to CCOs within the four month time frame except in the following cases:
 - (a) Pregnancy;
 - (b) Eligibility issues such as retroactive deletions or retroactive enrollments;
 - (c) Medicare is the primary payer, except where the CCO is responsible for the Medicare reimbursement;
 - (d) Other cases that could have delayed the initial billing to the CCO (which does not include failure of provider to certify the member's eligibility); or
 - (e) Third Party Liability (TPL). Pursuant to 42 CFR 36.61, subpart G: Indian Health Services and the amended Public Law 93-638 under the Memorandum of Agreement that Indian Health Service and 638 Tribal Facilities are the payer of last resort and is not considered an alternative liability or TPL.
- (2) Providers must be enrolled with the Authority's Division of Medical Assistance Programs to be eligible for fee-for-service (FFS) payments. Mental health providers, except Federally Qualified Health Centers (FQHC), must be approved by the Local Mental Health Authority (LMHA) and the Authority's Addictions and Mental Health (AMH) Division before enrollment with the Authority or to be eligible for CCO payment for services. Providers may be retroactively enrolled, in accordance with OAR 410-120-1260 (Provider Enrollment).
- (3) Providers, including mental health providers, must be enrolled with the Authority as a Medicaid provider or an encounter-only provider prior to submission of encounter data to ensure the encounter is accepted.
- (4) Providers shall verify, before providing services, that the member is eligible for coordinated care services on the date of service. Providers shall use the Authority tools and the CCO's tools, as applicable, to determine if the service to be provided is covered under the member's Oregon Health Plan Benefit Package of covered services. Providers shall also iden-

tify the party responsible for covering the intended service and seek pre-authorizations from the appropriate payer before providing services. For non-covered services, providers shall follow requirements in OAR 141-120-1280.

(5) CCOs shall pay for all covered coordinated care services. These services must be billed directly to the CCO, unless the CCO or the Authority specifies otherwise. CCOs may require providers to obtain preauthorization to deliver certain coordinated care services.

(6) Payment by the CCO to participating providers for coordinated care services is a matter between the CCO and the participating provider, except as follows:

(a) CCOs shall have procedures for processing pre-authorization requests received from any provider. The procedures shall specify time frames for:

(A) Date stamping pre-authorization requests when received;

(B) Determining within a specific number of days from receipt whether a pre-authorization request is valid or non-valid;

(C) The specific number of days allowed for follow up on pended preauthorization requests to obtain additional information;

(D) The specific number of days following receipt of the additional information that a redetermination must be made;

(E) Providing services after office hours and on weekends that require preauthorization;

(F) Sending notice of the decision with appeal rights to the member when the determination is a denial of the requested service as specified in OAR 410-141-3263.

(b) CCOs shall make a determination on at least 95% of valid preauthorization requests, within two working days of receipt of a preauthorization or reauthorization request related to urgent services; alcohol and drug services; or care required while in a skilled nursing facility. Preauthorization for prescription drugs must be completed and the pharmacy notified within 24 hours. If a preauthorization for a prescription cannot be completed within the 24 hours, the CCO must provide for the dispensing of at least a 72-hour supply if there is an immediate medical need for the drug. CCOs shall notify providers of the determination within 2 working days of receipt of the request;

(c) For expedited prior authorization requests in which the provider indicates, or the CCO determines, that following the standard timeframe could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function:

(A) The CCO must make an expedited authorization decision and provide notice as expeditiously as the member's health or mental health condition requires and no later than three working days after receipt of the request for service;

(B) The CCO may extend the three working day time period no more than 14 calendar days if the member requests an extension, or if the CCO justifies to the Authority a need for additional information and how the extension is in the member's best interest.

(d) For all other preauthorization requests, CCOs shall notify providers of an approval, a denial or the need for further information within 14 calendar days of receipt of the request. CCOs must make reasonable efforts to obtain the necessary information during the 14-day period. However, the CCO may use an additional 14 days to obtain follow-up information, if the CCO justifies (to the Authority upon request) the need for additional information and how the delay is in the interest of the member. The CCO shall make a determination as the member's health or mental health condition requires, but no later than the expiration of the extension.

(7) CCOs shall have written procedures for processing payment claims submitted from any source. The procedures shall specify time frames for:

(a) Date stamping claims when received;

(b) Determining within a specific number of days from receipt whether a claim is valid or non-valid;

(c) The specific number of days allowed for follow up of pended claims to obtain additional information;

(d) The specific number of days following receipt of additional information that a determination must be made; and

(e) Sending notice of the decision with appeal rights to the member when the determination is made to deny the claim;

(f) CCOs shall pay or deny at least 90% of valid claims within 45 calendar days of receipt and at least 99% of valid claims within 60 calendar days of receipt. CCOs shall make an initial determination on 99% of all claims submitted within 60 calendar days of receipt;

(g) CCOs shall provide written notification of CCO determinations when the determinations result in a denial of payment for services, for

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which the member may be financially responsible. The CCO shall provide the notice to the member and the treating provider within 14 calendar days of the final determination. The notice to the member shall be a Division or AMH approved notice format and shall include information on the CCOs internal appeals process, and Hearing Rights (DMAP 3030) shall be attached. The notice to the provider shall include the reason for the denial;

(h) CCOs may not require providers to delay billing to the CCO;

(i) CCOs may not require Medicare be billed as the primary insurer for services or items not covered by Medicare, or require non-Medicare approved providers to bill Medicare;

(j) CCOs may not deny payment of valid claims when the potential TPR is based only on a diagnosis, and no potential TPR has been documented in the member's clinical record;

(k) CCOs may not delay or deny payments because a co-payment was not collected at the time of service.

(8) CCOs shall pay for Medicare coinsurances and deductibles up to the Medicare or CCOs allowable for covered services the member receives within the CCO, for authorized referral care, and urgent care services or emergency services the member receives from non-participating providers. CCOs may not pay for Medicare coinsurances and deductibles for non-urgent or non-emergent care members receive from non-participating providers.

(9) CCOs shall pay transportation, meals and lodging costs for the member and any required attendant for out-of-state services that the CCO has arranged and authorized when those services are not available within the state, unless otherwise approved by the Authority.

(10) CCOs shall pay for covered services provided by a non-participating provider which was not pre-authorized if the following conditions exist:

(a) It can be verified that the participating provider ordered or directed the covered services to be delivered by a non-participating provider; and

(b) The covered service was delivered in good faith without the pre-authorization; and

(c) It was a covered service that would have been pre-authorized with a participating provider if the CCO's referral procedures had been followed;

(d) The CCO shall pay non-participating providers (providers enrolled with the Authority that do not have a contract with the CCO) for covered services that are subject to reimbursement from the CCO, in the amount specified in OAR 410-120-1295. This rule does not apply to providers that are Type A or Type B hospitals;

(e) CCOs shall reimburse hospitals for services provided on or after January 1, 2012 using Medicare Severity DRG for inpatient services and Ambulatory Payment Classification (APC) for outpatient services or other alternative payment methods which incorporate the most recent Medicare payment methodologies for both inpatient and outpatient services established by CMS for hospital services; and alternative payment methodologies, including but not limited to pay-for-performance, bundled payments and capitation. An alternative payment methodology does not include reimbursement payment based on percentage of billed charges. This requirement does not apply to Type A or Type B hospitals as referenced in ORS 442.470. CCO shall attest annually to the Authority, in a manner to be prescribed, to CCO's compliance with these requirements.

(11) Members may receive certain services on a Fee for Service (FFS) basis:

(a) Certain services must be authorized by the CCO or the Community Mental Health Program (CMHP) for some mental health services, even though the services are then paid by the Authority on a FFS basis. Before providing services, providers must verify a member's eligibility using the web portal or AVR;

(b) Services authorized by the CCO or CMHP are subject to the rules and limitations of the appropriate Authority administrative rules and supplemental information, including rates and billing instructions;

(c) Providers shall bill the Authority directly for FFS services in accordance with billing instructions contained in the Authority administrative rules and supplemental information;

(d) The Authority shall pay at the Medicaid FFS rate in effect on the date the service is provided subject to the rules and limitations described in the relevant rules, contracts, billing instructions;

(e) The Authority may not pay a provider for provision of services for which a CCO has received a CCO payment unless otherwise provided for in rule;

(f) When an item or service is included in the rate paid to a medical institution, a residential facility or foster home, provision of that item or service is not the responsibility of the Authority or a CCO except as provided in Authority administrative rules and supplemental information (e.g.,

coordinated care services that are not included in the nursing facility all-inclusive rate);

(g) CCOs that contract with FQHCs and RHCs shall negotiate a rate of reimbursement that is not less than the level and amount of payment which the CCO would pay for the same service furnished by a provider, who is not an FQHC nor RHC, consistent with the requirements of BBA 4712(b)(2).

(12) Coverage of services through the Oregon Health Plan Benefit Package of covered services is limited by OAR 410-141-0500, excluded services and limitations for OHP clients.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 158

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12

Rule Caption: Amending to update HCPCS codes, and clarify when documentation is required for authorization.

Adm. Order No.: DMAP 17-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-1-12

Notice Publication Date: 3-1-2012

Rules Amended: 410-122-0340, 410-122-0540, 410-122-0630, 410-122-0660

Subject: The Division needs to amend the administrative rules governing incontinence supplies to allow provision of the appropriate combination of incontinent supplies without prior authorization and to correct a reference in rule explaining when additional documentation is required. The Division needs to amend the administrative rules governing wheelchair accessories, ostomy supplies, and orthotics and prosthetics to add new HCPCS codes and to remove HCPCS codes that have been discontinued or replaced with new codes effective 1/1/12.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-122-0340

Wheelchair Options/Accessories

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division of Medical Assistance Programs (Division) may cover options and accessories for covered wheelchairs when the following criteria are met:

(A) The client has a wheelchair that meets Division coverage criteria; and

(B) The client requires the options/accessories to accomplish their mobility-related activities of daily living (MRADLs) in the home. See 410-122-0010, Definitions, for definition of MRADLs;

(b) The Division does not cover options/accessories whose primary benefit is allowing the client to perform leisure or recreational activities;

(c) Arm of Chair:

(A) Adjustable arm height option (E0973, K0017, K0018, K0020) may be covered when the client:

(i) Requires an arm height that is different than what is available using nonadjustable arms; and

(ii) Spends at least two hours per day in the wheelchair;

(B) An arm trough (E2209) is covered if the client has quadriplegia, hemiplegia, or uncontrolled arm movements;

(d) Foot rest/Leg rest:

(A) Elevating leg rests (E0990, K0046, K0047, K0053, K0195) may be covered when:

(i) The client has a musculoskeletal condition or the presence of a cast or brace which prevents 90 degree flexion at the knee; or

(ii) The client has significant edema of the lower extremities that requires having an elevating leg rest; or

(iii) The client meets the criteria for and has a reclining back on the wheelchair;

(B) Elevating leg rests that are used with a wheelchair that is purchased or owned by the patient are coded E0990. This code is per leg rest;

(C) Elevating leg rests that are used with a capped rental wheelchair base should be coded K0195. This code is per pair of leg rests;

(e) Nonstandard Seat Frame Dimensions:

(A) For all adult wheelchairs, the Division includes payment for seat widths and/or seat depths of 15-19 inches in the payment for the base code. These seat dimensions must not be separately billed;

(B) Codes E2201-E2204 and E2340-E2343 describe seat widths and/or depths of 20 inches or more for manual or power wheelchairs;

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(C) A nonstandard seat width and/or depth (E2201-E2204 and E2340-E2343) is covered only if the patient's dimensions justify the need;

(f) Rear Wheels for Manual Wheelchairs: Code K0064 (flat free insert) is used to describe either:

(A) A removable ring of firm material that is placed inside of a pneumatic tire to allow the wheelchair to continue to move if the pneumatic tire is punctured; or

(B) Non-removable foam material in a foam filled rubber tire;

(C) K0064 is not used for a solid self-skinning polyurethane tire;

(g) Batteries/Chargers:

(A) Up to two batteries (E2360-E2365) at any one time are allowed if required for a power wheelchair;

(B) Batteries/chargers for motorized/power wheelchairs are separately payable from the purchased wheelchair base;

(h) Seating:

(A) The Division may cover a general use seat cushion and a general-use wheelchair back-cushion for a client whose wheelchair that meets Division coverage criteria;

(B) A skin protection seat cushion may be covered for a client who meets both of the following criteria:

(i) The client has a wheelchair that meets Division coverage criteria; and

(ii) The client has either of the following:

(I) Current pressure ulcer or past history of a pressure ulcer on the area of contact with the seating surface; or

(II) Absent or impaired sensation in the area of contact with the seating surface or inability to carry out a functional weight shift due to one of the following diagnoses: spinal cord injury resulting in quadriplegia or paraplegia, other spinal cord disease, multiple sclerosis, other demyelinating disease, cerebral palsy, anterior horn cell diseases including amyotrophic lateral sclerosis), post polio paralysis, traumatic brain injury resulting in quadriplegia, spina bifida, childhood cerebral degeneration, Alzheimer's disease, Parkinson's disease;

(C) A positioning seat cushion, positioning back cushion, and positioning accessory (E0955-E0957, E0960) may be covered for a client who meets both of the following criteria:

(i) The client has a wheelchair that meets Division coverage criteria; and

(ii) The client has any significant postural asymmetries due to one of the diagnoses listed in criterion (h) (B)(ii)(II) or to one of the following diagnoses: monoplegia of the lower limb; hemiplegia due to stroke, traumatic brain injury, or other etiology; muscular dystrophy; torsion dystonias; spinocerebellar disease;

(D) A combination skin protection and positioning seat cushion may be covered when a client meets the criteria for both a skin protection seat cushion and a positioning seat cushion;

(E) Separate payment is allowed for a seat cushion solid support base (E2231) with mounting hardware when it is used on an adult manual wheelchair (K0001-K0009, E1161);

(F) There is no separate payment for a solid insert (E0992) that is used with a seat or back cushion because a solid base is included in the allowance for a wheelchair seat or back cushion;

(G) There is no separate payment for mounting hardware for a seat or back cushion;

(H) There is no separate payment for a headrest (E0955, E0966) on a captain's seat on a power wheelchair;

(I) A custom fabricated seat cushion (E2609) and a custom fabricated back cushion (E2617) are cushions that are individually made for a specific patient:

(i) Basic materials include liquid foam or a block of foam and sheets of fabric or liquid coating material:

(I) A custom fabricated cushion may include certain prefabricated components (e.g., gel or multi-cellular air inserts); these components must not be billed separately;

(II) The cushion must have a removable vapor permeable or waterproof cover or it must have a waterproof surface;

(ii) The cushion must be fabricated using molded-to-patient-model technique, direct molded-to-patient technique, computer-aided design and computer-aided manufacturing (CAD-CAM) technology, or detailed measurements of the patient used to create a configured cushion:

(I) If foam-in-place or other material is used to fit a substantially prefabricated cushion to an individual client, the cushion must be billed as a prefabricated cushion, not custom fabricated;

(II) The cushion must have structural features that significantly exceed the minimum requirements for a seat or back positioning cushion;

(iii) If a custom fabricated seat and back are integrated into a one-piece cushion, code as E2609 plus E2617;

(J) A custom fabricated seat cushion may be covered if criteria (i) and (iii) are met. A custom fabricated back cushion may be covered if criteria (ii) and (iii) are met:

(i) Client meets all of the criteria for a prefabricated skin protection seat cushion or positioning seat cushion;

(ii) Client meets all of the criteria for a prefabricated positioning back cushion;

(iii) There is a comprehensive written evaluation by a licensed clinician (who is not an employee of or otherwise paid by a durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider) which clearly explains why a prefabricated seating system is not sufficient to meet the client's seating and positioning needs;

(K) A prefabricated seat cushion, a prefabricated positioning back cushion, or a brand name custom fabricated seat or back cushion which has not received a written coding verification as published by the Pricing, Data Analysis and Coding (PDAC) contractor by the Centers for Medicare and Medicaid Services; or which does not meet the criteria stated in this rule is not covered;

(L) A headrest extension (E0966) is a sling support for the head. Code E0955 describes any type of cushioned headrest;

(M) The code for a seat or back cushion includes any rigid or semi-rigid base or posterior panel, respectively, that is an integral part of the cushion;

(N) A solid insert (E0992) is a separate rigid piece of wood or plastic which is inserted in the cover of a cushion to provide additional support and is included in the allowance for a seat cushion;

(O) A solid support base for a seat cushion is a rigid piece of plastic or other material that is attached with hardware to the seat frame of a wheelchair in place of a sling seat. A cushion is placed on top of the support base. Use code E2231 for this solid support base;

(i) The Division will only cover accessories billed under the following codes when PDAC has made written confirmation of use of the code for the specific product(s) being billed: E2601-E2608, E2611-E2616, E2620, E2621; E2609 and E2617 (brand-name products), K0108 (for wheelchair cushions):

(A) Information concerning the documentation that must be submitted to PDAC for a Coding Verification Request can be found on the PDAC Web site or by contacting PDAC;

(B) A Product Classification List with products that have received a coding verification can be found on the PDAC Web site;

(j) Code E1028 (swingaway or removable mounting hardware upgrade) may be billed in addition to codes E0955-E0957. It must not be billed in addition to code E0960. It must not be used for mounting hardware related to a wheelchair seat cushion or back cushion code;

(k) Power seating systems:

(A) A power-tilt seating system (E1002):

(i) Includes all the following:

(I) A solid seat platform and a solid back; any frame width and depth;

(II) Detachable or flip-up fixed height or adjustable height armrests;

(III) Fixed or swingaway detachable leg rests;

(IV) Fixed or flip-up footplates;

(V) Motor and related electronics with or without variable speed programmability;

(VI) Switch control that is independent of the power wheelchair drive control interface;

(VII) Any hardware that is needed to attach the seating system to the wheelchair base;

(ii) It does not include a headrest;

(iii) It must have the following features:

(I) Ability to tilt to greater than or equal to 45 degrees from horizontal;

(II) Back height of at least 20 inches;

(III) Ability for the supplier to adjust the seat to back angle;

(IV) Ability to support patient weight of at least 250 pounds;

(B) A power recline seating system (E1003-E1005):

(i) Includes all the following:

(I) A solid seat platform and a solid back;

(II) Any frame width and depth;

(III) Detachable or flip-up fixed height or adjustable height arm rests;

(IV) Fixed or swingaway detachable leg rests;

(V) Fixed or flip-up footplates;

(VI) A motor and related electronics with or without variable speed programmability;

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(VII) A switch control that is independent of the power wheelchair drive control interface;

(VIII) Any hardware that is needed to attach the seating system to the wheelchair base;

(ii) It does not include a headrest;

(iii) It must have the following features:

(I) Ability to recline to greater than or equal to 150 degrees from horizontal;

(II) Back height of at least 20 inches;

(III) Ability to support patient weight of at least 250 pounds;

(C) A power tilt and recline seating system (E1006-E1008):

(i) Includes the following:

(I) A solid seat platform and a solid back;

(II) Any frame width and depth; detachable or flip-up fixed height or adjustable height armrests;

(III) Fixed or swing-away detachable leg rests; fixed or flip-up footplates;

(IV) Two motors and related electronics with or without variable speed programmability;

(V) Switch control that is independent of the power wheelchair drive control interface;

(VI) Any hardware that is needed to attach the seating system to the wheelchair base;

(ii) It does not include a headrest;

(iii) It must have the following features:

(I) Ability to tilt to greater than or equal to 45 degrees from horizontal;

(II) Ability to recline to greater than or equal to 150 degrees from horizontal;

(III) Back height of at least 20 inches; ability to support patient weight of at least 250 pounds;

(D) A mechanical shear reduction feature (E1004 and E1007) consists of two separate back panels. As the posterior back panel reclines or raises, a mechanical linkage between the two panels allows the client's back to stay in contact with the anterior panel without sliding along that panel;

(E) A power shear reduction feature (E1005 and E1008) consists of two separate back panels. As the posterior back panel reclines or raises, a separate motor controls the linkage between the two panels and allows the client's back to stay in contact with the anterior panel without sliding along that panel;

(F) A power leg elevation feature (E1010) involves a dedicated motor and related electronics with or without variable speed programmability which allows the leg rest to be raised and lowered independently of the recline and/or tilt of the seating system. It includes a switch control which may or may not be integrated with the power tilt and/or recline control(s);

(I) Codes E2310 and E2311 (Power Wheelchair Accessory):

(A) Describe the electronic components that allow the client to control two or more of the following motors from a single interface (e.g., proportional joystick, touchpad, or non-proportional interface): power wheelchair drive, power tilt, power recline, power shear reduction, power leg elevation, power seat elevation, power standing;

(B) Include a function selection switch that allows the client to select the motor that is being controlled and an indicator feature to visually show which function has been selected;

(C) When the wheelchair drive function is selected the indicator feature may also show the direction that is selected (forward, reverse, left, right). This indicator feature may be in a separate display box or may be integrated into the wheelchair interface;

(D) Payment for the code includes an allowance for fixed mounting hardware for the control box and for the display box (if present);

(E) When a switch is medically appropriate and a client has adequate hand motor skills, a switch would be considered the least costly alternative;

(F) E2310 or E2311 may be considered for coverage when a client does not have hand motor skills or presents with cognitive deficits, contractures or limitation of movement patterns that prevents operation of a switch;

(G) In addition, an alternate switching system must be medically appropriate and not hand controlled (not running through a joystick);

(H) If a wheelchair has an electrical connection device described by code E2310 or E2311 and if the sole function of the connection is for a power seat elevation or power standing feature, it is not covered;

(m) Power Wheelchair Drive Control Systems:

(A) The term interface in the code narrative and definitions describes the mechanism for controlling the movement of a power wheelchair.

Examples of interfaces include, but are not limited to, joystick, sip and puff, chin control, head control, etc;

(B) A proportional interface is one in which the direction and amount of movement by the client controls the direction and speed of the wheelchair. One example of a proportional interface is a standard joystick;

(C) A non-proportional interface is one that involves a number of switches. Selecting a particular switch determines the direction of the wheelchair, but the speed is pre-programmed. One example of a non-proportional interface is a sip-and-puff mechanism;

(D) The term controller describes the microprocessor and other related electronics that receive and interpret input from the joystick (or other drive control interface) and convert that input into power output to the motor and gears in the power wheelchair base;

(E) A switch is an electronic device that turns power to a particular function either "on" or "off". The external component of a switch may be either mechanical or non-mechanical. Mechanical switches involve physical contact in order to be activated. Examples of the external components of mechanical switches include, but are not limited to, toggle, button, ribbon, etc. Examples of the external components of non-mechanical switches include, but are not limited to, proximity, infrared, etc. Some of the codes include multiple switches. In those situations, each functional switch may have its own external component or multiple functional switches may be integrated into a single external switch component or multiple functional switches may be integrated into the wheelchair control interface without having a distinct external switch component;

(F) A stop switch allows for an emergency stop when a wheelchair with a non-proportional interface is operating in the latched mode. (Latched mode is when the wheelchair continues to move without the patient having to continually activate the interface.) This switch is sometimes referred to as a kill switch;

(G) A direction change switch allows the client to change the direction that is controlled by another separate switch or by a mechanical proportional head control interface. For example, it allows a switch to initiate forward movement one time and backward movement another time;

(H) A function selection switch allows the client to determine what operation is being controlled by the interface at any particular time. Operations may include, but are not limited to, drive forward, drive backward, tilt forward, recline backward, etc.;

(I) An integrated proportional joystick and controller is an electronics package in which a joystick and controller electronics are in a single box, which is mounted on the arm of the wheelchair;

(J) The interfaces described by codes E2320-E2322, E2325, and E2327-E2330 must have programmable control parameters for speed adjustment, tremor dampening, acceleration control, and braking;

(K) A remote joystick (E2320, E2321) is one in which the joystick is in one box that is mounted on the arm of the wheelchair and the controller electronics are located in a different box that is typically located under the seat of the wheelchair. These codes include remote joysticks that are used for hand control as well as joysticks that are used for chin control. Code E2320 includes any type of proportional remote joystick stick including, but not limited to standard, mini-proportional, compact, and short throw remote joysticks;

(L) When code E2320 or E2321 is used for a chin control interface, the chin cup is billed separately with code E2324;

(M) Code E2320 also describes a touchpad that is an interface similar to the pad-type mouse found on portable computers;

(N) Code E2322 describes a system of 3-5 mechanical switches that are activated by the client touching the switch. The switch that is selected determines the direction of the wheelchair. A mechanical stop switch and a mechanical direction change switch, if provided, are included in the allowance for the code;

(O) Code E2323 includes prefabricated joystick handles that have shapes other than a straight stick – e.g., U shape or T shape – or that have some other nonstandard feature – e.g., flexible shaft;

(P) A sip and puff interface (E2325) is a non-proportional interface in which the client holds a tube in their mouth and controls the wheelchair by either sucking in (sip) or blowing out (puff). A mechanical stop switch is included in the allowance for the code. E2325 does not include the breath tube kit that is described by code E2326;

(Q) A proportional, mechanical head control interface (E2327) is one in which a headrest is attached to a joystick-like device. The direction and amount of movement of the client's head pressing on the headrest control the direction and speed of the wheelchair. A mechanical direction control switch is included in the code;

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(R) A proportional, electronic head control interface (E2328) is one in which a client's head movements are sensed by a box placed behind the client's head. The direction and amount of movement of the client's head (which does not come in contact with the box) control the direction and speed of the wheelchair. A proportional, electronic extremity control interface (E2328) is one in which the direction and amount of movement of the client's arm or leg control the direction and speed of the wheelchair;

(S) A non-proportional, contact switch head control interface (E2329) is one in which a client activates one of three mechanical switches placed around the back and sides of their head. These switches are activated by pressure of the head against the switch. The switch that is selected determines the direction of the wheelchair. A mechanical stop switch and a mechanical direction change switch are included in the allowance for the code;

(T) A non-proportional, proximity switch head control interface (E2330) is one in which a client activates one of three switches placed around the back and sides of their head. These switches are activated by movement of the head toward the switch, though the head does not touch the switch. The switch that is selected determines the direction of the wheelchair. A mechanical stop switch and a mechanical direction change switch are included in the allowance for the code;

(U) The KC modifier (replacement of special power wheelchair interface):

(i) Is used in the following situations:

(I) Due to a change in the client's condition an integrated joystick and controller is being replaced by another drive control interface – e.g., remote joystick, head control, sip and puff, etc.; or

(II) The client has a drive control interface described by codes E2320-E2322, E2325, or E2327-E2330 and both the interface (e.g., joystick, head control, sip and puff) and the controller electronics are being replaced due to irreparable damage;

(ii) The KC modifier is never used at the time of initial issue of a wheelchair;

(iii) The KC modifier specifically states replacement, therefore, the RP modifier is not required;

(n) Other Power Wheelchair Accessories: An electronic interface (E2351) to allow a speech generating device to be operated by the power wheelchair control interface may be covered if the client has a covered speech generating device. (See division 129, Speech-Language Pathology, Audiology and Hearing Aid Services.);

(o) Miscellaneous Accessories:

(A) Anti-rollback device (E0974) is covered if the client propels himself/herself and needs the device because of ramps;

(B) A safety belt/pelvic strap (E0978) is covered if the client has weak upper body muscles, upper body instability or muscle spasticity that requires use of this item for proper positioning;

(C) A shoulder harness/straps or chest strap (E0960) and a safety belt/pelvic strap (E0978) are covered only to treat a client's medical symptoms:

(i) A medical symptom is defined as an indication or characteristic of a physical or psychological condition;

(ii) E0960 and E0978 are not covered when intended for use as a physical restraint or for purposes intended for discipline or convenience of others;

(D) One example (not all-inclusive) of a covered indication for swing-away, retractable, or removable hardware (E1028) would be to move the component out of the way so that a client could perform a slide transfer to a chair or bed;

(E) A fully reclining back option (E1226) is covered if the client spends at least 2 hours per day in the wheelchair and has one or more of the following conditions/needs:

(i) Quadriplegia;

(ii) Fixed hip angle;

(iii) Trunk or lower extremity casts/braces that require the reclining back feature for positioning;

(iv) Excess extensor tone of the trunk muscles; and/or

(v) The need to rest in a recumbent position two or more times during the day and transfer between wheelchair and bed is very difficult.

(2) Documentation Requirements: Submit documentation that supports coverage criteria in this rule are met and the specified information as follows with the prior authorization (PA) request:

(a) When code K0108 is billed, a narrative description of the item, the manufacturer, the model name or number (if applicable), and information justifying the medical appropriateness for the item;

(b) Options/accessories for individual consideration might include documentation on the client's diagnosis, the client's abilities and limitations as they relate to the equipment (e.g., degree of independence/dependence, frequency and nature of the activities the client performs, etc.), the duration of the condition, the expected prognosis, past experience using similar equipment;

(c) For a custom-fabricated seat cushion:

(A) A comprehensive written evaluation by a licensed clinician (who is not an employee of or otherwise paid by a DMEPOS provider) which clearly explains why a prefabricated seating system is not sufficient to meet the client's seating and positioning needs, and;

(B) Diagnostic reports that support the medical condition;

(C) Dated and clear photographs;

(D) Body contour measurements;

(d) Documentation that the coverage criteria in this rule have been met must be present in the client's medical record. This documentation and any additional medical information from the DMEPOS provider must be made available to the Division on request.

(3) **Table 122-0340 – 1**

(4) **Table 122-0340 – 2**

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

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 17-2012, f. 3-30-12, cert. ef. 4-1-12

410-122-0540

Ostomy Supplies

(1) Indications and Limitations of Coverage and Medical Appropriateness: The Division of Medical Assistance Programs (Division) may cover ostomy supplies for a client with a surgically created opening (stoma) to divert urine or fecal contents outside the body:

(a) Only one liquid barrier may be dispensed at a time:

(A) A liquid or spray (A4369); or

(B) Individual wipes or swabs (A5120);

(b) For a client with a continent stoma, only one of the following means to prevent/manage drainage may be covered on a given day:

(A) Stoma cap (A5055);

(B) Stoma plug (A5081); or

(C) Gauze pads (A6216);

(c) For a client with a urinary ostomy, only one of the following may be covered for drainage at night:

(A) Bag (A4357); or

(B) Bottle (A5102);

(d) Provision of ostomy supplies for a client is limited to a three month supply;

(e) The following services are not covered:

(A) Ostomy clamps;

(B) Ostomy supplies when a client is in a covered home health episode;

(C) Pouch covers.

(2) Documentation Requirements:

(a) For miscellaneous ostomy supplies (A4421) ,submit documentation which supports coverage criteria as specified in this rule are met to the responsible unit for prior authorization;

(b) Medical records which support conditions of coverage as specified in this rule are met must be kept on file by the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider and made available to the Division on request;

(c) A client's medical records must support the justification for supplies billed to the Division including when a greater quantity of supplies than the amounts listed in this rule are dispensed (e.g., client has more than one ostomy).

(3) **Table 122-0540-1**, Maximum Quantity of Supplies – Monthly Basis.

(4) **Table 122-0540-2**, Maximum Quantity of Supplies – 6-Month Basis.

(5) **Table 122-0540-3**, Faceplate Systems.

(6) **Table 122-0540-4**, Procedure Codes.

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[ED. NOTE: Tables referenced rule are available from the agency.]
Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065
Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 17-2012, f. 3-30-12, cert. ef. 4-1-12

410-122-0630

Incontinent Supplies

(1) The Division of Medical Assistance Programs (Division) may cover incontinent supplies for urinary or fecal incontinence as follows:

(a) Category I Incontinent Supplies – For up to 200 units (any code or product combination in this category) per month, unless documentation supports the medical appropriateness for a higher quantity. For quantities over this limit a prior authorization shall be required. When requesting multiple Category I product types (i.e., diapers and liners) that exceed the allowable, prior authorization and documentation as described in (4)(a)(D) of this rule are required ;

(b) Category II Underpads:

(A) Disposable underpads (T4541 and T4542): For up to 100 units (any combination of T4541 and T4542) per month, unless documentation supports the medical appropriateness for a higher quantity, up to a maximum of 150 units per month;

(B) Reusable/washable underpads: (T4537 and T4540) For up to eight units (any combination of T4537 and T4540) in a 12 month period;

(C) Category II Underpads may be separately payable with Category I Incontinent Supplies with documentation that supports medical appropriateness for the use of this product ;

(D) T4541 and T4542 are not separately payable with T4537 and T4540 for the same dates of service or anticipated coverage period. For example, if a provider bills and is paid for eight reusable/washable underpads on a given date of service, a client would not be eligible for disposable underpads for the subsequent 12 months;

(c) Category III Washable Protective Underwear:

(A) For up to 12 units in a 12 month period;

(B) Category III Washable Protective Underwear are not separately payable with Category I Incontinent Supplies for the same dates of service or anticipated coverage period. For example, if a provider bills and is paid for 12 units of T4536 on a given date of service, a client would not be eligible for Category I Incontinent Supplies for the subsequent 12 months;

(d) The following services require PA:

(A) A4335 (Incontinence supply; miscellaneous); and

(B) A4543 (Disposable incontinence product, brief/diaper, bariatric, each);

(C) Quantity of supplies greater than the amounts listed in this rule as the maximum monthly utilization (e.g., more than 200 units per month of Category I Incontinent Supplies, or 100 gloves per month). (2) Incontinent supplies are not covered:

(a) For nocturnal enuresis; or

(b) For children under the age of three.

(3) A provider may only submit A4335 when there is no definitive Healthcare Common Procedure Coding System (HCPCS) code that meets the product description.

(4) Documentation requirements:

(a) The client's medical records must support the medical appropriateness for the services provided or being requested by the medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider, including, but not limited to:

(A) For all categories, the medical reason and condition causing the incontinence; and

(B) When a client is using urological or ostomy supplies at the same time as incontinent products specified in this rule, information that clearly corroborates the overall quantity of supplies needed to meet bladder and bowel management is medically appropriate;

(C) For all clients not residing in their home subsequent PA requests for incontinence product(s), the provider must submit a log with the PA request. This log must be the most recent log for the client documenting the number and frequency of incontinent product changes;

(D) PA requests for multiple Category I incontinence product types for the same client (i.e. doubling up) must be accompanied by adequate

explanation from the client's ordering practitioner to explain why a single, more appropriate, incontinence product can not be used;

(E) Although PA is not required for Category II incontinence products, the DMEPOS provider must have documentation on file from the prescribing practitioner supporting medical appropriateness;

(F) When requesting PA for T4543 (Bariatric Brief/Diaper) submit product information showing that the item is size XXL or larger. The request shall also include client weight and measurements that support the use of the bariatric incontinence product. (e.g. client weight, waist and hip size) These items are manually priced following payment methodology outlined in OAR 410-122-0186.

(b) For services requiring PA, submit documentation as specified in (4)(a)(A)-(D);

(c) The DMEPOS provider is required to keep supporting documentation on file and make available to the Division on request.

(5) Quantity specification:

(a) For PA and reimbursement purposes, a unit count for Category I – III codes is considered as a single or individual piece of an item and not as a multiple quantity;

(b) If an item quantity is listed as number of boxes, cases or cartons, the total number of individual pieces of that item contained within that respective measurement (box, case or carton) must be specified in the unit column on the PA request. See table 122-0630-2;

(c) For gloves (Category IV Miscellaneous), 100 gloves equal one unit.

(6) **Table 122-0630-1**, Incontinent Supplies

(7) **Table 122-0630-2**, Incontinent Supplies – Counting Units and Pieces

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

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 64-2001, f. 12-28-01, cert. ef. 1-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 76-2003, f. & cert. ef. 10-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 22-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-25-12; DMAP 42-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 17-2012, f. 3-30-12, cert. ef. 4-1-12

410-122-0660

Orthotics and Prosthetics

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division of Medical Assistance Programs (Division) may cover some orthotics and prosthetics for covered conditions;

(b) Use the current Healthcare Common Procedure Coding System (HCPCS) Level II Guide for current codes and descriptions;

(c) For adults, follow Medicare current guidelines for determining coverage;

(d) For clients under age 19, the prescribing practitioner must determine and document medical appropriateness;

(e) The hospital is responsible for reimbursing the provider for orthotics and prosthetics provided on an inpatient basis;

(f) Evaluations, office visits, fittings and materials are included in the service provided;

(g) Evaluations will only be reimbursed as a separate service when the provider travels to a client's residence to evaluate the client's need;

(h) See Division 129, Speech-Language Pathology, Audiology and Hearing Aid Services for rule information on tracheostomy speaking valves.

(2) Documentation requirements:

(a) For services that require prior authorization (PA): Submit documentation for review which supports conditions of coverage as specified in this rule are met;

(b) For services that do not require PA: Medical records which support conditions of coverage as specified in this rule are met must be on file with the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider and made available to the Division on request.

(3) **Table 122-0660-1**: Codes requiring PA

(4) **Table 122-0660-2**: Exclusions of Coverage

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

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01;

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OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 40-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2012, f. 3-30-12, cert. ef. 4-1-12

Rule Caption: Amending Preferred Drug List and Prior Authorization Guide – January 26, 2012 DUR/P&T Action.

Adm. Order No.: DMAP 18-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-9-12

Notice Publication Date: 3-1-2012

Rules Amended: 410-121-0030, 410-121-0040

Rules Repealed: 410-121-0030(T), 410-121-0040(T)

Subject: 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 January 26, 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—(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 drug is listed as preferred on the PDL.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL 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

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

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of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) PA is required for all new drugs added to the National Drug Data File (NDDF):

(a) The new drug will be prioritized to be presented to the P & T Committee after the drug's NDDF add date. The P & T Committee will make additional drug specific recommendations to the Authority regarding PA criteria, if any, that should be adopted for the new drug:

(i) If the new drug is in a class where current PA criteria apply, all PA criteria associated with that class shall be required at the time the new drug is added to the NDDF;

(ii) 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;

(b) PA for the new drug under section (5) of this rule remains in effect until such time as the Authority makes a determination regarding the applicability of PA criteria for the new drug or six months elapse from the drug's NDDF add date without a decision regarding PA criteria for that drug, whichever occurs first;

(c) Oral oncology medications, anti-retrovirals, and family planning drugs are excluded from the PA requirements in section (5) of this rule.

(6) PA is required for brand name drugs that have two or more generically equivalent products available and that are NOT determined Narrow Therapeutic Index drugs by the Oregon P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant must be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant must notify the department of patent expiration within 30 days of patent expiration for (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in subsection (3) or (4) of this rule applies, follow that criteria;

(B) If (6)(A) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated, and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA is required for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the 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

Rule Caption: CHIP Prenatal care expansion program to Umatilla County.

Adm. Order No.: DMAP 19-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-1-12

Notice Publication Date: 3-1-2012

Rules Amended: 410-120-0030

Subject: The General Rules Program administrative rules govern Division of Medical Assistance Programs' (Division) payments for services provided to clients. The Division needs to amend 410-120-0030 to add an additional county to participate in the prenatal care expansion project implemented April 1, 2008. Subject to the Centers for Medicare and Medicaid Services (CMS) approval, the Division added Umatilla county providing prenatal care during pregnancy and labor and delivery services for CAWEM women, to be effective on or before April 1, 2012. Early prenatal care positively influences healthy outcomes for both mother and child to mitigate adverse outcomes of high-risk pregnancies and is an accepted standard of care. Lack of access to prenatal care may result in increased risk at birth and in infancy for children, and may result in increased costs of medical care to the state. This program is operated under an amendment to Oregon's State Children's Health Insurance Program (CHIP) plan. Oregon anticipates receiving federal approval for the expansion, effective on or before April 1, 2012. Text within this rule specifies effective dates for each county.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-120-0030

Children's Health Insurance Program

(1) The Children's Health Insurance Program (CHIP) is a federal non-entitlement program for children under 19 years of age that provides health coverage for uninsured, low-income children who are ineligible for Medicaid and meet the CHIP eligibility requirements. The CHIP program is administered by the Oregon Health Authority (Authority) in accordance with the Oregon Health Plan waiver and the CHIP state plan. The General Rules Program (OAR 410-120-0000 et. seq.) and Oregon Health Plan Program rules (OAR 410-141-0000 et. seq.) applicable to the Medicaid program are also applicable to the Authority's CHIP program.

(2) Eligibility criteria, including but not limited to income methodologies and citizenship requirements for medical assistance applicable to children under the age of 19 years, are established in OAR chapter 461 through the program acronym OHP-CHIP.

(3) Benefit package of covered services: Children determined eligible for CHIP receive the same OHP Plus benefits as covered under Medicaid categorically needy program. (For benefits refer to OAR 410-120-1210).

(4) CHIP Prenatal coverage for women not eligible for Medicaid at or below 185% of the FPL:

(a) Notwithstanding subsections (2) and (3) of this rule, pregnant women, who are not eligible for Medicaid and who reside in the participating counties during pregnancy will receive expanded medical services (OHP Plus benefit package, as limited under subsection (d) of this subsection) to provide prenatal care for the unborn child and labor and delivery services through this expansion program. The benefit identifier for this category is BMH, PERC code CX:

(A) Effective 4/1/08 Multnomah and Deschutes;

(B) Effective 10/1/09 Benton, Clackamas, Hood River and Jackson;

(C) Effective 1/1/11 Lane;

(D) Effective 7/1/11 Columbia, Crook, Douglas, Jefferson, Morrow, Union and Wasco;

(E) Effective 4/1/12 Umatilla.

(b) This population is exempt from managed care enrollment. The preferred service delivery system will be Primary Care Management (PCM). Fee-for-service (FFS) enrollment will be available by exception for continuity of care or other Authority-approved reasons that could justify disenrollment from a PCM under OAR 410-141-0085;

(c) Pilot project services continue through labor and delivery. The day after pregnancy ends, eligibility for medical services is based on eligibility categories established in OAR chapter 461;

(d) The following services are not covered for the pilot project:

(A) Postpartum care beyond the global payment;

(B) Sterilization;

(C) Abortion;

(D) Death with dignity services;

(E) Hospice.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025 & 414.065

Hist.: DMAP 7-2008(Temp), f. 3-17-08 & cert. ef. 4-1-08 thru 9-15-08; DMAP 14-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 29-2009(Temp), f. 9-15-09, cert. ef. 10-1-09 thru 3-25-10;

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DMAP 37-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 18-2010, f. 6-23-10, cert. ef. 7-1-10; DMAP 23-2010, f. & cert. ef. 9-1-10; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 11-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 19-2012, f. 3-30-12, cert. ef. 4-1-12

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

Adm. Order No.: DMAP 20-2012(Temp)

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 3-30-12 thru 9-25-12

Notice Publication Date:

Rules Adopted: 410-141-3120

Subject: This rule establishes the operational requirements for Coordinated Care Organizations (CCO) under Oregon's Integrated and Coordinated Health Care Delivery System. CCOs will improve health, increase the quality, reliability, availability and continuity of care, as well as to reduce costs. CCOs will provide medical assistance recipients with health care services that are supported by alternative payment methodologies that focus on prevention and that use patient-centered primary care homes, evidence-based practices and health information technology to improve health and reduce health disparities. The Authority needs to adopt these rules to establish transitional processes, the application process, application criteria, financial solvency requirements and the client grievance system.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-3120

Operations and Provision of Health Services

(1) CCOs shall establish, maintain and operate with a governance structure and community advisory council that is consistent with the requirements of ORS 414.625 and applicable health system transformation laws.

(2) At a minimum, CCOs must provide medically appropriate health services, including flexible services, within the scope of the member's benefit package of health services in accordance with the Prioritized List of Health Services and the terms of the contract.

(3) CCOs must select providers using universal application and credentialing procedures and objective quality information. CCOs must take steps to remove providers from their provider network that fail to meet objective quality standards:

(a) CCOs shall ensure that all participating providers providing coordinated care services to members are credentialed upon initial contract with the CCO and recredentialed no less frequently than every three years. The credentialing and recredentialing process shall include review of any information in the National Practitioners Databank. CCOs shall accept both the Oregon Practitioner Credentialing Application and the Oregon Practitioner Recredentialing Application;

(b) CCOs must screen their providers to be in compliance with 42 CFR 455 Subpart E (42 CFR 455.410 through 42 CFR 455.470) and retain all resulting documentation for audit purposes;

(c) CCOs may elect to contract for or to delegate responsibility for the credentialing and screening processes; however, CCOs shall be responsible for delegated activities, including oversight of the following processes:

(A) Ensuring that coordinated care services are provided within the scope of license or certification of the participating provider or facility and within the scope of the participating provider's contracted services; They must ensure participating providers are appropriately supervised according to their scope of practice;

(B) Providing training for CCO staff and participating providers and their staff regarding the delivery of coordinated care services, applicable administrative rules, and the CCOs administrative policies.

(d) The CCO must provide accurate and timely information to the Authority about:

(A) License or certification expiration and renewal dates;

(B) Whether a provider's license or certification is expired or not renewed or is subject to licensing termination, suspension or certification sanction;

(C) If a CCO knows or has reason to know that a provider has been convicted of a felony or misdemeanor related to a crime, or violation of federal or state laws under Medicare, Medicaid, or Title XIX (including a plea of "nolo contendere").

(e) CCOs may not refer members to or use providers that:

(A) Have been terminated from the Division;

(B) Have been excluded as a Medicaid provider by another state;

(C) Have been excluded as Medicare/Medicaid providers by CMS; or

(D) Are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101.

(f) CCOs may not accept billings for services to members provided after the date of the provider's exclusion, conviction, or termination. CCOs must recoup any monies paid for services to members provided after the date of the provider's exclusion, conviction or termination;

(g) CCOs must require each atypical provider to be enrolled with the Authority and/or must obtain and use registered National Provider Identifiers (NPIs) and taxonomy codes reported to the Authority in the Provider Capacity Report for purposes of encounter data submission, prior to submitting encounter data in connection with services by the provider. CCOs must require each qualified provider to have and use a National Provider Identifier as enumerated by the National Plan and Provider Enumeration System (NPPES);

(h) The provider enrollment request (for encounter purposes) and credentialing documents require the disclosure of taxpayer identification numbers. The Authority shall use taxpayer identification numbers for the administration of this program including provider enrollment, internal verification and administrative purposes for the medical assistance program, for administration of tax laws. The Authority may use taxpayer identification numbers to confirm whether the individual or entity is subject to exclusion from participation in the medical assistance program. Taxpayer identification number includes Employer Identification Number (EIN), Social Security Number (SSN), Individual Tax Identification Number (ITIN) used to identify the individual or entity on the enrollment request form or disclosure statement. Disclosure of all tax identification numbers for these purposes is mandatory. Failure to submit the requested taxpayer identification numbers may result in denial of enrollment as a provider and denial of a provider number for encounter purposes, or denial of continued enrollment as a provider and deactivation of all provider numbers used by the provider for encounters.

(4) A CCO may not discriminate with respect to participation in the CCO against any health care provider who is acting within the scope of the provider's license or certification under applicable state law, on the basis of that license or certification. If a CCO declines to include individual or groups of providers in its network, it must give the affected providers written notice of the reason for its decision. This rule may not be construed to:

(a) Require that a CCO contract with any health care provider willing to abide by the terms and conditions for participation established by the CCO; or

(b) Preclude the CCO from establishing varying reimbursement rates based on quality or performance measures. For purposes of this section, quality and performance measures include all factors that advance the goals of health system transformation, including price.

(5) A CCO may establish an internal review process for a provider aggrieved by a decision under subsection (4) of this rule, including an alternative dispute resolution or peer review process. An aggrieved provider may appeal the determination of the internal review to the Authority.

(6) To resolve appeals made to the Authority under subsections (4) and (5) of this rule, the Authority will provide administrative review of the provider's appeal, using the administrative review process established in OAR 410-120-1580. The Authority will invite the aggrieved provider and the CCO to participate in the administrative review. In making a determination of whether there has been discrimination, the Authority must consider the CCO's:

(a) Network adequacy;

(b) Provider types and qualifications;

(c) Provider disciplines; and

(d) Provider reimbursement rates.

(7) A prevailing party in an appeal under subsections (4) through (6) of this rule shall be awarded the costs of the appeal.

Stat. Auth.: ORS 414.032

Stats. Implemented: 2011 HB 3650, Ch. 602, OL 2011, 2012 SB 1580, Ch. 8, OL 2012, 2012 SB 1509

Hist.: DMAP 20-2012(Temp), f. & cert. ef. 3-30-12 thru 9-25-12

Rule Caption: Align with OAR chapter 461, division 155 medical eligibility rules.

Adm. Order No.: DMAP 21-2012(Temp)

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-1-12 thru 7-10-12

Notice Publication Date:

Rules Amended: 410-120-0006

Rules Suspended: 410-120-0006(T)

ADMINISTRATIVE RULES

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 April 1, 2012, for all medical eligibility requirements for medical assistance when the Authority conducts eligibility determinations.

(2) Any reference to OAR Chapter 461 in Oregon Administrative Rules or contracts of the Authority are deemed to be references to the requirements of this rule, and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

(4) Effective on or after July 1, 2011 the Authority shall conduct medical eligibility determinations using the OAR chapter 461 rules which are in effect on the date the Authority makes the medical eligibility determination.

(5) A request for a hearing resulting from a determination under this rule, made by the Authority shall be handled pursuant to the hearing procedures set out in division 25 of OAR Chapter 461. References to "the Administrator" in division 25 of chapter 461 or "the Department" are hereby incorporated as references to the Authority."

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.065

Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12

Rule Caption: Amendment if HERC Prioritized List of Health services reflecting approved modifications effective April 1, 2012.

Adm. Order No.: DMAP 22-2012(Temp)

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-1-12 thru 9-21-12

Notice Publication Date:

Rules Amended: 410-141-0520

Rules Suspended: 410-141-0520(T)

Subject: The Oregon Health Plan (OHP) Program administrative rules govern Division of Medical Assistance Programs' (Division) payments for services provided to clients. The Division is temporarily amending 410-141-0520 HERC Prioritized List of Health Services to reference the January 1, 2011 – December 31, 2012, Prioritized List of Health Services effective April 1, 2012 which includes interim modifications and technical changes made for 2009 national code set.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-0520

Prioritized List of Health Services

(1) The Health Evidenced Review Commission (HERC) shall assume responsibility for the former HSC's Prioritized List of Health Services (Prioritized List). The Prioritized List is the listing of physical and mental health services with "expanded definitions" of preventive services and the practice guidelines, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HERC. The HERC maintains the most current list on their website: www.oregon.gov/OHA/OHPR/HERC/Pending.shtml, or for a hardcopy contact the Division of Medical Assistance Programs. This rule incorporates by reference the Centers for Medicare and Medicaid Services (CMS) approved biennial January 1, 2011 – December 31, 2012 Prioritized List, including April 1, 2012 modifications and technical revisions, expanded definitions, practice guidelines and condition treatment pairs funded through line 498.

(2) Certain mental health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP) or Physician Care Organization (PCO).

(3) Chemical dependency (CD) services are covered for eligible OHP clients when provided by an FCHP, PCO, or by a provider who has a letter of approval from the Addictions and Mental Health Division and approval to bill Medicaid for CD services.

Stat. Auth.: ORS 192.527, 192.528, 413.042 & 414.065

Stats. Implemented: ORS 192.527, 192.528, 414.065 & 414.727

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-0; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. 11-29-05, cert. ef. 12-1-05; OMAP 71-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 6-2006, f. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f. & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DMAP 40-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 4-2009(Temp), f. & cert. ef. 1-30-09 thru 6-25-09; DMAP 6-2009(Temp), f. 3-26-09, cert. ef. 4-1-09 thru 9-25-09; DMAP 8-2009(Temp), f. & cert. ef. 4-17-09 thru 9-25-09; DMAP 26-2009, f. 8-3-09, cert. ef. 8-5-09; DMAP 30-2009(Temp), f. 9-15-09, cert. ef. 10-1-09 thru 3-29-10; DMAP 36-2009(Temp), f. 12-10-09, f. 1-1-10 thru 3-29-10; DMAP 1-2010(Temp), f. & cert. ef. 1-15-10 thru 3-29-10; DMAP 3-2010, f. 3-5-10, cert. ef. 3-17-10; DMAP 5-2010(Temp), f. 3-26-10, cert. ef. 4-1-10 thru 9-1-10; DMAP 10-2010, f. & cert. ef. 4-26-10; DMAP 27-2010(Temp), f. 9-24-10, cert. ef. 10-1-10 thru 3-25-11; DMAP 43-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 4-2011, f. 3-23-11, cert. ef. 4-1-11; DMAP 24-2011(Temp), f. 9-15-11, cert. ef. 10-1-11 thru 3-26-12; DMAP 45-2011, f. 12-21-11, cert. ef. 12-23-11; DMAP 47-2011(Temp), f. 12-13-11, cert. ef. 1-1-12 thru 6-25-12; DMAP 22-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 9-21-12

Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: Amendment and adoption of rules related to Outpatient Renal Dialysis Facilities (ESRD facilities).

Adm. Order No.: PH 4-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-1-12

Notice Publication Date: 1-1-2012

Rules Adopted: 333-700-0004, 333-700-0017, 333-700-0018, 333-700-0019, 333-700-0053, 333-700-0057, 333-700-0061, 333-700-0062, 333-700-0063, 333-700-0064, 333-700-0072, 333-700-0073

Rules Amended: 333-700-0000, 333-700-0005, 333-700-0010, 333-700-0015, 333-700-0020, 333-700-0025, 333-700-0030, 333-700-0035, 333-700-0040, 333-700-0045, 333-700-0050, 333-700-0060, 333-700-0065, 333-700-0075, 333-700-0080, 333-700-0085, 333-700-0090, 333-700-0095, 333-700-0100, 333-700-0105, 333-700-0110, 333-700-0115, 333-700-0120, 333-700-0125, 333-700-0130

Rules Repealed: 333-700-0055, 333-700-0070

ADMINISTRATIVE RULES

Subject: The Oregon Health Authority, Public Health Division is permanently adopting, amending and repealing Oregon Administrative Rules in chapter 333, division 700 relating to Outpatient Renal Dialysis Facilities (ESRD facilities) in response to legislation passed in 2009 (SB 158) and federal rule alignment. The proposed changes will: update the rules to be consistent with Centers for Medicare and Medicaid regulations; provide better organization for the rules; provide clearer wording; provide clearer processes for licensing, handling complaints, investigations, surveys, and discipline; add a mobile dialysis section; add staffing ratio requirements and make housekeeping changes.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-700-0000

Statement of Purpose

The purpose of these rules is to establish the standards for licensure of outpatient renal dialysis facilities.

Stat. Auth.: ORS 441.015, 441.025 & 442.015

Stats. Implemented: ORS 441.015, 441.025 & 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0004

Referenced Codes and Standards

The codes and standards referenced in these rules shall be considered part of the requirements of these rules to the prescribed extent of each such reference. Where differences occur between provisions of these rules and referenced codes and standards, the provisions of the most restrictive code shall apply.

(1) Association for the Advancement of Medical Instrumentation (AAMI) publication, "Dialysate for Hemodialysis", AAANSI/AAMI RD 52:2004;

(2) Association for the Advancement of Medical Instrumentation (AAMI) publication, "Reuse of Hemodialyzers", third edition ANSI/AAMI RD 47/AI:2003;

(3) 2010 Oregon Structural Specialty Code;

(4) 2010 Oregon Mechanical Specialty Code;

(5) 2010 Oregon Energy Efficiency Specialty Code;

(6) 2010 Oregon Electrical Specialty Code;

(7) 2011 Oregon Plumbing Specialty Code;

(8) 2010 Oregon Fire Code;

(9) National Fire Protection Association, NFPA 101 Life Safety Code, 2000 Edition;

(10) National Fire Protection Association, NFPA 99 Standard for Healthcare Facilities, 1999 Edition;

(11) National Fire Protection Association, NFPA 110 Standard for Emergency and Standby Power Systems, 2002 Edition;

(12) National Fire Protection Association, NFPA 90A Standard for Installation of Air-Conditioning and Ventilating Systems, 1996 Edition;

(13) National Fire Protection Association, NFPA 255 Standard Method of Test of Surface Burning Characteristics of Building Materials, 2000 Edition;

(14) ASHRAE Standard 170-2008 *Ventilation of Health Care Facilities*.

Stat. Auth.: ORS 441.015, 441.025 & 441.060

Stats. Implemented: ORS 441.025 & 441.060

Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0005

Definitions

As used in OAR chapter 333, division 700, unless the context requires otherwise, the following definitions apply:

(1) "Administrator" means a person designated by the governing body to have overall management of the facility. The administrator enforces the rules and regulations relative to the health care and safety of patients. The administrator plans, organizes, and directs those responsibilities delegated to the administrator by the governing body.

(2) "Agreement", as used in these rules, means a written document executed between a dialysis facility and another facility in which the other facility agrees to assume responsibility for furnishing specified services to patients and for obtaining reimbursement for those services.

(3) "Arrangement", as used in these rules, means a written document executed between a dialysis facility and another facility in which the other facility agrees to furnish specified services to patients but the dialysis facility retains responsibility for those services and for obtaining reimbursement for them.

(4) "Assessment" means a complete assessment done by a physician, registered nurse, social worker, or dietitian that is appropriate for the scope of practice for that discipline. Assessment includes:

(a) Systematic and ongoing collection of information to determine an individual's health status and need for intervention;

(b) Comparison with past information; and

(c) Judgment, evaluation, or conclusion that occurs as a result of subsections (a) and (b) of this section.

(5) "Authentication" means verification that an entry in the patient medical record is genuine.

(6) "Authority" means the Oregon Health Authority.

(7) "Certified Hemodialysis Technician" (CHDT) has the meaning given that term in ORS 688.625.

(8) "CMS" means the Center for Medicare and Medicaid Services.

(9) "Conditions for Coverage" (CfC) means the minimum health and safety standards that providers and suppliers must meet in order to be Medicare and Medicaid certified.

(10) "Dialysis" means a process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semi-permeable membrane. The two types of dialysis that are currently in common use are hemodialysis and peritoneal dialysis.

(11) "Discharge", as used in these rules, means the process whereby a patient who was receiving services in a facility is either sent home, transferred to another facility or has died.

(12) "Division" means the Public Health Division of the Oregon Health Authority.

(13) "End-Stage Renal Disease (ESRD)" means that stage of renal impairment that appears irreversible and permanent, and requires a regular course of dialysis or kidney transplantation to maintain life.

(14) "ESRD service" means the type of care or services furnished to a dialysis patient.

(15) "Facility", as used in these rules, means an outpatient renal dialysis facility.

(16) "Furnishes directly" means the facility provides the service through its own staff and employees, or through individuals who are under direct contract to furnish such services personally for the facility (i.e., not through Agreements" or "arrangements").

(17) "Furnishes on the premises" means the facility furnishes services on its main premises; or on its other premises that are contiguous with or in immediate proximity to the main premises, and under the direction of the same professional staff and governing body as the main premises.

(18) "Governing body" means the body or person legally responsible for the direction and control of the operation of the facility.

(19) "Governmental unit" means the state, or any county, municipality, or other political subdivision, or any related department, division, board or other agency.

(20) "Health care facility" (HCF) has the meaning given that term in ORS 442.015.

(21) "Health Care Facility Licensing Law" means ORS 441.005 through 441.990 and implementing rules.

(22) "Histocompatibility testing" means laboratory test procedures which determine compatibility between a potential organ donor and a potential organ transplant recipient.

(23) "Hospital" has the meaning given that term in ORS 442.015.

(24) "Licensed" means that the person to whom the term is applied is currently licensed, certified or registered by the proper authority to follow his or her profession or vocation within the State of Oregon, and when applied to a health care facility means that the facility is currently licensed by the Authority.

(25) "Licensed nurse" means a nurse licensed under ORS chapter 678 to practice registered or practical nursing.

(26) "Licensed Practical Nurse" (LPN) means a person licensed under ORS chapter 678 to practice practical nursing.

(27) "Major alteration" means any structural change to the foundation, roof, floor, or exterior or load bearing walls of a building, or the extension of an existing building to increase its floor area. Major alteration also means the extensive alteration of an existing building such as to change its function and purpose, even if the alteration does not include any structural change to the building.

(28) "Network" means Northwest Renal Network (Network 16). The Network is a Quality Improvement Organization under contract to the federal Centers for Medicare and Medicaid Services.

(29) "New Construction" means a new building or an addition to an existing building.

(30) "NFPA" means National Fire Protection Association.

ADMINISTRATIVE RULES

(31) "Outpatient dialysis" means dialysis furnished by a licensed outpatient renal dialysis facility. Outpatient dialysis includes:

(a) Staff-assisted dialysis. Dialysis performed by the staff of the facility;

(b) Self-dialysis. Dialysis performed, with little or no professional assistance, by a dialysis patient who has completed an appropriate course of training;

(c) "Home dialysis" means dialysis performed by an appropriately trained patient or helper at home;

(d) "Self-dialysis and home dialysis training" means a program that trains dialysis patients to perform self-dialysis or home dialysis with little or no professional assistance, and trains other individuals to assist patients in performing self-dialysis or home dialysis.

(32) "Outpatient Mobile dialysis" means hemodialysis treatments provided by qualified personnel in a patient's home, whether that is a private residence or care facility.

(33) "Organ procurement", as used in these rules, means the process of acquiring donor kidneys.

(34) "Oregon Sanitary Code" means the Food Sanitation Rules in OAR 333-150.

(35) "Patient audit" means review of the medical record and physical inspection and interview of a patient.

(36) "Patient care staff" as used in these rules means registered nurses, licensed practical nurses, certified hemodialysis technicians, social workers, and dietitians.

(37) "Person" has the meaning given that term in ORS 442.015.

(38) "Physician" means a person licensed under ORS Chapter 677 to practice medicine by the Oregon Medical Board.

(39) "Physician's Assistant" has the meaning given that term in ORS 677.495.

(40) "Qualified instructor" means a person who is qualified in the field of instruction by education and experience.

(41) "Qualified personnel" means personnel who meet the requirements specified in this section.

(a) "Dietitian" means a person who is a licensed dietitian as specified in ORS 691.435.

(b) "Nurse responsible for nursing service" means a person who is licensed as a registered nurse by the state in which practicing, and

(A) Has at least 12 months of experience in clinical nursing, and an additional 6 months of experience in nursing care of the patient with permanent kidney failure or who is undergoing kidney transplantation including training in and experience with the dialysis process; or

(B) Has 18 months of experience in nursing care of the patient on maintenance dialysis, or in nursing care of the patient with a kidney transplant including training in and experience with the dialysis process.

(c) "Physician-director" or medical director means a physician who:

(A) Is Board-certified in internal medicine or pediatrics by a professional board, and has had at least 12 months of experience or training in the care of patients at dialysis facilities; or

(B) As of April 1, 2012 served for at least 12 months as director of a dialysis or transplantation program.

(d) "Social worker" means a person who:

(A) Has completed a course of study with specialization in clinical practice at, and holds a masters degree from, a graduate school of social work accredited by the Council on Social Work Education; or

(B) Has served for at least two years as a social worker, one year of which was in a dialysis unit or transplantation program prior to September 1, 1976, and has established a consultative relationship with a social worker who qualifies under paragraph (d)(A) of this definition.

(e) "Transplantation surgeon" means a physician who:

(A) Is board-eligible or board-certified in general surgery or urology by a professional board; and

(B) Has at least 12 months training or experience in the performance of renal transplantation and the care of patients with renal transplants.

(42) "Records" are defined as case histories, clinical records, X-rays, treatment charts, progress reports and other similar written accounts of the patients of any provider.

(43) "Registered Nurse" (RN) means a person licensed under ORS chapter 678 to practice registered nursing.

(44) "Statement of deficiencies" means a document issued by the Division that describes a facility's deficiencies in complying with health care facility licensing laws or conditions for coverage.

(45) "Survey" means an inspection of a facility to determine the extent to which a facility is in compliance with health facility licensing laws and conditions for coverage.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025 & 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0010

Application for Licensure

(1) An outpatient renal dialysis facility must obtain a license from the Division.

(2) An applicant wishing to apply for a license to operate an outpatient renal dialysis facility shall submit an application on a form prescribed by the Division and pay the applicable fee as specified in OAR 333-700-0015. The application form shall specify such information as required by the Division and must include, but is not limited to, demographic, ownership, and administrative information.

(3) No person or facility licensed pursuant to the provisions of ORS Chapter 441 shall in any manner or by any means assert, represent, offer, provide or imply that such person or facility is or may render care or services other than that which is permitted by or which is within the scope of the license issued to such person or facility by the Division nor shall any service be offered or provided which is not authorized within the scope of the license issued to such person or facility.

(4) Each application for license renewal shall accurately reflect only the number of stations the facility is then presently capable of operating considering existing equipment and service capability of the facility and the physical requirements as specified within these rules and regulations. The number of stations to be licensed shall not exceed the number of stations reflected in the license to be renewed unless approved by the Division.

(5) Compliance with "Submission of Plans," OAR 333-700-0065 is also required as a condition of licensure.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.020 & 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0015

Annual License Fee

For outpatient renal dialysis facilities, the annual licensing fee shall be \$2,000. Each license shall be issued only for the facility named in the application and shall not be transferable. If the ownership of the agency changes, the new owner shall apply for a license.

Stat. Auth.: ORS 441.015 & 442.025

Stats. Implemented: ORS 441.020 & 442.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0017

Application Review

(1) In reviewing an application for an outpatient renal dialysis facility the Division shall:

(a) Verify compliance with the applicable sections of ORS chapters 441 and 442, and OAR chapter 333, division 700;

(b) Conduct an on-site licensing survey in coordination with the State Fire Marshal's Office; and

(c) Verify compliance with conditions for coverage if the applicant has requested Medicare or Medicaid certification.

(2) In determining whether to license an outpatient renal dialysis facility, the Division shall consider factors relating to the health and safety of individuals to be cared for at the facility and the ability of the operator of the facility to safely operate the facility, and may not consider whether the facility is or shall be a governmental, charitable or other nonprofit institution or whether it is or shall be an institution for profit.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.022 & 442.025

Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0018

Approval of License Application

(1) The Division shall notify an applicant in writing if a license application is approved, and shall include the license with the appropriate information.

(2) A license shall be issued only for the premises and persons or governmental units named in the application and is not transferable or assignable.

(3) The license shall be conspicuously posted.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

ADMINISTRATIVE RULES

333-700-0019

Denial of License Application

If the Division intends to deny a license application, it shall issue a Notice of Proposed Denial of License Application in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025
Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0020

Expiration and Renewal of License

Each license to operate an outpatient renal dialysis facility shall expire on December 31 following the date of issue, and if a renewal is desired, the licensee shall make application at least 30 days prior to the expiration date upon a form prescribed by the Division as described in OAR 333-700-0010.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025
Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0025

Denial or Revocation of a License

(1) A license for any facility may be denied, suspended or revoked by the Division when the Division finds that there has been a substantial failure to comply with the provisions of these rules and of health care facility licensing laws.

(2) A person or persons in charge of a facility shall not permit, aid or abet any illegal act affecting the welfare of the license.

(3) A license shall be denied, suspended or revoked in any case where the State Fire Marshal certifies that there was failure to comply with all applicable laws, lawful ordinances and rules relating to safety from fire.

(4) A license may be suspended or revoked for failure to comply with a Division order arising from a facility's substantial lack of compliance with the rules or statutes.

(5) A facility license that has been suspended or revoked may be reissued after the Division determines that the facility has satisfactorily complied with the health care facility licensing laws.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025, 441.030 & 441.037
Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0030

Discontinuance and Recommencement of Operation of Outpatient Renal Dialysis Facilities

(1) If an outpatient renal dialysis facility wishes to temporarily discontinue operation but retain its license to operate, the facility shall notify the Division of the fact at least 14 days prior to the temporary discontinuance.

(2) An outpatient renal dialysis facility shall notify all patients of facility closure. Such notice shall include a procedure by which individuals may obtain their medical records.

(3) Before any patient is admitted to an outpatient renal dialysis facility that has temporarily discontinued operation, the outpatient renal dialysis facility shall request approval from the Division. The Division may conduct an on-site survey or other review to determine whether the outpatient renal dialysis facility is in compliance with health care facility licensing laws and conditions for coverage, if applicable.

(4) An outpatient renal dialysis facility may not renew operation until it receives approval, in writing, from the Division.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025
Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0035

Return of Facility License

(1) If an outpatient renal dialysis facility's license is suspended, revoked, expires, or if a facility decides to permanently close, the license certificate in the licensee's possession shall be returned to the Division immediately.

(2) If the outpatient renal dialysis facility is voluntarily permanently closed, the facility shall issue a multimedia press release within 24 hours, notifying the public of facility closure. Such notice shall include a procedure by which individuals may obtain their medical records.

(3) An outpatient renal dialysis facility shall notify the Division of a facility's closure under section (2) of this rule at least 14 days prior to the closure and submit plans for the orderly transfer of the patients and the storage and disposal of medical records. Medical records not claimed that are more than seven years old from the last date of discharge may be destroyed. Medical records not claimed that are less than seven years old from the last

date of discharge shall be stored until they are more than seven years old from the last date of discharge.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025 & 441.030
Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0040

Classification

(1) Outpatient Renal Dialysis facilities (also known as End Stage Renal Dialysis facilities) that provides renal dialysis services directly to outpatients.

(2) The classification of each facility shall be so designated on the license.

(3) Health care facilities licensed by the Division shall neither assume a descriptive title or be held out under any descriptive title other than the classification title established by the Division and under which the facility is licensed. This not only applies to the name on the facility but where stationery, advertising and other representations are involved.

(4) No change in the licensed classification of any facility, as set out in this rule, shall be allowed by the Division unless such facility shall file a new application, accompanied by the required license fee, with the Division. If the Division finds that the applicant and facility comply with health care facility (HCF) laws and the regulations of the Division relating to the new classification for which application for licensure is made, the Division shall issue a license for such classification.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025 & 441.030
Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0045

Hearings

Upon written notification by the Division of revocation, suspension or denial to issue or renew a license, a written request by the facility for a hearing in accordance with ORS 183.310 to 183.500 shall be granted by the Division.

Stat. Auth.: ORS 441.025
Stats. Implemented: ORS 183.413 - 183.500 & 441.037
Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0050

Adoption by Reference

All rules, standards and publications referred to in OAR 333-700-0000 through 333-700-0130 are made a part thereof. Copies are available for inspection at the Division during office hours. Where publications are in conflict with the rules, the rules shall govern.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025
Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0053

Complaints

(1) Any person may make a complaint verbally or in writing to the Division regarding an allegation against an outpatient renal dialysis facility of a violation of any health care facility licensing law or condition for coverage.

(2) The identity of a person making a complaint shall be kept confidential.

(3) An investigation may be carried out as soon as practicable after the receipt of a complaint in accordance with OAR 333-700-0057.

(4) If the complaint involves an allegation of criminal conduct or an allegation that is within the jurisdiction of another local, state, or federal agency, the Division shall refer the matter to that agency.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025 & 441.057
Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0057

Investigations

(1) As soon as practicable after receiving a complaint, taking into consideration the nature of the complaint, Division staff may begin an investigation.

(2) An outpatient renal dialysis facility shall permit Division staff access to the facility during an investigation.

(3) An investigation may include but is not limited to:

(a) Interviews of the complainant, patients of the facility, patient family members, witnesses, facility management and staff;

(b) On-site observations of patients, staff performance, and the physical environment of the facility; and

(c) Review of documents and records.

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(4) Except as otherwise specified in 42 CFR 401, Subpart B, information obtained by the Division during an investigation of a complaint or reported violation under this section is confidential and not subject to public disclosure under ORS 192.410 through 192.505. Upon the conclusion of the investigation, the Division may publicly release a report of its findings but may not include information in the report that could be used to identify the complainant or any patient at the health care facility. The Division may use any information obtained during an investigation in an administrative or judicial proceeding concerning the licensing of a health care facility, and may report information obtained during an investigation to a health professional regulatory board as defined in ORS 676.160 as that information pertains to a licensee of the board.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025 & 441.057
Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0060

Surveys

(1) The Division shall, in addition to any investigations conducted under OAR 333-700-0057, conduct at least one on-site licensing survey of each outpatient renal dialysis facility every three years to determine compliance with health care facility licensing laws and at such other times as the Division deems necessary.

(2) In lieu of an on-site inspection required under section (1) of this rule, the Division may accept:

(a) CMS certification by a federal agency or an approved accrediting organization; or

(b) A survey conducted within the previous three years by an accrediting organization approved by the Division, if:

(A) The certification or accreditation is recognized by the Division as addressing the standards and conditions for coverage requirements of the CMS and other standards set by the Division. Health care facilities must provide the Division with the letter from CMS indicating its deemed status;

(B) The health care facility notifies the Division to participate in any exit interview conducted by the federal agency or accrediting body; and

(C) The health care facility provides copies of all documentation concerning the certification or accreditation requested by the Division.

(3) An outpatient renal dialysis facility shall permit Division staff access to the facility during a survey.

(4) An outpatient renal dialysis facility shall make all requested documents and records available to the surveyor for review and copying.

(5) Entrance conference: The Division's surveyor shall hold a conference with the person who is in charge of the facility at the time of the survey for the purpose of explaining the nature and scope of the survey.

(6) An on-site survey may include, but not be limited to:

- (a) Equipment;
- (b) Water treatment and reuse;
- (c) Infection control;
- (d) Quality assurance/Quality Assessment and Performance Improvement;

(e) Provision for and coordination of treatment;

(f) Staff qualifications;

(g) Facility staffing;

(h) Medical director involvement;

(i) Patients' rights;

(j) Physical environment;

(k) Emergency management;

(l) Interviews of patients, patient family members, facility management and staff;

(m) On-site observations of patients, staff performance, and the physical environment of the facility;

(n) Review of documents and records; and

(o) Patient audits.

(7) Following a survey, Division staff may conduct an exit conference with the facility administrator or his or her designee. During the exit conference Division staff shall:

(a) Inform the facility representative of the preliminary findings of the survey; and

(b) Give the person a reasonable opportunity to submit additional facts or other information to the surveyor in response to those findings.

(8) Following the survey, Division staff shall prepare and provide the facility administrator or his or her designee specific and timely written notice of the findings.

(9) If the findings result in a referral to another regulatory agency, Division staff shall submit the applicable information to that referral agency for its review and determination of appropriate action.

(10) If no deficiencies are found during a survey, the Division shall issue written findings to the facility administrator indicating that fact.

(11) If deficiencies are found, the Division shall take informal or formal enforcement action in compliance with OAR 333-700-0062 or 333-501-0063.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025 & 441.060
Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0061

Violations

In addition to non-compliance with any health care facility licensing law or condition for coverage, it is a violation to:

(1) Refuse to cooperate with an investigation or survey, including but not limited to failure to permit Division staff access to the facility, its documents or records;

(2) Fail to implement an approved plan of correction;

(3) Fail to comply with all applicable laws, lawful ordinances and rules relating to safety from fire;

(4) Refuse or fail to comply with an order issued by the Division;

(5) Refuse or fail to pay a civil penalty; or

(6) Fail to comply with rules governing the storage of medical records following the closure of a facility.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025 & 441.030
Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0062

Informal Enforcement

(1) If, during an investigation or survey Division staff document violations of health care facility licensing laws or conditions for coverage, the Division may issue a statement of deficiencies that cites the law alleged to have been violated and the facts supporting the allegation.

(2) A signed plan of correction must be received by the Division within 10 business days from the date the statement of deficiencies was mailed to the facility. A signed plan of correction may not be used by the Division as an admission of the violations alleged in the statement of deficiencies.

(3) An outpatient renal dialysis facility shall correct all deficiencies within 60 days from the date of the exit conference, unless an extension of time is requested from the Division. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(4) The Division shall determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Division, the Division shall notify the facility administrator in writing and request that the plan of correction be modified and resubmitted no later than 10 working days from the date the letter of non-acceptance was mailed to the administrator.

(5) If the facility does not come into compliance by the date of correction reflected on the plan of correction or 60 days from date of the exit conference, whichever is sooner, the Division may propose to deny, suspend, or revoke the facility license, or impose civil penalties.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025
Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0063

Formal Enforcement

(1) If, during an investigation or survey Division staff document substantial failure to comply with health care facility licensing laws, conditions for coverage or if a facility fails to pay a civil penalty imposed under ORS 441.170, the Division may issue a Notice of Proposed Suspension or Notice of Proposed Revocation in accordance with ORS 183.411 through 183.470.

(2) The Division may issue a Notice of Imposition of Civil Penalty for violations of health care facility licensing laws.

(3) At any time the Division may issue a Notice of Emergency License Suspension under ORS 183.430(2).

(4) If the Division revokes a facility license, the order shall specify when, if ever, the facility may reapply for a license.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025
Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0064

Civil Penalties

(1) A licensee that violates a health care facility licensing law, including OAR 333-700-0061 (Violations), is subject to the imposition of a civil penalty not to exceed \$500 per day per violation.

(2) In addition to the penalties under section (2) of this rule, civil penalties may be imposed for violations of ORS 441.030 or 441.015(1).

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(3) In determining the amount of a civil penalty the Division shall consider whether:

- (a) The Division made repeated attempts to obtain compliance;
 - (b) The licensee has a history of noncompliance with health care facility licensing laws;
 - (c) The violation poses a serious risk to the public's health;
 - (d) The licensee gained financially from the noncompliance; and
 - (e) There are mitigating factors, such as a licensee's cooperation with an investigation or actions to come into compliance.
- (4) The Division shall document its consideration of the factors in section (3) of this rule.
- (5) Each day a violation continues is an additional violation.
- (6) A civil penalty imposed under this rule shall comply with ORS 183.745.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.030 & 441.990
Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0065

Submission of Plans

(1) An outpatient renal dialysis facility proposing to make alterations to an existing facility or to construct a new facility shall, before commencing such alteration, addition or new construction, submit plans and specifications to the Division for preliminary inspection and approval or recommendations with respect to compliance with Division rules and compliance with National Fire Protection Association standards when the facility is also to be Medicare or Medicaid certified.

(2) Submissions shall comply with OAR chapter 333, division 675. Plans must also be submitted to the local building division having authority for review and approval in accordance with state building codes.

Stat. Auth.: ORS 441.015, 441.025 & 441.060
Stats. Implemented: ORS 441.025 & 441.060
Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0072

Waivers

(1) While all outpatient renal dialysis facilities are required to maintain continuous compliance with the Division's rules, these requirements do not prohibit the use of alternative concepts, methods, procedures, techniques, equipment, facilities, personnel qualifications or the conducting of pilot projects or research. A request for a waiver from a rule must be:

- (a) Submitted to the Division in writing;
- (b) Identify the specific rule for which a waiver is requested;
- (c) The special circumstances relied upon to justify the waiver;
- (d) Why the facility is unable to be in compliance, the alternatives considered and why the alternatives were not selected;
- (e) Demonstrate that the proposed waiver is desirable to maintain or improve the health and safety of the patients, to meet the individual and aggregate needs of patients, and shall not jeopardize patient health and safety; and

(f) The proposed duration of the waiver.

(2) Upon finding that the facility has satisfied the conditions of this rule, the Division may grant a waiver.

(3) A facility may not implement a waiver until it has received written approval from the Division.

(4) During an emergency the Division may waive a rule that a facility is unable to meet, for reasons beyond the facility's control. If the Division waives a rule under this section it shall issue an order, in writing, specifying which rules are waived, which facilities are subject to the order, and how long the order shall remain in effect.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025
Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0073

Outpatient Mobile Dialysis

(1) A dialysis facility that provides staff assisted hemodialysis in a patient's home must:

- (a) Be licensed as an outpatient renal dialysis facility; and
- (b) Have a centralized, secure location, where the patient, water quality, equipment maintenance, quality assurance and other records are available for review by the Division.

(2) A facility must obtain written approval from the Authority prior to implementation of the provision of outpatient mobile dialysis services. The Authority may conduct a survey to determine compliance with this rule.

(3) Hemodialysis treatments must be performed by an individual currently licensed or certified in Oregon as a certified hemodialysis technician, registered nurse or licensed practical nurse who:

(a) Has at least six months of experience in caring for hemodialysis patients; and

(b) Has completed, prior to providing assisted hemodialysis treatments in a patient's home, a training program and skills checklist specific to care of hemodialysis patients in the patient's home and management of complications.

(4) The dialysis facility RN responsible for patient care shall ensure that individuals performing hemodialysis in a patient's home meet the qualifications in section (3) of this rule and shall document such qualifications and provide the documentation to the Division upon request.

(5) The facility must ensure that the water and dialysate testing and other requirements of American National Standards Institute/Association for the Advancement of Medical Instrumentation (ANSI/AAMI) RD52:2004 are met. In addition, bacteriological and endotoxin testing must be performed on a quarterly or more frequent basis as needed, to ensure that the quality of the water and dialysate meets these AAMI requirements.

(6) The dialysis facility must correct any water and dialysate quality problems for the home hemodialysis patient.

(a) A record of any preventive hemodialysis machine maintenance as required by the manufacturer's directions for use must be maintained and any breakdowns repaired; and

(b) The facility must arrange for backup dialysis until water quality and mechanical problems are corrected.

(7) If staff assisted outpatient mobile dialysis is provided in a health care facility providing 24/7 onsite nursing services the following additional requirement must be met:

(a) The staffing ratio for staff assisted home dialysis must be one licensed nurse or CHDT per patient unless the following conditions are met:

(A) The patients are located in one room in which they are visible from a central location within that room; and

(B) There is a second staff member, who is a registered nurse, with at least six months dialysis experience.

(b) Should the requirements in paragraphs (a)(A) and (B) of this section be met, the staffing ratio must be dependent on the acuity and needs of the patients as determined by the dialysis facility RN or the patient's nephrologist. In no case shall the staffing ratio be greater than three patients per one qualified staff member while patients are undergoing hemodialysis treatments.

(c) There must be an agreement between the dialysis facility and the care facility specifying the expectations of each party, to ensure the coordination of individual patient care needs.

(d) Policies and procedures regarding care of the hemodialysis patient must be in place for both the care facility and dialysis facility.

(e) If the staff assisted hemodialysis is performed by a CHDT there must be an RN on duty, and accessible, in the care facility who has documented training in the care of hemodialysis patients including, but not limited to, common ESRD related medications, IV medications commonly given during dialysis, potential complications of hemodialysis, assessment of ESRD patients, and treatment of those complications. This training shall be updated annually.

(f) There must be documentation reflecting that:

(A) On the day of dialysis prior to the initiation of the hemodialysis treatment, the care facility RN has assessed the patient and consulted with the dialysis facility RN; and

(B) The CHDT providing the hemodialysis treatment must consult with the care facility RN before and after the hemodialysis treatment.

(g) The dialysis facility RN must be available at all times for consultation while the patient is undergoing hemodialysis treatment.

Stat. Auth.: ORS 441.015 & 441.025
Stats. Implemented: ORS 441.025
Hist.: PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0075

Administrative Authority and Management

(1) Every facility shall be organized, equipped, and administered to provide adequate care for each person admitted.

(2) The governing body, the owner, or the person or persons designated by the owner or governing body shall be the authority responsible for the management and control of the facility, and shall not:

(a) Permit, aid or abet the commission of any unlawful act relating to the securing of a license, or the operation of the facility; and

(b) With the exception of abusive or disruptive patients, refuse to admit and treat, on the basis of medical need, alcohol and substance abusers, mentally ill or intellectually disabled patients solely on the basis of their substance abuse or mental illness. Discharge of patients exhibiting

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violent, threatening, disruptive, or abusive behavior shall be handled as outlined in OAR 333-700-0115(2)(f).

(3) The governing authority shall formulate and implement a written set of bylaws or other appropriate policies and procedures for the operation of the facility. These shall:

- (a) State the purpose of the facility;
- (b) Specify by title the person who is responsible for the operation and maintenance of the facility, and methods established by the governing body for holding that person responsible;
- (c) Provide for at least annual meetings of the governing body; and
- (d) Provide a policy and procedure manual that is designed to ensure professional and safe care for patients including, but not limited to:
 - (A) Admission criteria;
 - (B) Rights and responsibilities of patients;
 - (C) Care of patients;
 - (D) Patient grievance procedures;
 - (E) Infection control policies;
 - (F) Personnel qualifications and training requirements;
 - (G) Consultant qualifications, functions, and responsibilities;
 - (H) Reprocessing of hemodialyzers;
 - (I) Emergency management of patients;
 - (J) Annual reviews of the facilities policies, procedures and operation;

and

(K) A facility-wide Quality Assessment and Performance Improvement (QAPI) program to evaluate the provision of patient care. The program shall have a written plan of implementation. Quality data shall be reviewed and analyzed quarterly. The QAPI program shall be reviewed at least annually. It shall be designed to effectively identify and correct problems. Written documentation of QAPI activities shall be available at the facility.

(4) The governing body shall review implementation of these policies at least annually to ensure that the intent of the policies is carried out. These policies shall be developed by the physician responsible for supervising and directing the provision of dialysis services, or the facility's organized medical staff, with the advice from a group of professional personnel associated with the facility, including, but not limited to, one or more physicians and one or more registered nurses experienced in rendering dialysis care.

(5) An administrator shall be appointed by the governing body, shall be responsible for the management of the facility, and shall assure adherence to facility policies and procedures. The required full time nurse manager may serve as the administrator. Any change in the administrator shall be reported to the Division in writing within 30 days. The administrator must have sufficient experience in the management of dialysis facilities, or appropriate education so as to assure that they are qualified to carry out their responsibilities.

- (6) The following documents shall be available at the facility:
- (a) Appropriate documents showing control and ownership;
 - (b) Bylaws, policies and procedures of the governing body;
 - (c) Minutes of the governing body meetings;
 - (d) Minutes of the facility's professional staff meetings;
 - (e) Reports of inspections, reviews, and corrective actions taken related to licensure;
 - (f) Minutes of the facility's quality improvement meetings; and
 - (g) Contracts and agreements to which the facility is a party.
- (7) Medical Staff:

(a) If more than one physician practices at the facility, the physicians shall be organized as a Medical Staff with appropriate bylaws approved by the governing body. The medical staff shall meet at least once a year, and minutes shall be maintained at the facility of such meetings;

(b) The Governing Body shall designate a qualified physician as the physician-director of the facility. The physician-director shall be responsible for the development and implementation of patient care policies and medical staff bylaws, rules, and regulations;

(c) A qualified physician with demonstrated experience in the care of patients receiving dialysis shall be on call and available to patients within a reasonable time frame;

(d) The facility shall require and the medical director shall ensure that any adverse medical patient outcomes are communicated to the patient's physician, and that the facility takes appropriate corrective action.

(8) Transfer Agreement: Each facility shall have in effect an agreement with one or more hospitals, for the provision of inpatient care or other hospital services. The transfer agreement shall provide the basis for an effective working agreement under which the services of the hospital are promptly available to the facility's patients as needed. The facility shall

have on file documentation of this agreement. There shall be reasonable assurances that:

(a) Transfer of patients must be effected between the hospital and the facility whenever such transfer is deemed medically necessary by the physician, with timely acceptance and admission;

(b) There shall be interchange, within one working day, of medical or other necessary information useful in the medical care of the patient transferred to a hospital, or to another facility; and

(c) Security and accountability are assured for the patient's personal effects.

(9) The patient care policies shall cover the following:

(a) Scope of services provided by the facility (either directly or under arrangement);

(b) Admission and discharge policies (in relation to both in-facility care and home care);

(c) Medical supervision and physician services;

(d) Patient care plans, frequency of review, and methods of implementation;

(e) Care of patients in medical and other emergencies;

(f) Pharmaceutical services;

(g) Medical records (including those maintained onsite, maintained offsite by the facility, maintained in the patients' homes);

(h) Administrative records;

(i) Use and maintenance of the physical plant and equipment; and

(j) The provision of home dialysis support services, if offered.

(10) The physician-director of the facility must be designated in writing and must be responsible for the execution of patient care policies. If the responsibility for day-to-day execution of patient care policies has been delegated by a physician-director to a registered nurse, the physician-director shall provide medical guidance in such matters.

(11) The facility policy shall provide that, whenever feasible, hours for dialysis are scheduled for patient convenience and that arrangements are made to accommodate employed patients who wish to be dialyzed during their non-working hours.

(12) The governing body shall adopt policies to ensure there is evaluation of the progress each patient is making toward the goals stated in the patient's care plan. Such evaluations shall be carried out through regularly scheduled conferences, with participation by the staff involved in the patient's care.

(13) Medical supervision and emergency coverage: The governing body of the facility shall ensure that the health care of every patient is under the continuing supervision of a physician.

(14) The physician responsible for the patient's medical supervision shall evaluate the patient's immediate and long-term needs and shall prescribe a planned regimen of care which covers indicated dialysis and other treatments, services, medications, diet, special procedures recommended for the health and safety of the patient, and plans for continuing care and discharge. Such plans are made with input from other professional personnel involved in the care of the patient. The facility staff must ensure the physician orders are implemented appropriately.

(15) The governing body must ensure that medical care is available for emergencies during the hours the facility is in operation. The facility shall post at the nursing/monitoring station a roster with the names of the physicians to be called and how they can be reached. There shall be a system in place that must direct patients who call during non-operational hours to appropriate assistance.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025 & 441.055

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0080

Quality Assessment and Performance Improvement

(1) The facility shall establish a program to monitor the quality of care given to patients. This program shall document that the facility staff evaluate the provision of care, determine treatment goals, identify opportunities for improvement, develop and implement improvement plans, and evaluate implementation until resolution of a problem is achieved.

(2) The medical director of the facility is responsible for quality monitoring and improvement activities. The Quality Assessment and Performance Improvement (QAPI) team shall consist of a multi-disciplinary team to include representatives of medical staff, administration, nursing, technical, social work and dietary. Meetings of the QAPI team shall be held at least quarterly or more often if needed to resolve a particular issue.

(3) QAPI mechanisms shall include:

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(a) An ongoing review of key elements of care using comparative and trend data to include aggregate patient data and to promote the reduction of risks;

(b) Identification of areas where performance measures or outcome data indicate a need for improvement;

(c) Establishment of QAPI committees to identify any variations from desired outcomes; create and implement improvement plans; evaluate the effectiveness of the improvement plan; and

(d) Establishment and monitoring of key quality indicators. For each indicator, the facility shall establish a performance level consistent with current professional knowledge. At a minimum, the following indicators shall be monitored on an ongoing basis:

(A) Water Quality including chemical and bacteriological indicators;

(B) Equipment maintenance and repair;

(C) Reprocessing of dialyzers including performance measures, labeling, disinfection, and pyrogenic reactions;

(D) Infection control including monitoring of staff and patient infections;

(E) Clinical outcomes including laboratory values, dialysis adequacy, hospitalizations, vascular access complications;

(F) Incidents and rate of adverse occurrences (clinical variances) including accidents, medication errors, treatment errors, infiltrations, needle sticks, adverse drug reactions, and other occurrences affecting patients, visitors, or staff;

(G) Mortality including review of each patient death and monitoring of mortality rates and trends;

(H) Complaints and suggestions including those from patients, family and staff; and

(I) Other indicators as required by federal regulations and Network requirements.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0085

Patient Care Plan

(1) Each facility shall maintain a written patient care plan for each patient to ensure that patients receive the appropriate treatment modality and the appropriate care within that modality. Provisions shall be made for the patient, or when appropriate, parent or legal guardian to be involved with the health team in the planning of care and in the development of the care plan. Due consideration shall be given to his/her preferences.

(2) The written patient care plan for each patient of a facility (including home dialysis patients under the supervision of the facility) shall be based upon the nature of the patient's illness, the treatment prescribed, and an assessment of the patient's needs.

(3) The patient care plan shall be personalized for the individual, shall reflect the psychological, nutrition, social, and functional needs of the patient, and shall indicate the dialysis and other care required as well as the individualized modifications in approach necessary to achieve the long-term and short-term goals. Any unresolved concerns of the patient and family shall be addressed at the time of each review. Documentation shall reflect that the patient and family has had an opportunity to voice these concerns and the methods utilized to achieve resolution of the concerns.

(4) The plan shall be developed by an interdisciplinary care team consisting of at least the physician responsible for the patient's dialysis care, a qualified nurse responsible for nursing services, a qualified social worker, and a qualified dietitian.

(5) The care plan for a patient whose medical condition is not stable shall be reviewed at least monthly by the interdisciplinary care team. For an adult patient aged 18 and older whose condition is stable, the care plan shall be reviewed at least annually. For pediatric patients whose conditions are stable, the care plan shall be reviewed monthly for ages 0-11 months, quarterly for ages 1-5 years, and every six months for ages 6-17 years. The care plan shall be revised as necessary to ensure that it provides for the ongoing needs of the patient.

(6) If the patient is transferred to another facility, the care plan shall be sent to the receiving facility at the time the patient is transferred or within one working day of the transfer.

(7) For a home-dialysis patient whose care is under the supervision of the facility, the care plan shall provide for periodic monitoring of the patient's home adaptation, including provisions for visits to the home by qualified facility personnel to the extent appropriate.

(8) When a dialysis patient uses an anemia management drug in the home, the plan must provide for monitoring home use of the anemia management drug. This monitoring shall include the following:

(a) Review of diet or fluid intake for indiscretions as indicated by hyperkalemia and elevated blood pressure secondary to volume overload;

(b) Review of lab values and medications to ensure adequate management of anemia;

(c) A reevaluation of the dialysis prescription taking into account the patient's increased appetite and red blood cell volume;

(d) A method for physician follow up on blood tests and a mechanism (such as a patient log) for keeping the physician informed of the results; and

(e) Review of the training of the patient to identify the signs and symptoms of hypotension and hypertension.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0090

Medical Records

(1) The facility shall maintain complete medical records on all patients (including self-dialysis patients within the self-dialysis unit and home dialysis patients whose care is under the supervision of the facility) in accordance with accepted professional standards and practices.

(2) The medical records must be completely and accurately documented, readily available, and systematically organized to facilitate the compilation and retrieval of information. Each patient's medical record shall contain sufficient information to identify the patient clearly, to justify the diagnosis and treatment, and to document the results accurately. All medical records shall contain documented evidence of the following:

(a) Assessment of the needs of the patient;

(b) Evidence that the patient was informed of the results of the assessment;

(c) Documentation of any treatment with a reprocessed hemodialyzer (when applicable);

(d) Establishment of an appropriate plan of treatment;

(e) The care and services provided;

(f) Identification and social data;

(g) Signed consent forms;

(A) All consent forms shall document that the information was provided in such a way that acknowledges the patient's individual language and special needs; and

(B) Except as provided in ORS 109.610(1) and 433.045, a minor 15 years of age or older may consent to hospital care, medical or surgical diagnosis or treatment by a physician, and dental care, without the consent of a parent or guardian.

(h) Documentation of an initial history and physical and an update of the history and physical at least annually or whenever changes occur;

(i) Reports of any pertinent medical, surgical or access procedures which shall be filed in the record within 30 days of the procedure;

(j) Referral information with authentication of diagnosis;

(k) Diagnostic and therapeutic orders. Physician orders must be reviewed and rewritten annually. "Resume previous orders" is not adequate to meet the annual requirement. All verbal orders shall be received by a licensed nurse or physician assistant. Orders relating to social work or nutrition services may be received by the professional responsible for that service. Verbal orders must be countersigned within 45 calendar days by the practitioner giving the order. All patients shall have written orders for length of dialysis treatment, the dialyzer type, the composition of the dialysate, the estimated dry weight, any medications the patient receives at the dialysis facility, the heparinization schedule including the amount of the bolus, maintenance dose and when to discontinue the maintenance dose, and any necessary infection control measures. New orders that include, but are not limited to the above listed items, must be written when a patient returns from an inpatient stay at a hospital;

(l) Progress notes;

(m) Reports of treatments and clinical findings;

(n) Reports of laboratory results, diagnostic tests, and procedures;

(o) Social worker and nutritional assessments: Initial assessments must be completed within 30 days of admission to the facility. Subsequent assessments must be completed annually and updated as necessary; and

(p) A medication list that is updated as needed and reviewed at least quarterly or as changes occur.

(3) The facility shall require and the medical director shall ensure that any adverse medical patient outcomes are communicated to the patient's physician, and that the facility takes appropriate corrective action.

(4) All entries in the medical record shall be dated and authenticated by the person making the entry.

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(5) Protection of medical record information: There must be a plan for the retention, storage, preservation of confidentiality, certification of validity, and where appropriate, destruction of medical records.

(a) The facility must safeguard medical record information against loss, destruction, or unauthorized use. The facility must have written policies and procedures which govern the use and release of information contained in medical records.

(b) Written consent of the patient, or authorized person(s) acting on behalf of the patient, is required for release of information not mandated by federal law or by statute. Medical records are made available under stipulations of confidentiality for inspection by Division staff as required for administration of the dialysis program or authorized agents of the state for the purposes of confirming compliance with these rules.

(c) If a patient is under the age of 15, the patient's medical records may be released only with the voluntary and informed consent of the patient's parent or legal guardian. In the case of divorce, unless otherwise ordered by the court, either parent may consent for the minor as provided by ORS 107.154.

(6) Medical records supervisor. A member of the facility's staff shall be designated to serve as supervisor of medical records services, and ensure that all records are properly documented, completed, and preserved. When necessary, consultation is secured from a qualified medical record practitioner. The functions of the medical records supervisor include, but are not limited to, the following:

(a) Ensuring that the records are documented, completed, and maintained in accordance with accepted professional standards and practices;

(b) Safeguarding the confidentiality of the records in accordance with established policy and legal requirements; and

(c) Ensuring that the records contain pertinent medical information and are filed for easy retrieval.

(7) Completion of medical records and centralization of clinical information: Medical records shall be completed by all members of the dialysis facility staff within 30 days following the patient's discharge. Current medical records and those of discharged patients shall be completed promptly. All clinical information pertaining to a patient must be centralized in the patient's medical record. Provisions shall be made for collecting and including in the medical record medical information generated regarding self-dialysis patients. Entries concerning the daily dialysis process must either be completed by staff, or be completed by trained self-dialysis patients, trained home dialysis patients or trained assistants and must be countersigned by staff of the dialysis facility.

(8) Retention and preservation of records: All medical records shall be kept for a period of at least seven years after the date of discharge. Original medical records may be retained on paper, microfilm, electronic, or other media. The medical records of pediatric patients shall be kept at least three years after the age of 18 or for a total of seven years, whichever is longer.

(9) Location and facilities: The facility shall maintain adequate facilities, equipment, and space conveniently located to provide efficient processing of medical records (e.g., reviewing, filing, and prompt retrieval) and statistical medical information (e.g., required abstracts, reports, etc.).

(10) Transfer of medical information: The facility must provide for the exchange of medical and other information necessary or useful in the care and treatment of patients transferred to other medical facilities.

(11) If the facility closes or is purchased, arrangements shall be made for the medical records to be transferred to the patients' new place of treatment. In the case of expired or no longer treated patients, arrangements must be made to store those records for the required time intervals. The patients' families and the Division shall be notified of the location of the medical records.

(12) Technical logs must meet the same documentation standards as the medical records, including proper correction of errors. A signature list must be readily available to identify the users of initials.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0095

Medical Director of an Outpatient Renal Dialysis Facility

The Medical Director shall be responsible for oversight of the care provided by the staff of the dialysis facility. Treatment must be provided under the general supervision of a director who is a physician. The physician-director need not devote full time as director but shall be responsible for planning, organizing, conducting, and directing the professional dialysis services and must devote sufficient time to carrying out these responsibilities. The director may also serve as the Chief Executive Officer of the facility.

(1) The director of a dialysis facility must be a qualified physician-director.

(2) The responsibilities of the physician-director include but are not limited to the following:

(a) Assuring the development and implementation of the process of modality selection, i.e., transplantation or dialysis and the setting for dialysis for all patients;

(b) Assuring adequate training of nurses and technicians in dialysis techniques;

(c) Assuring adequate monitoring of the patient and the dialysis process, including, self-dialysis patients;

(d) Assuring periodic assessment of patient performance of dialysis tasks;

(e) Assuring the development and availability of a patient care policy and procedures manual and its implementation. At a minimum, the manual shall describe the following:

(A) Types of dialysis used in the facility and the procedures followed in performance of such dialysis;

(B) Hepatitis prevention and procedures for handling an individual with hepatitis;

(C) Infection control; and

(D) A disaster preparedness plan (e.g., patient emergency, fire, flood);

(f) Assuring that patient teaching materials are available for use by all trainees during the training period and at times other than during the dialysis procedure when self-dialysis training or home dialysis training is offered; and

(g) Assuring that patient outcomes are monitored and evaluated as part of the QAPI process. The Medical Director must assure that a plan is in place for the improvement of patient outcomes. This process shall include a review of any accidents, incidents, or adverse outcomes.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0100

Patient Care Staff

(1) The facility shall maintain a personnel record for each staff member which includes, but is not limited to documentation of the following:

(a) Hire date;

(b) Required current license or certification;

(c) Orientation completed prior to commencement of duties;

(d) Job description;

(e) Employment application;

(f) Annual evaluation(s);

(g) Education and qualifications;

(h) Health status to include at a minimum:

(A) Documentation of compliance with OAR 333-019-0041 for Tuberculosis exposure; and

(B) Documentation of Hepatitis B (HbsAg) testing according to CDC guidelines;

(i) Current CPR certification for direct patient care personnel.

(2) Properly trained personnel must be present in adequate numbers to meet the needs of the patients, including those needs arising from medical and nonmedical emergencies. Employees who have not demonstrated competency as defined by facility policy must not be counted in the staff/patient ratios.

(3) The facility must employ at least one full time qualified registered nurse responsible for nursing service:

(a) This registered nurse may also act as the required full time nurse manager;

(b) There shall be a registered nurse or physician, experienced in rendering ESRD care in the facility to supervise care whenever patients are undergoing dialysis treatments; and

(c) A registered nurse or physician shall be designated as the charge person in each facility to oversee ESRD patient care.

(4) An adequate number of personnel must be present to ensure that the staff/patient ratio is appropriate to the level of dialysis care being provided. The staffing levels must be adjusted based on the individual and aggregate needs of the patients.

(5) At a minimum, the staffing level at a facility shall not exceed four patients receiving hemodialysis treatments per licensed nurse or CHDT providing direct patient care.

(6) During treatment times, there shall be a minimum of one registered nurse (RN) available for every 16 patients. If more than 16 patients are receiving hemodialysis treatments at one time, there shall be an addi-

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tional registered nurse present. Should the RN to patient ratio exceed 1 to 12, the RN shall not be counted as part of the 1 to 4 direct patient care ratio.

(7) The facility shall have a staffing plan in place that shall allow them to maintain staffing ratios in the event of sick calls, vacations and unscheduled absences.

(8) The facility may continue to operate and treat scheduled patients in the event that circumstances temporarily do not allow these staffing levels to be met if the medical director or designee determines this can be done safely:

(a) These circumstances shall be documented in the records of the facility; and

(b) These circumstances must not occur during more than five percent of the facility's operating hours in any six month period without approval of a waiver by the Division.

(9) These staffing ratios do not preclude the use of new technology or experimental models. Application for a waiver may be made to the Division by facilities wishing to implement new technology.

(10) The facility shall be responsible for developing and implementing a written facility-wide staffing plan for all patient care staff including registered nurses, licensed practical nurses, hemodialysis technicians, social workers, and dietitians. The facility shall have a process that ensures the consideration of input from patient care staff in the development, implementation, monitoring, evaluation, and modification of the staffing plan. The staffing plan shall include the number, qualifications, and categories of staff needed. The written staffing plan shall be evaluated and monitored for effectiveness, and revised as necessary, as part of the facility's QAPI process. Written documentation of these QAPI activities shall be maintained.

(a) The written staffing plan shall be based on the care required by aggregate and individual needs of patients. This care shall be the major consideration in determining the number and categories of personnel needed. The written staffing plan shall be based on the specialized qualifications and competencies of the staff. The skill mix and the competency of the staff shall ensure that the needs of the patient are met and shall ensure patient safety.

(b) The written staffing plan shall be consistent with the scopes of practice for RNs, LPNs, hemodialysis technicians, social workers, and dietitians.

(c) The facility shall maintain a list of qualified staff that may be called to provide qualified replacement or additional staff in the event of emergencies, sickness, vacations, vacancies and other absences of staff and that provides a sufficient number of replacement staff for the facility on a regular basis. The list shall be available to the individual responsible for obtaining replacement staff.

(d) The written staffing plan shall establish minimum numbers of personnel (RNs, LPNs, hemodialysis technicians, social workers and dietitians) on specified shifts. The number of personnel on duty shall be sufficient to assure that the needs of each patient are met. In no case shall fewer than one registered nurse and one other staff member be on duty when a patient is undergoing dialysis treatment.

(e) After a facility learns about the need for replacement staff, the facility shall make every reasonable effort to obtain staff for unfilled hours or shifts before requiring a patient care staff member to work overtime. Reasonable effort includes the facility seeking replacement at the time the vacancy is known and contacting all available resources as described in section (2) of this rule. Such efforts shall be documented.

(f) The facility shall have a workable plan in place to deal with both medical and non-medical emergencies.

(g) If the facility offers self-care dialysis training, a qualified licensed nurse must be in charge of such training.

(h) Licensed practical nurses. This chapter does not preclude a licensed practical nurse (LPN) from practicing in accordance with the rules adopted by the Oregon State Board of Nursing. If the LPN is acting in the capacity of a hemodialysis technician, the facility shall ensure that the LPN is functioning within his/her job description and scope of practice.

(11) Employee Orientation and Training: Each facility shall have and execute a written orientation and training program to familiarize each employee with his/her job responsibilities. The facility shall maintain documentation that each staff member has attended the orientation program. Each employee shall be evaluated to assure that he/she possesses at least the minimum competencies required to perform his/her job function.

(a) The facility orientation program for all staff, approved by the medical director shall include at least:

(A) Review of the services provided by the facility;

(B) Review of facility policies and procedures, including general infection control procedures and use of universal precautions;

(C) The facility's emergency procedures and disaster preparedness plans;

(D) Training in the use of fire extinguishers;

(E) The facility's Quality Assessment and Performance Improvement Program;

(F) Documentation and records requirements; and

(G) Job descriptions that adequately describe the duties of every position including:

(i) Position;

(ii) Title;

(iii) Scope of authority;

(iv) Specific responsibilities; and

(v) Minimum requirements.

(b) The facility shall conduct and document a training needs assessment to identify training needs specific to care for the dialysis patients, and shall document the provision of such training by a qualified instructor.

(12) Job descriptions shall be given to each employee when assigned to a position or when the job description is revised. A copy of this job description signed by the employee shall be maintained in the employee's file.

(13) The facility shall also maintain documentation of the satisfactory completion by each staff member of a skills competency checklist.

(14) Trainees must not be counted in staffing ratios until documentation reflects they are qualified to work independently. Patients shall be informed when trainees are participating in their treatment and the trainee shall be supervised at all times.

(15) All staff must maintain required current certification and licensure according to the requirements of their profession.

(16) The physician-director shall be responsible for ensuring that each patient caregiver has completed the appropriate training and orientation, and has demonstrated competence in their roles. This responsibility may be delegated to the facility's administrative and education staff. There must be documentation to reflect this delegation.

(17) The most recent statement of deficiencies resulting from an inspection by the state agency shall be reviewed with the staff and shall be available in the facility for reference.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0105

Minimal Service Requirements for an Outpatient Renal Dialysis Facility

The facility must provide dialysis services, as well as adequate laboratory, social, and nutritional services to meet the needs of the dialysis patient.

(1) Outpatient Dialysis Services:

(a) Staff-assisted dialysis services. The facility must provide all necessary dialysis services and staff required to perform dialysis.

(b) Self-dialysis services. If the facility offers self-dialysis services, it must provide all medically necessary supplies and equipment and any other service specified in the facility's patient care policies.

(2) Laboratory Services: The facility must make available laboratory services (other than the specialty of tissue pathology and histocompatibility testing), to meet the needs of the dialysis patient. All laboratory services must be performed by an appropriately certified laboratory in accordance with federal and state regulations. If the facility furnishes its own laboratory services, these services must meet the applicable requirements established in state and federal regulations. If the facility does not provide laboratory services, it must make arrangements to obtain these services from a laboratory certified in the appropriate specialties and subspecialties of service.

(3) Social Services: Social services shall be provided to patients and their families and shall be directed at supporting and maximizing the social functioning and adjustment of the patient. Social services must be furnished by a qualified social worker who has an employment or contractual relationship with the facility. The facility shall provide adequate social work coverage to ensure the needs of the patients are met. The qualified social worker is responsible for:

(a) Conducting psychosocial evaluations;

(b) Participating in team reviews of patient progress;

(c) Recommending changes in treatment based on the patient's current psychosocial needs;

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(d) Providing casework and group work services to patients and their families in dealing with the special problems associated with dialysis; and

(e) Identifying community social agencies and other resources and assisting patients and families to utilize them.

(4)(a) Nutrition Services: Nutrition services shall be provided to the patients and the patient's caregiver(s) in order to maximize the patient's nutritional status. Each patient must be evaluated as to his/her nutritional needs by the attending physician and by a qualified dietitian who has an employment or contractual relationship with the facility.

(b) The facility shall provide an adequate amount of dietitian coverage to ensure the needs of the patients are met. The dietitian shall be responsible for:

(A) Conducting nutritional assessments of patients;

(B) Participating in a team process in developing and reviewing patient care plans;

(C) Recommending nutrition therapy with consideration of cultural preferences and changes in treatment based on the patient's nutritional needs in consultation with the patient's physician;

(D) Counseling patients, patients' families and significant others; and monitoring adherence to and response to nutrition therapy;

(E) Referring patients for assistance with nutrition resources such as financial assistance, community resources or in-home assistance; and

(F) Participating in Quality Assessment and Performance Improvement activities.

(5) Self-dialysis Support Services: The facility furnishing self-dialysis training, upon completion of the patient's training, must furnish (either directly, under agreement or by arrangement with another facility) the following services:

(a) Surveillance of the patient's home adaptation, including provisions for visits to the home or the facility;

(b) Consultation for the patient with a qualified social worker and a qualified dietitian;

(c) A record-keeping system, which assures continuity of care;

(d) Installation and maintenance of equipment;

(e) Testing and appropriate treatment of the water; and

(f) Ordering of supplies on an ongoing basis.

(6) Participation in Recipient Registry: The facility shall participate in a patient registry program with an Organ Procurement Organization (OPO) designated or redesignated for patients who are awaiting cadaveric donor transplantation.

(7) Home Anemia Management:

(a) Patient Monitoring: The facility, or the physician responsible for all dialysis-related services furnished to the patient, shall monitor the patient. This monitoring shall include:

(A) Reviewing appropriate laboratory values;

(B) Establishing the plan of care and monitoring the progress of the home anemia management therapy;

(C) Determining that the patient or a caregiver who assists the patient in performing self-dialysis meets the following conditions:

(i) Is trained by the facility to inject the anemia management drug;

(ii) Is capable of carrying out the procedure;

(iii) Is capable of reading and understanding the drug labeling; and

(iv) Is trained in, and capable of observing, aseptic techniques.

(D) Determining that the anemia management drug can be stored in the patient's residence under refrigeration, and that the patient is aware of the potential hazard of a child's having access to the drug and syringes.

(b) The patient's physician or facility must:

(A) Develop a protocol that follows the drug label instructions; and

(B) Make the protocol available to the patient to ensure safe and effective home use of the anemia management drug.

(8) Medications:

(a) Medications maintained in the facility shall be properly stored and safeguarded in enclosures of sufficient size that are not accessible to unauthorized persons;

(b) Refrigerators used for storage of medications shall maintain appropriate temperatures for such storage and routine monitoring of these temperatures shall be documented;

(c) Medications not given immediately shall be labeled with the name of the medication, the dosage prepared, the date and time, and the initials of the person preparing the medication. Expired medications must be disposed of appropriately; and

(d) All medications shall be administered by licensed nurses, physician assistants, pharmacists, or physicians. Intravenous normal saline, intravenous heparin, and subcutaneous lidocaine may be administered as part of a routine hemodialysis treatment by dialysis technicians qualified accord-

ing to Oregon Administrative Rules for Hemodialysis Technicians (OARs 333-275-0001 through 333-275-0180).

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0110

Infection Control

(1) There shall be written policies and procedures in effect for the prevention and control of hepatitis and other infections. These policies must include, but are not limited to:

(a) Appropriate procedures for surveillance and reporting of infections;

(b) Housekeeping;

(c) Handling and disposal of waste and contaminants;

(d) Sterilization and disinfection, including the sterilization and maintenance of equipment where dialysis supplies are reused; and

(e) The rinsing, cleaning, disinfection, preparation and storage of reused items which conform to requirements for reuse.

(2) Dialysis facilities shall follow the Centers for Disease Control and Prevention (CDC) recommendations for preventing transmission of infections. This includes the use of long-sleeved gowns that are impervious to the passage of fluids during procedures at high risk for blood or other bodily fluid contamination (e.g. initiation and termination of dialysis and reuse procedures).

(3) The medical director shall designate a committee or individual qualified in surveillance, prevention and control of nosocomial infections to be responsible for the direction, provision, and quality of infection prevention and control services. The medical director shall be responsible for ensuring the facility maintains a record of all infections, their incidence, treatment, and outcome.

(4) Facilities shall follow the tuberculosis screening requirements for employees outlined in OAR 333-019-0010 and 333-019-0041.

(5) Blood spills shall be cleaned immediately or as soon as is practical with an appropriate chemical disinfectant.

(6) The facility shall employ appropriate techniques to prevent cross-contamination between the unit and adjacent hospital or public areas including, but not limited to: food service areas; laundry; disposal of solid waste and blood-contaminated equipment; and disposal of contaminants into sewage systems. Waste storage and disposal shall be carried out in accordance with applicable local laws and accepted public health procedures. The written patient care policies shall specify the functions to be carried out by facility personnel and by the self-dialysis patients with respect to contamination prevention. Where dialysis supplies are reused, records shall be maintained that can be used to demonstrate whether established procedures covering the rinsing, cleaning, disinfection, preparation and storage of reused items, conform to requirements for reuse.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0115

Patients' Rights, Responsibilities and Family Education

(1) The governing body of the facility shall adopt written policies regarding the rights and responsibilities of patients and, through the chief executive officer, shall be responsible for development of, and adherence to, procedures implementing such policies.

(2) These policies and procedures shall be made available to patients and any guardians, next of kin, the Division, and to the public. The staff of the facility must be trained in and involved in the execution of such policies and procedures. The patients' rights policies and procedures must ensure all patients in the facility:

(a) Are informed of these rights and responsibilities, and of all rules and regulations governing patient conduct and responsibilities;

(b) Are informed of services available in the facility and of related charges;

(c) Are informed by a physician of their medical conditions unless medically contraindicated (as documented in their medical records);

(d) Are afforded the opportunity to participate in the planning of their medical care (either through direct involvement or if the patient chooses, through family or a representative);

(e) Are afforded the opportunity to refuse to participate in experimental research;

(f) Are transferred or discharged only for medical reasons, for their own welfare or that of other patients or for nonpayment of fees. Patients discharged for these reasons shall be given a written notice prior to transfer or discharge. A patient exhibiting violent, abusive, or threatening behavior

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may be discharged immediately if necessary to protect themselves, other patients, or employees. A written notice shall be given to these patients within ten days of transfer or discharge;

(g) Are informed about the effects and potential hazards of receiving dialysis and related treatments;

(h) Are treated with consideration, respect and full recognition of their individual and their personal needs, including maintenance of confidentiality;

(i) Are informed regarding the facility's reuse of dialysis supplies, including hemodialyzers. If printed materials such as brochures are utilized to describe a facility and its services, they must contain a statement with respect to reuse. Patients have the right to refuse the use of reprocessed dialyzers; and

(j) Are informed of all choices of dialysis treatment including peritoneal, self-care, home dialysis, in-center dialysis, no treatment, hospice, and transplantation. If the patient is not considered to be a candidate for transplantation, this information shall be made available to the patient or his/her family member in writing and include the reason(s).

(3) The facility shall have written documentation from the patient that he/she has had his/her rights and responsibilities explained.

(4) The facility shall provide the patient and his/her family with the opportunity for education including, but not limited to the following topics:

- (a) Physical orientation of the dialysis center;
- (b) Policy for scheduling patient treatment times;
- (c) Policies on violent or disruptive behavior;
- (d) Duties of members of the dialysis team;
- (e) Team member qualifications and duties;
- (f) Boundary issues between staff and patient;
- (g) Importance of dialysis adequacy and lab values;
- (h) Dietary needs and fluid balance;
- (i) Medications;
- (j) Benefits of exercise;
- (k) Disaster planning for situations in which the facility is unable to operate;

(l) Infection control procedures;

(m) Water purification;

(n) Handling of hazardous substances;

(o) Quality control process;

(p) Medical records including contents and confidentiality issues; and

(q) The right of patients and families to request private conversations with a member(s) of the multidisciplinary team at a time of their convenience.

(5) Grievance mechanism: The facility must inform patients (or their representatives) of the facility's grievance process and the procedures for appeal. All patients are encouraged and assisted to understand and exercise their rights. Grievances and recommended changes in policies and services may be addressed to facility staff, administration, the Network, and agencies or regulatory bodies with jurisdiction over the facility, through any representative of the patient's choice, without restraint or interference, and without fear of discrimination or reprisal.

(6) The facility's grievance process must:

- (a) Include a record of each grievance made by a patient, his/her representative or family member;
- (b) Include documentation of the facility's investigation of each grievance, including the resolution;
- (c) Include the method and phone number for submitting grievances that cannot be resolved at the facility level (e.g. administration, the Network, and the Division);
- (d) Include evidence that the person expressing the grievance is notified in writing of the outcome of the grievance investigation; and
- (e) Include evidence the facility has responded to the grievance within 30 days.

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0120

Physical Environment

(1) The physical environment in which dialysis services are furnished must afford a functional, clean, sanitary, safe, and comfortable setting for patients, staff, and the public.

(2) The physical structure in which dialysis services are furnished must be constructed, equipped, and maintained to ensure the safety of patients, staff, and the public.

(3) All electrical and other equipment used in the facility must be maintained free of defects that could be a potential hazard to patients or

personnel. There must be an established program of preventive maintenance of equipment used in dialysis and related procedures in the facility. Facilities shall follow the manufacturers' recommendations for preventive maintenance for all equipment.

(4) The areas used by patients shall be maintained in good repair and kept free of hazards such as those created by damaged or defective parts of the building.

(5) The facility must be able to demonstrate that water and equipment used for dialysis meets the water and dialysate quality standards and equipment requirements found in the Association for the Advancement of Medical Instrumentation (AAMI) publication, "Dialysate for hemodialysis," ANSI/AAMI RD52:2004 which is incorporated by reference.

(6) Any adverse results identified by the water quality monitoring system shall be addressed and corrected immediately. Documentation of these corrections shall be maintained in a designated area for review.

(7) Testing of the water in dialysis facilities must comply with the requirements of Table 1 of this rule.

(8) Treatment areas shall be designed and equipped to provide adequate and safe dialysis therapy, as well as privacy and comfort for patients. The space for treating each patient must be sufficient to accommodate medically needed emergency equipment and personnel to treat the patient in the event of an emergency. There must be sufficient space in the facility for safe storage of dialysis supplies.

(9) Chronic dialysis patients shall be dialyzed in chairs that can be reclined so that the patient's head is lower than his/her feet, except when the patient is dialyzed in a hospital bed.

(10) There shall be a nursing/monitoring station from which all patients receiving dialysis can be continuously monitored during the course of treatment.

(11) Heating and ventilation systems shall be capable of maintaining adequate and comfortable temperatures.

(12) Each facility utilizing a central-batch delivery system must provide, either on the premises or through affiliation agreement or arrangement sufficient individual delivery systems for the treatment of any patient requiring special dialysis solutions.

(13) Emergency preparedness:

(a) The health care facility shall develop, maintain, update, train, and exercise an emergency plan for the protection of all individuals in the event of an emergency, in accordance with the regulations as specified in **Oregon Fire Code** (Oregon Administrative Rules chapter 837, division 40).

(b) The health care facility shall conduct at least two drills every year that document and demonstrate that employees have practiced their specific duties and assignments, as outlined in the emergency preparedness plan.

(c) The emergency plan shall include the contact information for local emergency management. Each facility shall have documentation that the local emergency management office has been contacted and that the facility has a list of local hazards identified in the county hazard vulnerability analysis.

(d) The emergency plan shall address all local hazards that have been identified by local emergency management and may include, but is not limited to, the following:

- (A) Chemical emergencies;
- (B) Dam failure;
- (C) Earthquake;
- (D) Fire;
- (E) Flood;
- (F) Hazardous material;
- (G) Heat;
- (H) High wind/Tornado;
- (I) Landslide;
- (J) Nuclear power plant emergency;
- (K) Pandemic;
- (L) Terrorism;
- (M) Thunderstorms; or
- (N) Tsunamis (for coastal areas only).

(e) The emergency plan shall address the availability of sufficient supplies for staff and patients to shelter in place or at an agreed upon alternative location for a minimum of two days, in coordination with local emergency management, under the following conditions:

- (A) Extended power outage;
 - (B) No running water;
 - (C) Replacement of food or supplies is unavailable;
 - (D) Staff members do not report to work as scheduled; and
 - (E) The patient is unable to return to pre-treatment shelter.
- (f) The emergency plan shall address evacuation, including:

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(A) Identification of individual positions' duties while vacating the building, transporting, and housing residents;

(B) Method and source of transportation;

(C) Planned relocation sites;

(D) Method by which each patient shall be identified by name and facility of origin by people unknown to them;

(E) Method for tracking and reporting the physical location of specific patients until a different entity resumes responsibility for the patient; and

(F) Notification to the Division about the status of the evacuation.

(g) The emergency plan shall address the clinical and medical needs of the patients, including provisions to provide:

(A) Storage of and continued access to medical records necessary to obtain care and treatment of patients, and the use of paper forms to be used for the transfer of care or to maintain care on-site when electronic systems are not available;

(B) Continued access to pharmaceuticals, medical supplies and equipment, even during and after an evacuation; and

(C) Alternative staffing plans to meet the needs of the patients when scheduled staff members are unavailable. Alternative staffing plans may include, but is not limited to, on-call staff, the use of travelers, the use of management staff, or the use of other emergency personnel.

(h) The emergency plan shall be made available as requested by the Division and during licensing and certification surveys. Each plan shall be re-evaluated and revised as necessary or when there is a significant change in the facility or population of the health care facility.

(i) The facility shall have a posted plan for evacuation of patients, staff and visitors in the case of fire or other emergencies.

(j) Participation of staff and patients in fire drills shall be documented. Timing of drills shall be rotated throughout the year to include all shifts. If procedural problems are identified through these drills, records shall show that corrective action has been implemented. Fire drills shall be completed at least every six months.

(k) There shall be documentation that employees have received initial and ongoing training in the use of fire extinguishers. Documentation shall include verification that fire extinguishers are checked at least every month to assure they are operational.

(l) The staff must be familiar with the use of all equipment and procedures to handle medical and non-medical emergencies.

(m) Patients shall be informed of their roles in medical and non-medical emergencies. Patients must be fully informed regarding what to do, where to go, and who to contact if a medical or non-medical emergency occurs.

(n) The facility must have a backup water treatment plan that can be demonstrated to meet Association for the Advancement of Medical Instrumentation (AAMI) standards.

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

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 13-2008, f. & cert. ef. 8-15-08; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0125

Reuse of Hemodialyzers and other Dialysis Supplies

If the facility reuses hemodialyzers, the facility shall conform to the following:

(1) Meet the requirements of AAMI published in "Reuse of Hemodialyzers," third edition, ANSI/AAMI RD47:2002 and RD47:2002/A1:2003 which is incorporated by reference;

(2) Procedure for chemical germicides: To prevent any risk of dialyzer membrane leaks due to the combined action of different chemical germicides, dialyzers shall only be exposed to one chemical germicide during the reprocessing procedure. If a dialyzer is exposed to a second germicide, the dialyzer must be discarded;

(3) Surveillance of patient reactions: In order to detect bacteremia and to maintain patient safety when unexplained events occur, the facility:

(a) Shall take appropriate blood cultures at the time of a febrile response in a patient; and

(b) If pyrogenic reactions, bacteremia, or unexplained reactions associated with ineffective reprocessing are identified, the reuse of hemodialyzers in that setting shall be terminated and the facility shall not continue reuse until the entire reprocessing system has been evaluated;

(4) Transducer filters: To control the spread of hepatitis, transducer filters shall be changed after each dialysis treatment and shall not be reused; and

(5) Bloodlines: If the facility reuses bloodlines, it shall:

(a) Limit the reuse of bloodlines to the same patient;

(b) Not reuse bloodlines labeled for "single use only";

(c) Reuse only bloodlines for which the manufacturer's protocol for reuse has been accepted by the Food and Drug Administration (FDA) pursuant to the premarket notification (section 510(k)) provision of the Food, Drug, and Cosmetic Act; and

(d) Follow the FDA-accepted manufacturer's protocol for reuse of that bloodline.

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

Stat. Auth.: ORS 441.015 & 441.025

Stats. Implemented: ORS 441.025 & 442.015

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

333-700-0130

Dialysis Facilities Construction Requirements

These rules apply to outpatient renal dialysis facilities licensed by the State of Oregon.

(1) Applicability. OAR 333-700-0130 shall apply to:

(a) An outpatient renal dialysis facility not licensed on April 1, 2012;

or

(b) A major alteration to an outpatient renal dialysis facility for which plans were not submitted to the Division on or before April 1, 2012; provided, however, that OAR 333-700-0130 shall apply only to the major alteration and shall not apply to any other area of the outpatient renal dialysis facility.

(2) All new construction and alterations must comply with Oregon Structural Specialty Code.

(3) Minimum facility standards are as follows:

(a) Facility Location & Accessibility:

(A) The facility shall be located to allow for prompt access by ambulances and by buses, including wheelchair-lift equipped type, without the need for patients to traverse across vehicular pathways and parking areas, or the project sponsor shall present an alternate plan showing that patient safety shall not be compromised;

(B) The dialysis unit shall be located in a separate building or section of a building free of traffic by non-related persons;

(C) Accessible parking shall be provided for patients and visitors, constructed to comply with the Oregon Structural Specialty Code, as enforced by the Oregon Building Codes Division and local jurisdictions having authority;

(D) Building access and all patient use areas shall be designed and constructed in accordance with chapter 11 of the Oregon Structural Specialty Code for accessibility at the time of original licensure as enforced by the Oregon Building Codes Division or local jurisdictions having authority; and

(E) Corridors, doorways, and stairways serving the unit shall be sized to allow at least one exit route for emergency transport of a patient by an Emergency Medical Services (EMS) type of stretcher to an ambulance.

(b) Treatment Areas:

(A) Dialysis stations must meet the following minimum criteria:

(i) Individual patient treatment areas shall contain at least 80 sq. ft. 4'-0" minimum shall be available at the foot of the recliner.

(ii) Hand washing stations, readily available for staff use, shall be provided within the treatment area. One hand washing station shall be provided for each four patients minimum, located with appropriate spacing to facilitate washing of hands between patient contact.

(B) Patient care staff station(s) shall be located within the dialysis treatment area and designed to provide visual observation of all patients.

(C) Provide an Isolation Room (to prevent contact transmission of the infectious material) meeting the following minimum criteria:

(i) Shall provide a door and walls that go to the floor, but not necessarily the ceiling, and allow for visual monitoring of the patient;

(ii) Shall accommodate only one patient; and

(iii) Shall contain a hand washing station located in each patient room.

(4) Patient Support: The following shall be provided:

(a) Waiting space with a seating capacity minimum of one seat or wheelchair for each two patient stations;

(b) An Americans with Disabilities Act (ADA) accessible patient toilet, convenient to the waiting room, with emergency nurse call annunciated to the patient care staff station;

(c) Dedicated space for patient scale; and

(d) Dedicated space for wheelchair storage.

(5) General Support Areas: The following shall be provided:

(a) Clean supply room with space for bulk storage of necessary supplies. If preparation of patient care supplies happens within the room, then the clean room must contain a hand wash sink and work counter;

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(b) Soiled holding room or area for medical waste. A work counter and hand washing station shall be provided. A flush rim clinical sink with rinsing device is also required when peritoneal dialysis is performed;

(c) If a dedicated medical waste room or area is provided in addition to the soiled holding area, a hand washing station is not required at the medical waste area;

(d) Secure medications storage, meeting Board of Pharmacy rules with dedicated refrigerator and a hand washing station;

(e) Emergency cart/equipment storage located close to the patient treatment area, readily accessible by staff, and not located in the exit path;

(f) Access to a janitor closet with floor sink or service sink and space for supplies within or close to the unit;

(g) Equipment maintenance and storage space for equipment servicing and storage. Equipment space allocated for bio-medical interventions shall not be in proximity to patients while they are undergoing dialysis;

(h) When dialyzer reprocessing is practiced, space for reuse equipment, work counter and hand washing station. Additional sinks shall be provided as defined by the facility's reprocessing program;

(i) Solution mixing/preparation area for central concentrate delivery system or individual preparation, sized to meet facility needs;

(j) Dedicated space for central or individual water treatment equipment with waste drain sized to meet equipment requirements;

(k) Separate staff toilet, including hand washing station within or near the treatment area;

(l) If a home training program is included, the following shall be provided: separate, 120 square foot, training room(s) each with a hand washing station, counter and separate drain for fluid disposal. At least one convenient program office and general support spaces shall be provided to meet program needs. An emergency nurse call, announced at the patient care staff station, or the home training office, shall be provided in each training room.

(m) Staff office; and

(n) Consultation space available for private conferences with patients and family.

(6) Finishes:

(a) Wall materials in all patient treatment areas shall be cleanable;

(b) Water treatment area walls and floors shall be designed and constructed to prevent water from migrating to other areas during normal operating circumstances; and

(c) All soiled utility, medical waste storage, and janitor closet flooring shall be seamless with an integral coved wall base.

(7) Maintenance and Housekeeping:

(a) All building components and equipment shall be maintained in good repair and free from obvious hazards to patients and staff; and

(b) All dialysis equipment shall be maintained in accordance with manufacturers' recommendations, and each dialysis machine shall be cleaned in accordance with written policies and procedures after each use.

(8) Mechanical and Plumbing:

(a) All heating, ventilation and cooling systems shall comply with the Oregon Mechanical Specialty Code as enforced by the Oregon Building Codes Division or local jurisdiction having authority and shall be maintained in full compliance;

(b) Hot water used for hand washing shall have a water temperature of a minimum of 105 degrees and a maximum of 120 degrees Fahrenheit;

(c) All water treatment and dialysate concentrate equipment and distribution systems shall be in compliance with Association for the Advancement of Medical Instrumentation (AAMI) standards (RD52) at all times. Floor drain(s) shall be provided in these area(s);

(A) No dead end loops or unused branches are allowed in the purified water distribution system;

(B) Product water distribution system shall be constructed of materials that do not contribute chemicals, such as aluminum, copper, lead, and zinc or bacterial contaminants to the purified water.

(C) When used, storage tanks shall have a conical or bowl shaped base and shall drain from the lowest point of the base.

(d) If piped-in oxygen or vacuum systems are included, they shall be installed in accord with National Fire Protection Association (NFPA) 99, chapter 4 and the Oregon Plumbing Specialty Code;

(e) Dialyzer reuse space, if provided, shall not recirculate air, and shall be provided with an exhaust to the outside as required for the reprocessing methods utilized;

(f) To minimize discomfort to patients, whose sensitivity to drafts and temperature change may be accentuated by their physical condition, heating, cooling and ventilation systems in facilities licensed after July 1, 2003,

shall be designed to minimize airflow and temperature change at treatment stations; and

(g) In facilities licensed after July 1, 2003, lavatories and sinks intended for hand washing shall be trimmed with fittings operable without use of the hands. Wrist blade controls are not considered to be operable without the use of hands.

(9) Electrical:

(a) All electrical installations shall comply with the Oregon Electrical Specialty Code as enforced by the Oregon Building Codes Division or local authority having jurisdiction and shall be maintained in full compliance.

(b) Emergency power for evacuation lighting, the fire alarm system and the dedicated receptacle for the emergency cart, shall be provided. Lighting levels shall be five foot candles minimum at patient stations, staff support stations and paths of egress for a minimum of 1-1/2 hours.

(c) In facilities initially licensed or constructed after July 1, 2003, provisions shall be made to allow connection to an alternate power source. The point of connection shall be immediately accessible to the exterior. The alternate power source shall provide on-going power for lighting required in subsection (9)(b) of this rule, and continued provision of dialysis services;

(d) A ground fault interrupter (GFI) shall be provided independently for each dialysis machine; and

(e) Hospital grade electrical outlets shall be provided serving all dialysis equipment connections.

(10) Structural, Fire & Life Safety and Maintenance:

(a) All facilities constructed after May 6, 2005, shall be constructed to meet the requirements as defined by the Oregon Structural Specialty Code as enforced by the Oregon Building Codes Division or local authority having jurisdiction and shall be maintained in full compliance.

(b) Dialysis facilities shall be located on the ground floor, unless they are considered an Institutional, I-2, occupancy class per the Oregon Structural Specialty Code and, if certified by Centers for Medicare and Medicaid, an Ambulatory Health Care Occupancy per the National Fire Protection Association Life Safety code 101.

(c) Emergency power supply and exit illumination shall be provided in accordance with Section 407.10 of the Oregon Structural Specialty Code.

(d) Existing licensed dialysis facilities classified as a B occupancy and legally constructed and operating prior to the adoption of these rules shall be permitted to continue to operate as pre-existing non-conforming facilities subject to the following provisions:

(A) Facilities shall have a smoke detection system;

(B) Type 2A:10B:C fire extinguishers shall be installed in locations readily accessible to staff. At least one fire extinguisher shall be provided for each eight patient stations;

(C) The facility shall meet the exiting requirements of chapter 10 of the Oregon Structural Specialty Code and, if certified by Centers for Medicare and Medicaid Services exiting requirements of chapter 5 of the NFPA 101 Life Safety Code;

(D) Minimum egress requirements shall include:

(i) Door latching that is classified as simple hardware;

(ii) Exit signs from all common locations of the facility;

(iii) Exit illumination with an alternate power source; and

(iv) The means of egress shall be free of obstructions.

(E) Floor surfaces shall be relatively level and free of tripping hazards;

(F) Buildings shall be maintained in good condition with sound structural integrity; and

(G) Facilities shall be in compliance with local codes, laws and ordinances.

(e) All interior and exterior materials and surfaces (e.g. floors, walls, roofs, ceilings, windows and furnishings) and all equipment necessary for the health, safety and comfort of patients shall be kept clean and in good repair.

Stat. Auth.: ORS 441.015, 441.025 & 441.060

Stats. Implemented: ORS 441.025 & 441.060

Hist.: PH 7-2003, f. & cert. ef. 6-6-03; PH 13-2005, f. 8-10-05, cert. ef. 8-15-05; PH 4-2012, f. 3-30-12, cert. ef. 4-1-12

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Rule Caption: Amendments to Special Health Care Facilities, ambulatory surgical center physical environment rules.

Adm. Order No.: PH 5-2012

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 4-1-12

Notice Publication Date: 1-1-2012

Rules Adopted: 333-076-0001

ADMINISTRATIVE RULES

Rules Amended: 333-076-0185

Subject: The Oregon Health Authority, Public Health Division, Facilities Planning and Safety program is permanently amending Oregon Administrative Rules in chapter 333, division 76 pertaining to the physical environment of ambulatory surgical centers. Due to technological advances in surgery procedures and changes in the types of services provided in outpatient settings the current rules have become antiquated and require updating. The changes proposed will align the rules under which Oregon's ambulatory surgical centers are licensed by, with national healthcare design and construction industry standards. Tables referenced in OAR 333-076-0185 are also being permanently amended and adopted.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-076-0001

Referenced Codes and Standards

The codes and standards referenced in these rules shall be considered part of the requirements of these rules to the prescribed extent of each such reference. Where differences occur between provisions of these rules and referenced codes and standards, the provisions of the most restrictive code shall apply.

- (1) 2010 Oregon Structural Specialty Code (OSSC);
- (2) 2010 Oregon Mechanical Specialty Code;
- (3) 2010 Oregon Energy Efficiency Specialty Code;
- (4) 2010 Oregon Electrical Specialty Code (OESC);
- (5) 2011 Oregon Plumbing Specialty Code;
- (6) 2010 Oregon Fire Code (OFC);
- (7) National Fire Protection Association, NFPA 101 Life Safety Code, 2000 Edition;
- (8) National Fire Protection Association, NFPA 99 Standard for Healthcare Facilities, 1999 Edition;
- (9) National Fire Protection Association, NFPA 110 Standard for Emergency and Standby Power Systems, 2002 Edition;
- (10) National Fire Protection Association, NFPA 90A Standard for Installation of Air-Conditioning and Ventilating Systems, 1996 Edition;
- (11) National Fire Protection Association, NFPA 255 Standard Method of Test of Surface Burning Characteristics of Building Materials, 2000 Edition;
- (12) National Fire Protection Association, NFPA 801 Standard for Fire Protection for Facilities Handling Radioactive Materials, 1998 Edition OSHA and radiology;
- (13) Illuminating Engineering Society, IES RP 28, 2007 Edition;
- (14) Illuminating Engineering Society, IES RP 29, 2006 Edition with Errata;
- (15) American National Standards Institute/American Society of Sanitary Engineering, ANSI/ASSE 6000, 2004 edition;
- (16) ASHRAE Standard 170-2008 *Ventilation of Health Care Facilities*;
- (17) Underwriters Laboratories, Inc.; UL 1069 Hospital Signaling and Nurse Call Equipment, 7th edition, revised January 22, 2009;
- (18) National Fire Protection Association, NFPA 13, Standard for Installation of Sprinkler Systems, 1999 Edition;
- (19) National Fire Protection Association, NFPA 72, Standard for Installation of Sprinkler Systems, 1999 Edition.
Stat. Auth.: ORS 441.025 & 441.060
Stats. Implemented: ORS 441.025 & 441.060
Hist.: PH 5-2012, f. 3-30-12, cert. ef. 4-1-12

333-076-0185

Physical Environment

- (1) Applicability. OAR 333-076-0185 shall apply to:
 - (a) An ambulatory surgical center not licensed on April 1, 2012; or
 - (b) A major alteration to an ambulatory surgical center for which plans were not submitted to the Division on or before April 1, 2012; provided, however, that OAR 333-076-0185 shall apply only to the major alteration and shall not apply to any other area of the ambulatory surgical center.
- (2) For the purpose of this rule the following definitions apply:
 - (a) "Major alteration" means any structural change to the foundation, floor, roof, or exterior or load bearing wall of a building, or the extension of an existing building to increase its floor area, where such structural change or extension affects patient care or safety. "Major alteration" also means the modification of an existing building that results in a change in use, even if the modification does not include any structural change to the building, where such modification affects patient care or safety. "Major

alteration" does not include cosmetic upgrades to the interior or exterior of an existing building, including but not limited to changes to wall finishes, floor coverings and casework.

(b) "Change in use" means altering the purpose of an existing room. "Change in use" does not include the sale of an ASC if the new owner provides services in the same class of operating rooms pursuant to section (15) of this rule.

(3) Notification of Alteration: If an ASC proposes any of the following alterations the ASC must notify the Division. The Division shall determine, on a case-by-case basis, whether such alterations constitute a "change in use". If an alteration affects patient care, patient safety, is a change of use, or includes any of the following, the alteration is subject to this rule:

(a) Addition of surgical services, to the extent the additional surgical services can not be performed in the class of operating rooms existing in the ASC pursuant to section (15) of this rule;

(b) Replacement of equipment in the ASC that is permanently connected to major building components, such as: power, heating, ventilation, air conditioning, plumbing or medical gas; and

(c) Addition of doors to pre-operative holding areas or post-anesthesia care units.

(4) Functional Program.

(a) An ASC shall provide a description of its functional program when plans are submitted for review, along with additional requirements found in OAR 333-675-0000.

(b) The functional program describes in detail the purpose of the project, department relationships and flow of patients, staff, visitors and supplies as applicable, size and function of each space, description of those services necessary for the complete operation of the ASC, type of anesthesia used, average recovery time, special design feature(s), occupant load, numbers of staff and patients, visitors and vendors, issue of privacy/confidentiality for patients, level of medical gas system per NFPA 99, and type of central electrical system.

(5) Location. Building entrances used to reach outpatient services shall be at grade level, clearly marked, and located so patients need not go through other activity areas. Travel patterns shall preclude unrelated traffic within the unit.

(6) Mixed Uses. An ASC is a distinct entity and must be separate and distinguishable from any other health care facility or office-based physician practice, but the ASC may share a reception area, waiting room and public toilet rooms with the other health care facility or office-based physician practice. Medicare-certified ASCs are subject to specific requirements related to sharing spaces with another health care facility or office-based physician practice. An ASC that is Medicare-certified must be distinct from any other health care facility or office-based physician practice as required in 42 CFR 416.2 and 42 CFR 416.44(a)(2) and (b).

(7) Conformance to Building and Fire and Life Safety Codes. ASCs shall conform to the editions of the **Oregon State Building Code**, as defined in ORS 455.010(8), under which they were constructed. ASCs to be certified for Medicare reimbursement shall meet standards of the **National Fire Protection Association (NFPA) #101 and #99 Codes**.

(8) Administrative and Public Areas. An ASC shall have:

(a) An entrance sheltered from inclement weather and accessible to the disabled. If a separate door is provided for the discharge of patients, it must be sheltered from inclement weather and shall be accessible to the disabled;

(b) A reception counter or desk;

(c) Toilet(s) for public use conveniently accessible from the waiting area without passing through patient care or staff work areas or suites;

(d) Telephone access for local phone calls for patients;

(e) Conveniently accessible drinking water;

(f) Conveniently accessible wheelchair storage;

(g) Space(s) for private interviews relating to financing and credit discussions;

(h) Space for business transactions, records storage and administrative and professional staff to work, including but not limited to space designated for computers, printers, fax machines, and copiers if required by the functional program;

(i) Secure and safe storage for medical records of all media type, located to maintain the confidentiality of records and either restricted to staff movement or remote from treatment and public areas. Space required shall be defined by the functional program;

(j) Special storage for staff personal effects with locking drawers or cabinets; and

(k) General storage for supplies and equipment as identified in the functional program.

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(9) Environmental Services Room (Housekeeping Closet). An ASC shall have an environmental services room that contains a floor receptor or service sink and storage space for housekeeping supplies and equipment, and that is at least 16 square feet.

(10) Layout. An ASC shall provide three areas – unrestricted, semi-restricted, and restricted – that are defined by the physical activities performed in each area.

(a) Unrestricted area. For the purpose of this rule, unrestricted areas shall include a central control point established to monitor the entrance of patients, personnel, and materials into the restricted areas. (Street clothes are permitted in this area, and traffic is not limited.)

(b) Semi-restricted area. For the purpose of this rule, semi-restricted areas shall include the peripheral support areas of the surgical suite, where traffic is limited to authorized personnel and patients, and where personnel are required to wear surgical attire and hair coverings. A semi-restricted area includes but is not limited to:

- (A) Storage areas for clean and sterile supplies;
- (B) Work areas for storage and processing of instruments;
- (C) Corridors leading to the restricted areas of the surgical suite; and
- (D) Scrub sink areas.

(c) Restricted area. For the purpose of this rule, restricted areas are areas where surgical attire and hair coverings are required, and where masks are required due to the presence of open sterile supplies or scrubbed people. A restricted area includes but is not limited to:

- (A) Operating and other procedure rooms; and
- (B) The clean core (if required by the functional program).

(d) Signs shall be provided at all entrances to restricted areas indicating surgical attire required.

(11) Special Patient Care Rooms. In ASCs with a functional program that includes treatment of patients with known infectious disease or populations with known compromised or suppressed immune systems, the need for and number of airborne infection isolation rooms and protective environment rooms shall be determined by an infection control risk assessment (ICRA).

(a) Airborne Infection Isolation (AII) Room. For the purpose of this rule, Airborne Infection Isolation refers to the isolation of patients infected with organisms spread by airborne droplet nuclei and shall have:

- (A) Only one bed and a hand-washing station (placement of an additional hand-washing station outside the room entrance shall be permitted);
- (B) An area for gowning and storage of clean and soiled materials located either directly outside or inside the entry door to the patient room;
- (C) A separate room with a toilet and hand-washing station;
- (D) Perimeter walls, a ceiling, and floor, including penetrations, that are sealed tightly so that air does not infiltrate the environment from the outside or from other spaces;
- (E) Self-closing devices on all room exit doors;
- (F) Doors with edge seals;
- (G) Window treatments and privacy curtains:

(i) Window treatments and privacy curtains shall be smooth-surfaced, easy-to-clean, wipeable, and non-pleated;

(ii) Fabric drapes and curtains shall not be used for window treatments;

(iii) Use of fabric privacy curtains shall be permitted if they are washable. A wipeable fabric with a smooth surface is preferable.

(b) Anteroom. An anteroom to a patient isolation room is not required; however, if an anteroom is part of the design concept, it shall meet the following requirements:

- (A) Space for persons to don personal protective equipment before entering the patient room; and
- (B) Doors with self-closing devices.

(c) Protective Environment (PE) Rooms. For the purpose of this rule, Protective Environment Room refers to a patient room that is designed to protect a high risk, immunocompromised patient from human and environmental airborne pathogens.

(A) When determined by an Infection Control Risk Assessment (ICRA) and the functional program, special design considerations and ventilation shall be required to ensure the protection of patients who are highly susceptible to infection; and

(B) The room(s) shall meet the requirements of subsection (11)(a) except for paragraph (C).

(12) Non-invasive Procedure & Consultation Room. A non-invasive procedure and consultation room is not a “procedure room” for purposes of ORS 441.020. A non-invasive procedure and consultation room shall have:

(a) A minimum clear floor area of 120 square feet with a minimum room dimension of 10 feet;

(b) A room arrangement that permits a minimum clear dimension of 3 feet at each side and at the foot of the bed;

(c) A hand-washing station;

(d) A counter or shelf space for writing or electronic documentation; and

(e) Visual and acoustical privacy for private medical consultations and confidential communication with patients and their families/legal guardians.

(13) Sterilization Facilities: An ASC shall have space and a system for sterilizing equipment and supplies either on-site or off-site. If located on site, sterilization facilities shall be located in a semi-restricted area and shall include a separate area for cleaning and decontamination of instruments prior to sterilization. Sterilization facilities shall include, but are not limited to, a high-speed sterilizer or other sterilizing equipment for immediate or emergency use, as required by the functional program.

(a) When sterilization is provided off-site, a room for the adequate handling (receiving and distribution) and on-site storage of sterile supplies, that meet paragraph (13)(c)(C) of this rule shall be provided.

(b) Provisions shall be made for sanitizing clean and soiled carts or vehicles consistent with the needs of the particular transportation system.

(c) An on-site processing facility shall include:

(A) A decontamination room for the exclusive use of the surgical suite. If the room has a door or pass through opening for decontaminated instruments between the decontamination room and a clean workroom it shall have a self closing door, but it may not have a direct connection with an operating room. A decontamination room shall include:

(i) A flushing-rim clinical sink or equivalent flush-rim fixture unless the decontamination room is used only for temporary holding of soiled material;

(ii) A hand-washing station; and

(iii) A work counter unless the decontamination room is used only for temporary holding of soiled material.

(B) A clean assembly/workroom that is physically separated from soiled work areas that has adequate space for the designated number of work areas as defined in the functional program as well as space for storage of clean supplies, sterilizer carriages (if used), and instrumentation. Access to this area shall be restricted. A clean/assembly workroom shall contain:

(i) A hand-washing station;

(ii) Workspace; and

(iii) Equipment for terminal sterilizing of medical and surgical equipment and supplies.

(C) Storage for sterile supplies and packs, including provisions for ventilation, humidity, and temperature control.

(i) The sterile supply storage area shall have a floor area as required per the functional program.

(ii) As described in paragraph (13)(c)(B) of this rule, location of the sterile supply storage in an area within the clean assembly/workroom shall be permitted if it is a permanently designated area.

(14) Linen Services. Designated space in the post-anesthesia recovery area(s) shall be provided for clean and soiled linen.

(a) On-site Processing Area. If the functional program requires linen to be processed on site, the area shall:

(A) Be large enough to accommodate a washer, a dryer, and any plumbing equipment needed to meet the temperature requirements of 160 degrees;

(B) Be divided into distinct soiled (sort and wash) and clean (dry and fold) areas;

(C) Have storage for laundry supplies and clean linen; and

(D) Have a hand-washing station within 10 feet without passing through a door.

(b) Off-site Laundry Service Areas. If the functional program requires linen to be processed off site, the area within the ASC shall have a:

(A) Soiled linen holding area or designated and dedicated area for a soiled laundry cart; and

(B) Clean linen storage area that protects linen from soil or damage.

(15) Operating Rooms. The size and location of the operating rooms shall depend on the level of care and equipment specified in the functional program.

(a) Class A Operating Room. For the purpose of this rule, a Class A operating room is for surgery and other procedures that require minimal sedation including but not limited to minor surgical procedures performed under topical and local infiltration blocks with or without oral or intramuscular preoperative sedation. A surgical procedure performed in a Class A operating room could also be performed in a Class B or C operating room.

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(A) Space requirements. Class A operating rooms shall have a minimum clear floor area of 150 square feet within a minimum clear dimension of 12 feet.

(B) Clearances. There shall be a minimum clear distance of 3 feet 6 inches at each side, the head, and the foot of the operating table.

(C) Location. Class A operating rooms may be accessed from the semi-restricted corridors of the surgical suite or from an unrestricted corridor adjacent to the surgical suite.

(b) Class B Operating Room. For the purposes of this rule a Class B operating room is for surgery and other procedures that require conscious sedation. A procedure performed in a Class B operating room could also be performed in a Class C operating room.

(A) Space requirements. Class B operating rooms shall have a minimum clear floor area of 250 square feet with a minimum clear dimension of 15 feet.

(B) Clearances. Room arrangement shall permit a minimum clear dimension of 3 feet 6 inches at each side, the head, and the foot of the operating table.

(C) Location. Class B operating rooms shall be accessed from the semi-restricted corridors of the surgical suite.

(c) Class C Operating Room. For the purpose of this rule a Class C operating room is for surgery and procedures that require general anesthesia or deep sedation.

(A) Space requirements. Class C operating rooms shall have a minimum clear floor area of 400 square feet and a minimum clear dimension of 18 feet.

(B) Clearances. Room arrangement shall permit a minimum clear dimension of 4 feet at each side, the head, and the foot of the operating table.

(C) Location. Class C operating rooms shall be accessed from the semi-restricted corridors of the surgical suite.

(d) Each operating room shall have access to at least one medical image viewer located as required by the functional program.

(e) All operating rooms shall be equipped with an emergency communication system designed and installed to effectively summon additional qualified staff support with no more than push activation of an emergency call switch.

(f) An operating room is considered a procedure room for the purposes of determining the appropriate fee under ORS 441.020.

(16) Pre-operative Support Areas.

(a) Location. Pre-operative holding areas shall be under direct visual control of the nursing staff. Pre-operative holding can be shared with post-operative if the functional program defines patient management.

(A) For a Class A operating room the minimum number of patient stations within the pre-operative holding areas is as follows:

(i) At least one patient station if the operating room is accessed from the semi-restricted area.

(ii) None if the operating room is accessed from an unrestricted area and the functional program allows for pre-operative care to be carried out in the operating room.

(B) For a Class B operating room, at least one patient station within the pre-operative holding areas is required. A patient station may consist of a bed, chair or stretcher.

(C) For Class C operating room, at least one patient station per Class C operating room is required.

(D) In an ASC with Class B and Class C operating rooms, area shall be provided to accommodate stretcher and chair space.

(b) Area. Each pre-operative holding area shall provide a minimum clear floor area of 80 square feet for each patient station.

(c) Clearances. Each pre-operative holding area shall have a minimum clear dimension of 5 feet between patient and 4 feet between patient and adjacent walls (at the stretcher's or chair's side and foot).

(d) Patient privacy. Provisions such as cubicle curtains shall be made for patient privacy.

(e) Hand-washing station. Hands-free or wrist blade-operable controls shall be available, with at least one station for every six positions or fewer and for each major fraction thereof. Hand-washing stations shall be uniformly distributed to provide convenient access from each patient position. Travel distance to a hand-washing station shall not exceed 20 feet, and shall be located without passing through a door. Travel distances shall be calculated from the foot of the patient station to the hand-washing station.

(f) Documentation space. A counter, table, area for a desk, or storage for a movable table shall be provided.

(g) Change Area. A separate area(s) shall be provided for outpatients to change from street clothing to hospital gowns and prepare for surgery. If

the ASC has four or fewer operating rooms, the change area can also be a holding area(s). The change area shall include the following:

(A) Lockers, or acceptable provisions made for securing patients' personal effects; and

(B) Toilet(s). The patient toilet room(s) shall be separate from public use toilet(s) and located to permit access from pre- and post-operative holding areas.

(17) Recovery Areas.

(a) When determining the number of recovery positions required, an ASC shall take into consideration the types of surgery and procedures performed in the ASC, the types of anesthesia used, average recovery periods, and anticipated staffing levels.

(b) Recovery areas shall be accessible directly from the semi-restricted area. If pre-operative holding areas, Phase 2 areas and recovery areas are required per the functional program, these spaces may be shared if the number of patient positions meet the most restrictive requirements of both pre and post operative areas.

(c) Nurse Control Station. The nurse control station shall have direct sightline to patients in acute recovery stations.

(d) If pediatric surgery is practiced, the functional program and physical environment design shall address the following:

(A) Locations of pediatric recovery stations;

(B) Space for parents;

(C) Sound attenuation; and

(D) Proximity of patient stations to a nursing station.

(e)(A) Post-anesthesia recovery positions. Room(s) for post-anesthesia recovery in an ASC shall be provided in accordance with the functional program;

(B) Number. A minimum of one recovery station per operating room shall be provided. A recovery area analysis shall determine the need for additional recovery stations. In the absence of a recovery area analysis approved by the Division, the minimum number of post-anesthesia recovery positions shall be as follows:

(i) Three recovery positions for each Class C operating room;

(ii) Two recovery positions for each Class B operating room;

(iii) One recovery position for each Class A operating room.

(f) Area. When a patient cubicle is used for each patient care station, a minimum clear floor area of 80 square feet shall be provided. Space shall also be provided for additional equipment described in the functional program.

(g) Clearances. Each post-anesthesia recovery area shall provide a minimum clear dimension of 5 feet between patient stretchers or beds, 4 feet between patient stretchers or beds and adjacent walls (at the stretcher's sides and foot), and at least 3 feet from the foot of the stretcher or bed to the closed cubicle curtain.

(h) Patient privacy. Provisions for patient privacy such as cubicle curtains shall be made.

(i) Hand-washing station. Hands-free or wrist blade-operable controls shall be available, with at least one station for every six positions or fewer and for each major fraction thereof. Hand-washing stations shall be uniformly distributed to provide convenient access from each patient position. Travel distance to a hand-washing station shall not exceed 20 feet, and shall be located without passing through a door. Travel distances shall be calculated from the foot of the patient station to the hand-washing station.

(j) Patient toilet room(s). In an ASC with three or more operating rooms, a dedicated patient toilet room shall be provided in the recovery area.

(k) Support areas for post-anesthesia recovery rooms. If the post-anesthesia recovery room(s) is located immediately adjacent to the surgical suite, sharing of these support areas shall be permitted;

(A) Supply storage. Storage space shall be determined by the functional program, however, at least 15 cubic feet needs to be provided.

(B) Receptacles for soiled linen and waste holding shall be provided and meet the requirements of NFPA 101, 20.7.5.5.

(C) Documentation space. A counter, table, area for a desk, or storage for a movable table shall be provided.

(D) Drug distribution station. Each recovery area shall have a drug distribution station that includes:

(i) An area for the storage and preparation of medications administered to patients;

(ii) A refrigerator for pharmaceuticals and double-locked storage for controlled substances if required by the functional program; and

(iii) Convenient access to a hand-washing station without passing through a door.

(E) Nourishment facilities within a recovery area shall have:

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(i) A sink, work counter, refrigerator, storage cabinets, and equipment for serving nourishment as required by the functional program; and

(ii) A hand-washing station that is located in the nourishment area or adjacent to the nourishment area.

(18) Phase 2 Recovery.

(a) A Phase 2 recovery area shall be provided if required by the functional program.

(b) Location of the Phase 2 recovery area within the post-anesthesia recovery area shall be permitted, but the Phase 2 area shall be an identifiably separate and distinct part of the post-anesthesia recovery area. Phase 2 recovery stations can be shared with recovery stations if the functional program defines patient management.

(c) Area. When a patient cubicle is used for each patient care station, the design shall provide a minimum of 50 square feet for each patient in a lounge chair with space for additional equipment described in the functional program.

(d) Clearances.

(A) The design shall provide a minimum clear dimension of 4 feet between the sides of adjacent lounge chairs and between the foot of the lounge chairs and the nearest obstruction.

(B) When permanent partitions (full or partial height or width) are used to partially define the patient care station (rather than cubicle curtains), a minimum clear dimension of 3 feet shall be provided on the side of the lounge chair.

(e) Patient privacy. Provisions for patient visual privacy such as cubicle curtains shall be made.

(f) Hand-washing station. Hands-free or wrist blade-operable controls shall be available, with at least one station for every six positions or fewer and for each major fraction thereof. Hand-washing stations shall be uniformly distributed to provide convenient access from each patient position. Travel distance to a hand-washing station shall not exceed 20 feet, and shall be located without passing through a door. Travel distances shall be calculated from the foot of the patient station to the hand-washing station;

(g) Patient toilet room(s). In an ASC with two or fewer operating rooms, a patient toilet room shall be provided in or adjacent to the Phase 2 recovery area. In an ASC with three or more operating rooms, a patient toilet room shall be provided in the Phase 2 recovery area.

(h) Support areas for Phase 2 recovery (if provided) shall provide the following:

(A) Clear sightlines and easy access from the post-anesthesia recovery area to the nurse control station;

(B) Storage space for supplies and equipment;

(C) Documentation space. A counter, table, area for a desk, or storage for a movable table; and

(D) Space for family members.

(19) Support for the Surgical Service Areas: The following shall be provided in the surgical service areas:

(a) Visual surveillance by nursing staff of all traffic entering the semi-restricted corridor (the passage used to access operating rooms and ancillary semi-restricted areas) per the functional program;

(b) Medication storage. Drug storage shall be provided. A refrigerator for pharmaceuticals and double-locked storage for controlled substances shall be provided if required by the functional program;

(c) Scrub facilities. With the exception of ASCs providing exclusive gastrointestinal endoscopy services, an ASC shall have a scrub station(s) trimmed with foot, knee, or electronic controls. Single-lever wrist blades shall not be permitted. Scrub station(s) shall be provided at the entrance to each operating room. A scrub station may serve two operating rooms if it is located on the same wall, and between the two entrances. Scrub stations shall be arranged to minimize splatter on nearby personnel or supply carts. A dedicated hand wash station with hands-free controls shall be provided in each room used for gastrointestinal endoscopy services.

(d) Equipment and supply storage. Equipment storage room(s) shall be provided for equipment and supplies used in the surgical service areas. The combined area of equipment and clean clinical supply storage room(s) shall have a minimum floor area of 50 square feet for each operating room(s) up to two and an additional 25 square feet per additional operating room. Equipment storage room(s) shall be located within the semi-restricted area;

(e) Anesthesia supply storage. An area shall be provided for storing anesthesia equipment and supplies, as defined by the functional program. This space shall be located within the semi-restricted area;

(f) Medical gas storage. An area shall be provided for the storage of medical gas(es) used in the ASC, including adequate space for reserve

cylinders. Such space shall meet **National Fire Protection Association 99** standards;

(g) Stretcher storage area. In an ASC that provides Class B and C operating rooms, a stretcher storage area for at least one stretcher shall be provided. This storage area shall be convenient for use and located outside the required width of the exit access corridor;

(h) Staff lounge and toilet facilities. Staff lounge toilet facilities shall be provided in an ASC with three or more operating rooms. The toilet room shall be near the recovery area;

(i) Staff lockers. Appropriate change area(s) shall be provided for male and female staff working within the surgical suite (a unisex locker area with one or more private changing rooms shall be permitted.) For an ASC that provides services in Class B and C operating rooms, this area(s) shall be designed to effect a one-way traffic pattern so that personnel entering from outside the surgical suite can change and move directly into the suite's semi-restricted corridor. As least one staff shower shall be provided that is conveniently accessible to the surgical suite and recovery areas;

(j) Environmental services room (housekeeping closet). An environmental services room shall be provided exclusively for the surgical suite. This room shall contain a floor receptor or service sink and storage space for housekeeping supplies and equipment and shall be at least 16 square feet;

(k) Emergency equipment/supply storage. Provisions shall be made for access to and use of emergency resuscitation equipment and supplies (crash cart(s) and anesthesia carts) within 60 feet and at least one per floor of patient care areas;

(l) Fluid waste disposal. Fluid waste disposal facilities shall be provided and shall be located so that they are convenient to the operating rooms and recovery areas. A clinical sink or equivalent equipment in a soiled workroom shall meet this requirement in the operating room area, and a toilet equipped with a bedpan-cleaning device or a separate clinical sink shall meet the requirement in the recovery area.

(20) Details and Finishes:

(a) Corridor width. Public corridors shall have a minimum width of 5 feet, except that corridors connecting the operating room section and the post anesthesia care unit and at least one ambulance transfer exit, where patients are transported on stretchers or beds, shall have a minimum width of 6 feet. The semi-restricted corridor shall have a minimum width of 8 feet in areas used to transport patients on gurneys between pre-operative, procedure, and post-anesthesia recovery areas. Passages and corridors used exclusively for staff access shall be a minimum of 3 feet 8 inches in clear width. Items such as provisions for drinking water, telephone booths, vending machines, etc., shall not restrict corridor traffic or reduce the corridor width below the required minimum. In-corridor storage or parking space for portable equipment shall not overlap required corridor widths. Width shall also meet OFC 1018.2.

(b) Doors and door hardware. The minimum door width for patient use shall be 3 feet. Door openings requiring gurney/stretcher access shall have a minimum clear width of 3 feet 8 inches;

(c) Hand-washing stations. Hand sanitation dispensers shall be provided in addition to hand-washing stations. The number and location of both hand-washing stations and hand sanitation dispensers shall be determined by ICRA;

(A) Hand-washing stations used by medical and nursing staff, patients, and food handlers shall be trimmed with valves that can be operated without hands. Single-lever or wrist blade devices shall be permitted. Sensor-regulated water fixtures shall meet user need for temperature and length of time the water flows. Electronic faucets shall be capable of functioning during loss of normal power. Knee control, foot pedal, electronic or other devices that allow operation without use of the hands are acceptable.

(B) Sinks in hand-washing stations shall be designed with deep basins to prevent splashing to areas where direct patient care is provided, particularly those surfaces where sterile procedures are performed and medications are prepared.

(C) The area of the basin shall not be less than 144 square inches with a minimum 9 inch width or length.

(d) Clinical sinks.

(A) Handles on clinical sinks shall be at least 6 inches long.

(B) Clinical sinks shall have an integral trap wherein the upper portion of the water trap provides a visible seal.

(e) Provisions for hand drying shall be required at all hand-washing stations except scrub sinks.

(A) Hand-washing stations shall include a hand-drying device that does not require hands to contact the dispenser.

(B) If provided, hand towels shall be directly accessible to sinks.

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(f) Cleansing agents. Hand-washing stations shall include liquid or foam soap dispensers.

(g) Toilet rooms for patient use in surgery and recovery areas shall be equipped with doors and hardware that permit access from the outside in emergencies. When such rooms have only one opening, the doors shall open outward or be otherwise designed to open without pressing against a patient who may have collapsed within the room.

(h) Radiation protection requirements for X-ray and gamma ray installations shall conform with National Council on Radiation Protection and Measurements (NCRP) reports 102, 147, and 151 and all applicable state requirements. Testing is to be coordinated with the Division's Radiation Protection Services program to prevent duplication of test observations or construction inspections. Provision shall be made for testing completed installations before use. All defects shall be corrected before approval.

(i) The minimum ceiling height of an ASC shall be 7 feet 10 inches, with the following exceptions:

(A) Ceiling height in corridors, storage rooms, toilet rooms, and other minor rooms shall not be less than 7 feet 8 inches;

(B) Radiographic and other rooms containing ceiling-mounted equipment shall have ceilings of sufficient height to accommodate the equipment and fixtures; and

(C) Boiler rooms shall have ceiling clearances not less than 2 feet 6 inches above the main boiler header and connecting pipe.

(j) Ceilings. Ceiling finishes shall be appropriate for the areas in which they are located and shall be as follows:

(A) Semi-restricted areas.

(i) Ceiling finishes in semi-restricted areas such as clean corridors, central sterile supply spaces, specialized radiographic rooms, and Class A operating rooms shall be smooth, scrubbable, nonabsorptive, nonperforated, capable of withstanding cleaning with chemicals, and without crevices that can harbor mold and bacteria growth.

(ii) Perforated, tegular, serrated, or highly textured tiles shall not be used.

(B) Restricted areas.

(i) Ceilings in restricted areas such as operating rooms shall be monolithic, scrubbable, and capable of withstanding chemicals. Cracks or perforations in these ceilings are not allowed.

(ii) All access openings in ceilings in restricted areas shall be gasketed.

(C) Mechanical and electrical rooms. Suspended ceilings may be omitted in mechanical and electrical rooms/spaces unless required for fire safety purposes.

(k) Floor finishes shall be appropriate for the areas in which they are located and shall:

(A) Be easy to maintain, readily cleanable and appropriately wear-resistant;

(B) In all areas such as clean corridors, central sterile supply spaces, specialized radiographic rooms, and Class A operating rooms, be washable, smooth and able to withstand chemical cleaning;

(C) In areas such as operating rooms, environmental services rooms, and soiled holding or utility rooms, be scrubbable, able to withstand chemical cleaning, and monolithic, with an integral base of at least 6 inches;

(D) In clinical areas, be constructed of materials that allow the easy movement of all required wheeled equipment;

(E) Provide smooth transitions between different flooring materials;

(F) Allow for ease of ambulation and self-propulsion. Carpet and carpet with padding in patient areas shall be glued down or stretched taut and free of loose edges or wrinkles that might create hazards or interfere with the operation of lifts, wheelchairs, walkers, wheeled carts, or patients utilizing orthotic devices;

(G) In all areas subject to wet cleaning methods, not be physically affected by germicidal or other types of cleaning solutions;

(H) Be slip-resistant for flooring surfaces in wet areas (e.g., kitchens, showers and baths), ramps, entries from exterior to interior space, and areas that include water for patient services; and

(I) Joints for flooring openings for pipes, ducts, and conduits shall be tightly sealed to minimize entry of pests. Joints of structural elements shall be similarly sealed.

(l) Wall finishes shall be cleanable and washable. In the vicinity of plumbing fixtures, wall finishes shall be smooth and moisture resistant.

(A) Wall finishes in areas such as clean corridors, central sterile supply spaces, specialized radiographic rooms, and minor surgical procedure rooms shall be washable, smooth, and able to withstand chemical cleaning.

(B) Wall finishes in areas such as operating rooms, delivery rooms, and trauma rooms shall be scrubbable, able to withstand chemical cleaning, and monolithic.

(C) Wall finish treatments shall not create ledges or crevices that can harbor dust and dirt.

(D) Wall surfaces in wet areas (e.g. environmental services rooms) shall be monolithic and all seams shall be covered or sealed.

(E) Wall bases in areas routinely subjected to wet cleaning shall be monolithic and coved with the floor, tightly sealed to the wall, and constructed without voids.

(F) Wall areas penetrated by pipes, ducts, and conduits shall be tightly sealed to minimize the entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(G) Sharp, protruding corners shall be avoided.

(H) Wall protection devices and corner guards shall be durable and scrubbable.

(21) Elevators. Electric or hydraulic elevators are required if the ASC has patient spaces located on other than the grade-level entrance floor. The elevator shall be sized to accept a gurney or stretcher plus an attendant.

(a) Dimensions. Cars shall have a minimum inside floor dimension of not less than 5 feet.

(b) Leveling device. Elevators shall be equipped with a two-way automatic level-maintaining device with an accuracy of \pm one-half inch.

(c) Elevator controls:

(A) Elevator call buttons and controls shall not be activated by heat or smoke. Light beams, if used for operating door reopening devices without touch, shall be used in combination with door-edge safety devices and shall be interconnected with a system of smoke detectors so the light control feature will be overridden or disengaged should it encounter smoke at any landing.

(B) Elevator controls, alarm buttons, and telephones shall be accessible to wheelchair occupants and usable by the blind.

(d) Emergency power must comply with NFPA 99 requirements.

(22) Mechanical system design.

(a) In new construction, the mechanical system shall be designed and constructed for overall efficiency in accord with the **Oregon Mechanical Specialty Code** and the **Oregon Energy Efficiency Specialty Code**, as enforced by the Oregon Building Codes Division or local jurisdictions having authority.

(b) Efficiency. The mechanical system shall be designed for overall efficiency and appropriate life-cycle cost.

(c) Use of recognized energy-saving mechanisms such as variable-air-volume (VAV) systems, load shedding, programmed controls for unoccupied periods (nights and weekends, etc.), and use of natural ventilation may be considered.

(d) Air-handling systems shall be designed with an economizer cycle where appropriate to use outside air.

(e) VAV systems. The energy-saving potential of VAV systems is recognized, and the standards herein are intended to maximize appropriate use of such systems. Any system used for occupied areas shall include provisions to avoid air stagnation in interior spaces where thermostat demands are met by temperatures of surrounding areas. Reference Table 1 contains minimum ventilation and airflow requirements.

(f) Recirculating rooms units (such as induction unit and unit ventilators) may be used in individual rooms for heating and cooling purposes except as noted in Table 1. Outdoor air requirements shall be met by separate air handling systems with proper filtration. Reference Table 2 contains the filtration requirements.

(g) Vibration isolators. Mechanical equipment, ductwork, and piping shall be mounted on vibration isolators.

(h) System valves. Supply and return mains and risers for cooling, heating, and steam systems shall be equipped with valves to isolate the various sections of each system. Each piece of equipment shall have valves at the supply and return ends.

(i) Testing and documentation.

(A) Prior to licensure of an ASC, all systems shall be tested and operated to demonstrate to the owner or its designated representative that the installation and performance of these systems conform to design intent. Test results shall be documented for maintenance files.

(B) Upon completion of the installation, the owner of an ASC shall ensure that a complete set of manufacturer's operating, maintenance, and preventive maintenance instructions; a parts list; and complete procurement information, including equipment numbers and descriptions, has been obtained.

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(C) An ASC shall ensure that staff who operate the systems shall be provided with instructions for proper operation of systems and equipment. Required information shall include all safety or code ratings as needed.

(23) Ventilation and space-conditioning requirements. All rooms and areas used for patient care shall have ventilation per Table 1. Although natural ventilation shall be permitted, mechanical ventilation shall be provided in all patient care rooms and areas in an ASC.

(24) HVAC Requirements for Specific Locations.

(a) Airborne infection isolation (AII) rooms. These special ventilation areas have an inward air movement relationship to adjacent areas where a patient with airborne infectious diseases may be a risk to the surrounding area. If AII rooms are required per the functional program, the HVAC design must meet the requirements of OAR 333-535-0300.

(b) Protective environment (PE) rooms. These special ventilation areas have an outward air movement relationship to adjacent areas where the patient may be at risk from the surrounding areas. If PE rooms are provided per the functional program, the PE rooms must meet the requirements of OAR 333-535-0300.

(c) Operating rooms.

(A) Air distribution.

(i) Operating room air supply shall be from ceiling outlets near the center of the work area for effective air movement control. Laminar flow design diffusers shall be used in Class B and C operating rooms as required by the functional program.

(ii) Each operating room shall have a minimum of two air inlets located as remotely from each other as possible. The return air inlets shall be located near the floor level in Class B and C operating rooms.

(B) Ventilation rates.

(i) The ventilation systems for Class B and C operating rooms shall operate at all times, except during maintenance and conditions requiring shutdown by the building's fire alarm system.

(ii) During unoccupied hours, operating room air change rates may be reduced, provided that the positive room pressure is maintained as required and the required air changes are automatically re-established any time the space is being utilized.

(iii) Ventilation systems serving Class A Operating Rooms and Class B Operating Rooms used for Endoscopy may be shut off during unoccupied periods if these areas will not have an inward air pressure relationship to adjacent areas.

(C) Humidity and smoke venting requirements in anesthetizing locations shall be designed per NFPA 99.

(d) Anesthesia storage rooms. The ventilation systems for inhalation anesthesia storage rooms shall conform to the requirements for medical gas storage as described in NFPA 99.

(e) ETO sterilizer space. The space that houses ethylene oxide (ETO) sterilizers shall be designed per OAR 333-535-0300.

(25) Thermal Insulation and Acoustical Provisions. Insulation shall be provided within the building to conserve energy, protect personnel, prevent vapor condensation, and reduce noise.

(a) Renovation.

(A) Existing accessible insulation within areas of ASCs to be modernized shall be inspected, then repaired, or replaced, as determined by inspection.

(B) If existing lined ductwork is reworked in a renovation project, the liner seams and punctures shall be resealed.

(b) Duct linings exposed to air movement shall not be used in ducts serving operating rooms, recovery rooms, central sterile processing, and protective environment rooms. This requirement shall not apply to terminal units and sound attenuators that have coverings over such lining meeting ASTM C1071.

(26) HVAC Air Distribution.

(a) Return air systems. For all areas in Table 1, return air shall be via ducted systems. The bottoms of ventilation openings shall be at least 6 inches above the floor.

(b) Humidifiers, if provided, shall meet the requirements of OAR 333-535-0300.

(c) Construction requirements. Ducts that penetrate construction intended to protect against X-ray, magnetic, RFI, or other radiation shall not impair the effectiveness of the protection.

(d) Exhaust systems.

(A) To enhance the efficiency of recovery devices required for energy conservation, combined exhaust systems shall be permitted unless otherwise noted.

(B) Local exhaust systems shall be used whenever possible in place of dilution ventilation to reduce exposure to hazardous gases, vapors, fumes, or mists.

(C) Fans serving exhaust systems shall be located at the discharge end and shall be readily serviceable.

(D) Airborne infection isolation rooms and other rooms containing contaminated exhaust such as bronchoscopy, decontamination, and sterilizer equipment rooms shall not be served by exhaust systems incorporating air to air heat recovery such as heat wheels. Heat recovery systems are acceptable if there is complete isolation of air streams, such as run-around loops.

(e) Fresh air intakes shall be located at least 25 feet from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vents, or areas that may collect vehicular exhaust or other noxious fumes. Plumbing vents that terminate above the level of the top of the air intake may be located as close as 10 feet.

(f) New and remodeled ventilation system installations shall be designed and balanced at project completion to provide directional flow as shown in Table 1. A log shall be prepared showing actual ventilation rates at each supply, return and exhaust grill, and be made available to Division on request.

(g) Ventilation Hoods. If lab exhaust hoods, safety cabinets or fume hoods are required per the functional program, these systems shall meet the requirements of OAR 333-535-0300.

(27) HVAC Filters.

(a) Filter requirements. Air handling system filtration shall meet the requirements of Table 2.

(b) Filter frames. Filter frames shall be durable and proportioned to provide an airtight fit with the enclosing ductwork. All joints between filter segments and enclosing ductwork shall have gaskets or seals to provide a positive seal against air leakage.

(28) Plumbing Systems.

(a) Standards. Unless otherwise specified herein, all plumbing systems shall be designed and installed in accordance with the Oregon Plumbing Specialty Code.

(b) Testing and documentation.

(A) All plumbing systems shall be tested to demonstrate that equipment installation and operation is appropriate and functional. Test results shall be documented for maintenance files.

(B) Upon completion of the installation, the owner shall be furnished with a complete set of manufacturer's operating, maintenance, and preventative maintenance instructions; a parts list; and complete procurement information, including equipment numbers and descriptions.

(C) Operating staff persons shall be provided with instructions for proper operation of systems and equipment. Required information shall include all safety or code ratings as needed.

(29) Plumbing and Other Piping Systems.

(a) General piping and valves.

(A) All piping, except control-line tubing, fire sprinkler, sanitary waste, vent, and condensate drain shall be identified.

(B) All valves shall be tagged, and a valve schedule shall be developed for permanent record and reference.

(b) Potable water supply systems. The following standards shall apply to potable water supply systems:

(A) Valves. Each water service main, branch main, riser, and branch to a group of fixtures shall have valves.

(i) Stop valves shall be provided for each fixture.

(ii) Appropriate panels for access shall be provided at all valves where required.

(B) Dead-end piping (risers with no flow, branches with no fixture) shall not be installed. In renovation projects, dead-end piping shall be removed. Empty risers, mains, and branches installed for future use shall be permitted and shall be valved at the connection to the main.

(c) Hot water systems. The following standards shall apply to hot water systems. These requirements do not apply to ASCs that do not perform invasive operations or procedures.

(A) Hot water distribution systems serving patient care areas shall be under constant recirculation to provide continuous hot water at each hot water outlet. Non-recirculated fixture branch piping shall not exceed 25 feet in length.

(B) Provisions shall be included in the domestic hot water system to limit *Legionella* bacteria and opportunistic waterborne pathogens.

(C) Domestic hot water system in an ASC with Class C operating rooms shall provide backup equipment for hot water and sterilizer needs.

(d) Plumbing Fixtures.

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(A) Hand-washing stations used by medical and nursing staff, patients, and food handlers shall be trimmed with valves that can be operated without hands. Single-lever or wrist blade devices shall be permitted. Sensor-regulated water fixtures shall meet user need for temperature and length of time the water flows. Electronic faucets shall be capable of functioning during loss of normal power when the ASC is required to have an emergency generator.

(B) Clinical sinks shall have an integral trap wherein the upper portion of the water trap provides a visible seal. Handles on clinical sink faucets shall be at least 6 inches long.

(30) Hemodialysis piping. Where the functional program includes hemodialysis, the requirements of OAR 333-700-0130 shall be met.

(31) Drainage systems.

(a) Piping.

(A) Drain lines from sinks used for acid waste disposal shall be made of acid-resistant material. Drain lines from automatic blood-cell counters using sodium azide shall be made of copper and lead free materials.

(B) Drainage piping shall not be installed within the ceiling or exposed in Class B and C operating rooms. Where exposed overhead drain piping in these areas is unavoidable, special provisions such as FM 1680 fittings or drain pans shall be made to protect the space below from leakage, condensation, or dust particles.

(b) Floor drains.

(A) Floor drains shall not be installed in operating rooms, except as permitted in dedicated cystoscopy rooms.

(B) If a floor drain is installed in a dedicated cystoscopy room, it shall contain a non-splash, horizontal-flow flushing bowl beneath the drain plate.

(c) Plaster traps. Where plaster traps are used, provisions shall be made for appropriate access and cleaning.

(32) Medical Gas and Vacuum Systems. Station outlets shall be provided per Table 3. The use of portable medical gas systems shall be considered for ASCs with Class A operating rooms per the functional program.

(a) Medical gas and vacuum systems. When provided, piped in medical gas and vacuum systems shall be installed, tested, and verified prior to use in accordance with NFPA 99, Gas and Vacuum System Chapter and Other Health Care Facility Chapter. When additions or modifications are made to a system, the new and existing components in the immediate zone or area located upstream (for vacuum systems) and downstream (for medical gas systems) of the altered section shall be tested and verified.

(b) Anesthesia scavenging system. Each space routinely used for administering inhalation anesthesia shall be served by a scavenging system to vent waste gases. Gases from the scavenging system shall be exhausted directly to the outside. If the medical vacuum system is used, the gas collecting system shall be arranged so that it does not interfere with the patient's respiratory system. The anesthesia evacuation system may be a dedicated air exhaust system, provided the part used for anesthesia gas scavenging exhausts directly to the outside and is not part of the recirculation system.

(33) Communications Systems.

(a) Locations for terminating telecommunications and information system devices shall be provided.

(b) A space shall be provided for central equipment locations. Special air conditioning and voltage regulation shall be provided when recommended by the manufacturer.

(34) Electronic Safety and Security Systems and Fire Alarm System. Any fire alarm system shall be as required by NFPA 101 and installed per NFPA 72.

(35) Electrical Systems.

(a) Applicable standards.

(A) All electrical material, systems, and equipment, including conductors, controls, and signaling devices, shall be installed in compliance with applicable sections of OESC and NFPA 99. In addition, an ASC must meet the specific ambulatory health care requirements found at NFPA 99 (Other Health Care Facilities Chapter).

(B) All electrical material and equipment shall be listed as complying with available standards of listing agencies or other similar established standards where such standards are required.

(b) Testing and documentation.

(A) Electrical installations, including alarm and communication systems, shall be tested to demonstrate that equipment installation and operation is appropriate and functional. Test results shall be documented for maintenance files.

(B) Upon completion of the installation, a complete set of manufacturer's operating, maintenance, and preventative maintenance instructions;

a parts list; and complete procurement information, including equipment numbers and descriptions shall be available on site.

(C) Operating staff persons shall be provided with instructions for proper operation of systems and equipment. Required information shall include all safety or code ratings as needed.

(D) Essential electrical system, grounding system, and receptacles shall be tested per NFPA 99.

(36) Electrical Distribution and Transmission.

(a) Switchboards.

(A) Main switchboards shall be located in an area separate from plumbing and mechanical equipment and shall be accessible to authorized persons only.

(B) Switchboards shall be convenient for use and readily accessible for maintenance.

(C) Switchboards shall be located in dry, ventilated spaces free from corrosive or explosive fumes or gases or any flammable material.

(b) Panelboards.

(A) Panelboards serving normal lighting and appliance circuits shall be located on the same floor as the circuits they serve.

(B) Panelboards serving critical branch emergency circuits shall be located on each floor.

(C) Panelboards serving life safety emergency circuits may also serve one floor above and/or below.

(c) Ground-fault circuit interrupters.

(A) Ground-fault circuit interrupters (GFCIs) shall comply with OESC.

(B) When GFCIs are used in critical care areas, provisions shall be made to ensure that other essential equipment is not affected by activation of one interrupter.

(37) Power Generating and Storing Equipment.

(a) Emergency electrical service. Emergency lighting and power shall be provided in accordance with NFPA 99, NFPA 101, and NFPA 110.

(b) Emergency generator systems are required in an ASC that administers inhalation anesthetics and where a patient requires electrical life support equipment as part of the surgical protocol. An ASC that is required to have an emergency generator system must also meet the specific ambulatory health care requirements found at NFPA 99 (Other Health Care Facilities Chapter).

(38) Lighting.

(a) Lighting shall conform to the recommended lighting standards for public buildings contained in the OSSC (Means of Egress Illumination), Illuminating Engineering Society (IES) RP-29 Hospitals and Health Care Facilities. Approaches to buildings and parking lots, and all occupiable spaces within the building shall have illuminated fixtures as necessary.

(b) Procedure rooms. A portable or fixed examination light shall be provided for procedure rooms.

(c) Operating rooms. Operating rooms shall have general lighting in addition to special lighting units provided at surgical tables. General lighting and special lighting shall be on separate circuits.

(39) Receptacles (Convenience Outlets).

(a) Duplex grounded-type receptacles (convenience outlets) shall be installed in all areas in sufficient quantities for tasks to be performed as needed. Duplex receptacles shall be provided per Table 4.

(b) Emergency system receptacles. Electrical receptacle cover plates or electrical receptacles supplied from the emergency systems shall be distinctively colored or marked for identification. If color is used for identification purposes, the same color shall be used throughout the ASC.

(40) Call Systems.

(a) General. Signaling and nurse call equipment shall be provided in an ASC with Class B and C operating rooms and shall include the following types of call stations: patient stations, staff assist, bath stations, and code call stations.

(A) Call station locations shall be as required in Table 5.

(B) Call stations shall report to an attended location with electronically supervised visual and audible annunciation.

(C) Call system master stations shall be located at the nurse control station and shall provide audible/visual prompting and display all pending calls.

(D) In addition to these rules, call systems shall meet the requirements of Underwriters Laboratory (UL) 1069: *Standards for Hospital Signaling and Nurse Call Equipment* and state and local requirements.

(E) Alternate technologies including radio frequency systems, shall be permitted for call systems in an ASC with Class A operating rooms.

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(b) Patient stations. Patient stations shall be provided to allow each patient to summon assistance from the nursing staff. Use of a dual call station shall be permitted when beds are located adjacent to each other.

(A) The patient station shall be equipped with the following:

(i) A visible signal once it has been activated. An indicator light or call assurance lamp that remains lighted until a call is cancelled shall be provided. In rooms containing two or more patient stations, call assurance lamps shall be provided at each station; and

(ii) A reset switch for canceling a call.

(B) The patient station shall activate a visible signal in the corridor at the patient's door or at the nurse station within the room with the patients under constant visual surveillance and at the master station.

(c) Bath stations. Bath stations shall be located to the side of toilets within 12 inches of the front of the toilet bowl and 3 to 4 feet above the floor. A bath station with a pull string that can be activated by a patient lying on the floor shall be provided at each room containing a patient water closet, tub, or shower. An alarm in these areas shall be able to be turned off only at the bath station where it is initiated.

(d)(A) Code call stations. Commonly referred to as a "Code Blue," code call stations are meant for use during a life-threatening situation to summon assistance from others throughout the unit or department.

(B) The code call station shall be equipped with a continuous audible or visual confirmation to the person who initiated the code call.

(e) Staff assist call stations. Staff assist call stations are meant for use during a non-life threatening situation to summon assistance from others throughout the unit or department.

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

Stat. Auth.: ORS 441.025 & 441.060

Stats. Implemented: ORS 441.025 & 441.060

Hist.: HD 11-1980, f. & ef. 9-10-80; HD 25-1983(Temp), f. & ef. 12-21-83; HD 23-1985, f. & ef. 10-11-85; Renumbered from 333-023-0163(1); HD 3-1990, f. 1-8-90, cert. ef. 1-15-90, Renumbered from 333-076-0100(11)(a)-(k); PH 5-2012, f. 3-30-12, cert. ef. 4-1-12

Rule Caption: Registry of emergency health care services volunteers to include previously licensed health professionals.

Adm. Order No.: PH 6-2012

Filed with Sec. of State: 3-30-2012

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Rules Adopted: 333-003-0117, 333-003-0119

Rules Amended: 333-003-0105, 333-003-0110, 333-003-0115, 333-003-0118, 333-003-0125, 333-003-0140, 333-003-0210

Subject: The Oregon Health Authority, Public Health Division is permanently adopting and amending Oregon Administrative Rules relating to the registration and activation of emergency health care services volunteers in response to the passage of SB 563 during the 2011 legislative session.

These rules address the registration, training, background check process, activation and extended liability protection and workers' compensation protection to qualified emergency service volunteers. The rules also help to build more programmatic structure and streamline processes to strengthen the registration process of emergency health care services volunteers to include previously licensed health professionals.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-003-0105

Definitions

For purposes of OAR 333-003-0100 through 333-003-0140, the following definitions apply:

(1) "Cooperative Agreement" means an agreement between the Division and a local public health authority under ORS 401.657.

(2) "Credentialing" means granting privileges or permission, including any limitations or limits on the privileges or permission, authorizing a health care provider to provide health care services at a health care facility.

(3) "Credentialing plan" means the procedures established by an emergency health care center for credentialing registrants and volunteers, including but not limited to a plan for verifying that a health care provider is in good standing.

(4) "Declaration" or "declared emergency" means the Governor has declared a state of emergency to exist under ORS 401.055 or 433.441

(5) "Division" means the Oregon Health Authority, Public Health Division.

(6) "Emergency health care center" means a health care facility, or any portion thereof designated by the Division or by a local public health authority or any other location designated by the Division or by a local public health authority in accordance with OAR 333-003-0130.

(7) "Emergency health care services" means health care services rendered by a registrant or volunteer during a declared emergency.

(8) "Emergency Support Function 8 (ESF-8)" means the Public Health and Medical Services response for the State of Oregon during a declared emergency.

(9) "Health care facility" means a health care facility as defined in ORS 442.015 that has been licensed under ORS chapter 441.

(10) "Health care provider" means:

(a) An individual licensed, certified or otherwise authorized or permitted by the laws of this state or another state to administer health care services in the ordinary course of business or practice of a profession; and

(b) A person entered in the emergency health care provider registry under Oregon Laws 2011, chapter 89 and OAR 333-003-0117.

(11) "Health professional regulatory board" has the meaning given that term in ORS 676.160.

(12) "Incident Command System (ICS)" means a standardized on-scene emergency management system that enables multiple agencies and jurisdictions to respond to single or multiple incidents using an integrated organizational structure.

(13)(a) "In good standing" means that:

(A) A health care provider is currently certified, registered or licensed, does not have any disciplinary restrictions placed on any certificate, registration or license, and who is not suspended or on probation with any certifying, registering or licensing agency that issued a certificate, registration or license for any reason; or

(B) At the time the health care provider was last certified, registered or licensed the health care provider:

(i) Did not have any disciplinary restrictions placed on a certificate, registration or license; and

(ii) Was not on probation or did not have a certificate, registration or license revoked or suspended by the certifying, registering or licensing agency that issued the certificate, registration or license, for any reason.

(b) An individual is not in good standing if he or she voluntarily surrendered a certificate, registration or license while under investigation by a certifying, registering, or licensing board or surrendered a certificate, registration or license in lieu of discipline.

(14) "Local public health authority" has the meaning provided in ORS 431.260.

(15) "Registrant" means a health care provider listed on the Registry.

(16) "Registry" means the Health Care Provider Registry established by the Division.

(17) "Volunteer" means a health care provider who is not a registrant or is a registrant but is not deployed by the Registry, who provides emergency health care services at an emergency health care center.

Stat. Auth.: ORS 401.651 - 401.670 & 2011 OL Ch. 89

Stats. Implemented: ORS 401.651 - 401.670 & 2011 OL Ch. 89

Hist.: PH 26-2004, f. & cert. ef. 7-30-04; PH 8-2008, f. & cert. ef. 5-5-08; PH 17-2010, f. & cert. ef. 8-12-10; PH 6-2012, f. 3-30-12, cert. ef. 4-1-12

333-003-0110

The Health Care Provider Registry

(1) Under ORS 431.654 the Division is authorized to maintain a registry of health care providers who may, during a declared emergency, be deployed by the Division to provide emergency health care services. The Division shall include the following minimum information in the Registry concerning each registrant:

(a) Name;

(b) Contact information;

(c) Current license, registration or other certification, or previous license, registration or certification; and

(d) Information about the registrant's usual or former practice or specialty, if that information is available and the Division determines it is necessary to include in the Registry.

(2) Health care providers that may be registered include but are not limited to individuals currently or previously within the last 10 years licensed, registered or certified by the:

(a) State Board of Examiners for Speech-Language Pathology and Audiology;

(b) State Board of Chiropractic Examiners;

(c) State Board of Licensed Social Workers;

(d) Oregon Board of Licensed Professional Counselors and Therapists;

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- (e) Oregon Board of Dentistry;
- (f) Board of Examiners of Licensed Dietitians;
- (g) State Board of Massage Therapists;
- (h) Oregon Board of Naturopathic Medicine;
- (i) Oregon State Board of Nursing;
- (j) Oregon Board of Optometry;
- (k) State Board of Pharmacy;
- (l) Oregon Medical Board;
- (m) Occupational Therapy Licensing Board;
- (n) Physical Therapist Licensing Board;
- (o) State Board of Psychologist Examiners;
- (p) Board of Medical Imaging;
- (q) State Board of Direct Entry Midwifery;
- (r) State Board of Denture Technology;
- (s) Respiratory Therapist Licensing Board; or
- (t) Oregon Health Authority, to the extent that the Authority certifies emergency medical technicians.

(3) The Division may share information about registrants with state and local emergency management departments, local public health authorities, and other state or federal agencies and health care facilities as necessary, for emergency response purposes. Nothing in this section prohibits the Division from sharing registry information for any lawful purpose.

Stat. Auth.: ORS 401.651 - 401.670

Stats. Implemented: ORS 401.651 - 401.670

Hist.: PH 26-2004, f. & cert. ef. 7-30-04; PH 8-2008, f. & cert. ef. 5-5-08; PH 17-2010, f. & cert. ef. 8-12-10; PH 6-2012, f. 3-30-12, cert. ef. 4-1-12

333-003-0115

Registration of Currently Licensed Health Care Providers; Renewal

(1) A health care provider who is currently licensed, registered or certified may apply to the Division to be registered as a health care provider to provide emergency health care services during an emergency.

(2) A health care provider shall apply by completing a form prescribed by the Division and submitting the form in the manner prescribed by the Division.

(3) The Division shall verify that an applicant is in good standing.

(4) The Division may request additional information from an applicant if the application is incomplete or questions arise about the applicant during the Division's verification process.

(5) The Division may require that an applicant undergo a criminal background check if during the application process the Division learns of issues related to the applicant's history that reasonably raises questions about the ability of the applicant to safely provide emergency health care services. If the Division does require a criminal background check an applicant must sign any necessary authorizations for the criminal background check, provide fingerprints if requested and pay any necessary fees to cover the costs for the background check.

(6) The Division shall notify an applicant, in writing, if he or she has been accepted as a registrant and if not, why not.

(7) If an applicant has been accepted, the Division shall also provide the registrant information described in OAR 333-003-0118.

(8) The Division shall issue a registrant a registry identification card once the registrant has completed the orientation and training required in OAR 333-018-0118. The identification card shall:

(a) Identify the registrant;

(b) Indicate that the registrant is registered as an emergency health care provider;

(c) Identify the license or certification held by the registrant; and

(d) Identify the registrant's usual area of practice if that information is available and the authority determines that it is appropriate to provide that information.

(9) The Division shall require each registrant to update his or her registration information every two years, or when changes occur, and a registrant shall be required to sign a form, prescribed by the Division, that indicates the registrant is willing and able to remain on the Registry.

(10) A registrant identification card shall be renewed and provided to a registrant who fulfills the requirements in section (9) of this rule.

(11) The Division may remove a registrant from the Registry if the Division:

(a) Is notified or learns that a registrant is not in good standing with his or her licensing board or certifying agency;

(b) Determines that a registrant is not capable of providing emergency health care services;

(c) Determines that a registrant has a personal or criminal history that calls into question the ability of the registrant to safely provide emergency health care services; or

(d) Determines that a registrant is not complying with these rules.

(12) A registrant removed from the Registry may reapply at any time but must include with his or her application an explanation that describes how the issue that led to removal has been addressed.

(13) The Division may require a registrant to undergo a criminal background check if at any time the Division learns of issues related to the registrant's history that reasonably raises questions about the ability of the applicant to safely provide emergency health care services. If the Division does require a criminal background check a registrant must sign any necessary authorizations for the criminal background check, provide fingerprints if requested and pay any necessary fees to cover the costs for the background check.

Stat. Auth.: ORS 401.651 - 401.670 & 2011 OL Ch. 89

Stats. Implemented: ORS 401.651 - 401.670 & 2011 OL Ch. 89

Hist.: PH 26-2004, f. & cert. ef. 7-30-04; PH 8-2008, f. & cert. ef. 5-5-08; PH 17-2010, f. & cert. ef. 8-12-10; PH 6-2012, f. 3-30-12, cert. ef. 4-1-12

333-003-0117

Registration of Formerly Licensed Health Care Providers; Renewal

(1) A person who was licensed, certified or otherwise authorized to provide health care services not more than 10 years prior to the date of application, may apply to the Division to be registered as a health care provider to provide emergency health care services during an emergency.

(2) A person described in section (1) of this rule shall apply by completing a form prescribed by the Division and submitting the form in the manner prescribed by the Division.

(3) An applicant shall provide evidence from the entity that licensed, certified, or otherwise authorized the applicant to previously provide health care services that verifies that the applicant was in good standing at the time the applicant surrendered his or her license, certification or authorization to provide health care services.

(4) The Division may request additional information from an applicant if the application is incomplete or questions arise about the applicant during the Division's verification process.

(5) An applicant shall undergo a criminal background check and shall sign any necessary authorizations and pay any necessary fees for the criminal background check.

(6) The Division shall notify an applicant, in writing, if he or she has been accepted as a registrant and if not, why not.

(7) If an applicant has been accepted, the Division shall also provide the registrant information described in OAR 333-003-0118.

(8) The Division shall issue a registrant a registry identification card once the registrant has completed the orientation and training required in OAR 333-018-0118. The identification card shall:

(a) Identify the registrant;

(b) Indicate that the registrant is registered as an emergency health care provider;

(c) Identify the license or certification previously held by the registrant; and

(d) Identify the registrant's former area of practice if that information is available and the Division determines that it is appropriate to provide that information.

(9) The Division shall require each registrant to update his or her registration information every two years, or when changes occur, and a registrant shall be required to sign a form, prescribed by the Division, that indicates the registrant is willing and able to remain on the Registry. A registrant shall provide documentation of completed continuing education credits with the renewal form.

(10) The Division shall conduct a criminal background check on registrants registered under this rule every five years. A registrant is responsible for signing any necessary authorizations and paying any necessary fees.

(11) A registrant identification card shall be renewed and provided to a registrant who fulfills the requirements in section (9) and (10) of this rule.

(12) The Division may remove a registrant from the Registry if the Division:

(a) Is notified or learns that a registrant is not in good standing with his or her licensing board or certifying agency;

(b) Determines that a registrant is not capable of providing emergency health care services;

(c) Determines that a registrant has a personal or criminal history that calls into question the ability of the registrant to safely provide emergency health care services; or

(d) Determines that a registrant is not complying with these rules.

(13) A registrant removed from the Registry may reapply at any time if the registrant meets the criteria in section (1) of this rule but must include

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with his or her application an explanation that describes how the issue that led to removal has been addressed.

Stat. Auth.: ORS 401.651 - 401.670 & 2011 OL Ch. 89
Stats. Implemented: ORS 401.651 - 401.670 & 2011 OL Ch. 89
Hist.: PH 6-2012, f. 3-30-12, cert. ef. 4-1-12

333-003-0118

Duties of Registrants

(1) A registrant is required to complete an orientation session offered or approved by the Division and complete mandatory training offered or approved by the Division including but not limited to ICS training, prior to receiving an identification card.

(2) A registrant has one year from the date the registrant is notified of acceptance into the Registry to complete the orientation and required training or the Division shall remove the registrant's name from the Registry.

(3) If the Division notifies a registrant of an activation, the registrant shall respond to the Division within 24 hours whether or not the registrant is willing to be activated and deployed in accordance with OAR 333-003-0125.

(4) A registrant is required to notify the Division, as soon as practicable, but within 30 days, of the following:

(a) A change in mailing address, phone number, or electronic mail address;

(b) A change in licensure status, certification or registration status; and

(c) A change in mental or physical health that renders a registrant unable to perform emergency health care services.

(5) A registrant shall immediately notify the Division if a registrant's identification card is lost or stolen. The Division shall replace a lost or stolen identification card and may charge a fee for the replacement card.

(6) A registrant may request removal from the Registry at any time by notifying the Division, in writing, of the request, and by returning the identification card described in OAR 333-003-0115. Upon receipt of such request and verification that it came from the registrant, the Division shall remove the registrant from the Registry.

(7) If at any time a registrant is notified by the Division that the registrant has been removed from the Registry, the registrant shall return the identification card described in OAR 333-003-0115 to the Division within 10 days of the date the notification was mailed or electronically mailed. Removed registrants may re-apply at a later date subject to Division approval.

(8) A registrant may only provide health care services during an emergency that the registrant is competent to perform.

Stat. Auth.: ORS 401.670
Stats. Implemented: ORS 401.654
Hist.: PH 17-2010, f. & cert. ef. 8-12-10; PH 6-2012, f. 3-30-12, cert. ef. 4-1-12

333-003-0119

Criminal Background Checks

The Division shall perform criminal background checks in accordance with OAR chapter 943, division 7, or through the Oregon State Police.

Stat. Auth.: ORS 401.670 & 2011 OL Ch. 89
Stats. Implemented: ORS 401.654 & 2011 OL Ch. 89
Hist.: PH 6-2012, f. 3-30-12, cert. ef. 4-1-12

333-003-0125

Activation of Registrants

(1) The Division may activate the Registry in the event of a declaration and direct registrants willing to provide emergency health care services to proceed to any place in Oregon where emergency health care services are required by reason of the emergency or crisis.

(2) The Division may also activate the Registry pursuant to the Emergency Management Assistance Compact and the Pacific Northwest Emergency Management Arrangement and direct registrants willing to provide emergency health care services to proceed to another state where emergency health care services are required by reason of the emergency or crisis in that state.

(3) The activation of the Registry may be used to support the state Emergency Coordination Center, the State Emergency Management Plan and to implement ESF 8 plans, protocols, and procedures to integrate registrants into the state and local emergency response.

(4) The Division shall notify registrants of activation by phone, electronic mail, or any other means of communications.

(5) The Division shall provide, at a minimum, the following to a registrant willing to be deployed:

- (a) A mission order;
- (b) A description of items needed during the deployment; and

(c) If applicable, items that will be provided to a registrant.

(6) A registrant willing to be deployed shall bring his or her registry identification card and driver's license to the deployment site.

(7) A registrant may decline to be deployed at the time the registrant is notified of the activation. A registrant shall remain on the Registry whether or not the registrant agrees to be deployed unless the registrant notifies the Division in accordance with OAR 333-003-0118 that he or she wants to be removed from the Registry.

(8) If a registrant deployed under these rules provides emergency health care services at a designated emergency health care center the registrant must provide those services in accordance with the emergency operations plan and credentialing plan adopted by the designated emergency health care center.

(9) In anticipation of a declaration of emergency or during a declared emergency the Division may register health care providers without complying with OAR 333-003-0115 and provide just-in-time orientation and training. Under this section the Division shall verify licensure status as quickly as possible and shall issue the health care provider a temporary identification card.

Stat. Auth.: ORS 401.651 - 401.670 & 2011 OL Ch. 89
Stats. Implemented: ORS 401.651 - 401.670 & 2011 OL Ch. 89
Hist.: PH 26-2004, f. & cert. ef. 7-30-04; PH 8-2008, f. & cert. ef. 5-5-08; PH 17-2010, f. & cert. ef. 8-12-10; PH 6-2012, f. 3-30-12, cert. ef. 4-1-12

333-003-0140

Training

(1) The Division may require or otherwise make available to registrants training that the Division determines necessary or beneficial to the provision of emergency health care services that may be rendered by registrants pursuant to ORS 401.651 through 401.670 and these rules, including but not limited to training in the emergency response system structure, operations, emergency preparedness and table top or other emergency response exercises. The Division shall not require training that is related to a registrant's professional license.

(2) A person who is registered in accordance with OAR 333-003-0117 shall:

(a) Prior to being eligible for activation, and thereafter every three years, complete the following training and provide documentation of completion to the Division.

- (A) First Aid that includes CPR and AED use;
- (B) Basic Disaster Life Support;
- (C) Triage; and
- (D) Psychological First Aid.

(b) Complete at least a total of six hours of continuing education credits every two years on the following subjects or substantially similar subjects:

- (A) Disaster medicine;
- (B) Psychological first aid;
- (C) Disaster life support; and
- (D) Wilderness first aid or medicine.

Stat. Auth.: ORS 401.651 - 401.670 & 2011 OL Ch. 89
Stats. Implemented: ORS 401.651 - 401.670 & 2011 OL Ch. 89
Hist.: PH 26-2004, f. & cert. ef. 7-30-04; PH 17-2010, f. & cert. ef. 8-12-10; PH 6-2012, f. 3-30-12, cert. ef. 4-1-12

333-003-0210

Liability Protection; Workers' Compensation

(1) Registrants and volunteers who provide emergency health care services in accordance with ORS 401.651 through 401.670 and these rules are agents of the state under 30.260 through 30.300 for the purposes of any claims arising out of services that are provided under 401.651 through 401.670 and these rules pursuant to directions from a public body and that are within the course and scope of the registrant's or volunteer's duties, without regard to whether the registrant or volunteer is compensated for the services.

(2) If the Governor declares an emergency a designated emergency health care center and persons operating a designated emergency health care center are agents of the state under ORS 30.260 through 30.300 for the purposes of any claims arising out of services that are provided through the designated emergency health care center pursuant to directions from a public body and that are within the course and scope of the duties of the health care facility or other person, without regard to whether the health care facility or other person is compensated for the services.

(3) A registrant participating in training authorized by the Oregon Health Authority under ORS 401.651 through 401.670 and OAR 333-003-0140 is an agent of the state under ORS 30.260 through 30.300 for the purposes of any claims arising out of that training.

ADMINISTRATIVE RULES

(4) The provisions of section (2) of this rule apply only to a designated emergency health care center that has adopted an emergency operations plan and credentialing plan that governs the use of registrants and volunteers. An emergency operations plan and a credentialing plan must comply with these rules.

(5) A registrant shall also be considered a qualified emergency services volunteer under ORS 401.358 through 401.368 for the purpose of receiving workers' compensation coverage if injured in the course and scope of providing emergency health care services.

(6) A volunteer must meet the definition of a qualified emergency services volunteer under ORS 401.358 in order to receive workers' compensation coverage under 401.358 through 401.368.

Stat. Auth.: ORS 401.670

Stats. Implemented: ORS 401.667

Hist.: PH 17-2010, f. & cert. ef. 8-12-10; PH 6-2012, f. 3-30-12, cert. ef. 4-1-12

Rule Caption: Changes to Home Health Agency licensing rules in response to 2009 and 2011 legislation.

Adm. Order No.: PH 7-2012

Filed with Sec. of State: 3-30-2012

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Rules Adopted: 333-027-0017, 333-027-0018, 333-027-0029, 333-027-0033, 333-027-0036, 333-027-0037, 333-027-0038, 333-027-0064, 333-027-0175, 333-027-0180, 333-027-0185, 333-027-0190

Rules Amended: 333-027-0000, 333-027-0005, 333-027-0010, 333-027-0015, 333-027-0020, 333-027-0025, 333-027-0040, 333-027-0050, 333-027-0060, 333-027-0080, 333-027-0090, 333-027-0100, 333-027-0110, 333-027-0120, 333-027-0130, 333-027-0140, 333-027-0150, 333-027-0170

Rules Repealed: 333-027-0030, 333-027-0035

Subject: The Oregon Health Authority, Public Health Division is permanently adopting, amending and repealing Oregon Administrative Rules relating to home health agencies in response to legislation passed in 2009 (SB 158) and 2011 (HB 2650). These rules update and clarify the process for licensure, OHA oversight and enforcement, establish requirements for criminal background checks, and make the rules consistent with certain federal requirements. SB 158 attempts to correct inadequate oversight due to gaps in law, inadequate resources, and clarifies statutes governing the roles and responsibilities of many facilities and agencies providing care to patients or clients. SB 158 also requires on-site surveys of all licensed health care facilities and agencies at a minimum of every three years. HB 2650 repeals provisions passed in 2009 requiring the Department of Human Services to conduct criminal background checks for home health and in-home care agencies. Home health and in-home care agencies may use private vendors to conduct criminal background checks but must comply with the provisions of ORS 443.004(3). The Public Health Division is required to prescribe the process for home health and in-home care agencies conducting background checks.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-027-0000

Purpose

The purpose of these rules is to establish the standards for licensure of home health agencies.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.005 - 443.090

Hist.: HD 19-1987, f. 11-10-87, ef. 12-1-87; HD 22-1988, f. & cert. ef. 9-16-88; OHD 13-1998, f. & cert. ef. 11-6-98; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0005

Definitions

The following definitions shall apply in OAR 333-027-0000 through 333-027-0190:

(1) "Admission" means acceptance of a patient for the provision of services by an agency.

(2) "Authority" means the Oregon Health Authority.

(3) "Agency" means Home Health Agency.

(4) "Branch Office" means a location or site from which a home health agency provides services to patients within a portion of the total geo-

graphic area served by the parent agency and does not exceed 60 miles from the parent agency.

(5) "Clinical Note" means a dated, written, and signed notation by a member of the home health agency team of a contact with the patient that describes care rendered, signs and symptoms, treatment and/or drugs given, patient's reaction, and any changes in patient's physical or mental condition.

(6) "Clinical Record" means all information and documentation pertaining to the care of a patient.

(7) "Division" means the Public Health Division of the Oregon Health Authority.

(8) "Governing Body" means the designated person(s) having ultimate responsibility for the home health agency.

(9) "Home Health Agency" means a public or private entity providing coordinated home health services on a home visiting basis.

(10) "Home Health Aide" means a person who is certified as a nursing assistant by the Oregon State Board of Nursing in accordance with OAR chapter 851, division 062 and who assists licensed nursing personnel in providing home health services.

(11) "Home Health Service" means items and services furnished to an individual by a home health agency, or by others under arrangement with such agency, on a visiting basis in a place of temporary or permanent residence used as the individual's home for the purpose of maintaining that individual at home.

(12) "Licensed Practical Nurse" means a person licensed as such by the Oregon State Board of Nursing in accordance with ORS chapter 678.

(13) "Nurse Practitioner" has the meaning given that term in ORS 678.010.

(14) "Occupational Therapist" has the meaning given that term in ORS 675.210.

(15) "Occupational Therapy Assistant" has the meaning given that term in ORS 675.210.

(16) "Parent Home Health Agency" ("Parent Agency") means an agency that has branches or subunits.

(17) "Physical Therapist Assistant" has the meaning given that term in ORS 688.010 and is licensed in accordance with 688.020

(18) "Physical Therapist" has the meaning given that term in ORS 688.010.

(19) "Physician" means a person who is licensed by the Oregon Medical Board and that meets the definition in ORS 677.010(13) and (14).

(20) "Plan of treatment" means a document developed by the treating physician or nurse practitioner in consultation with agency staff after a patient assessment that identifies the patient's medical status and needs, and outlines the services that will be provided to the patient to meet identified needs. The plan of treatment may also be referred to as the plan of care.

(21) "Primary Agency" means the agency that admits the patient for the provision of curative, rehabilitative, and/or preventive services in the patient's home by home health professionals.

(22) "Professional Policy-Making Committee" (Committee) means a group of individuals who are appointed by the governing body of an agency, and who has authority and responsibility for the development and monitoring of all professional policies pertaining to the home health agency.

(23) "Progress Note" means a documented summary of a patient's response to care provided during a specific period of time.

(24) "Registered Nurse" means a person licensed as such by the Oregon State Board of Nursing in accordance with ORS chapter 678.

(25) "Skilled Nursing" means the patient care services pertaining to the curative, rehabilitative, or preventive aspects of nursing performed by, or under the supervision of, a registered nurse pursuant to the plan of treatment.

(26) "Social Worker" means a person who has a master's degree from a school of social work accredited by the Council on Social Work Education and has one year of social work experience in a health care setting.

(27) "Social Work Assistant" means a person who has a baccalaureate degree in social work, psychology, or another field related to social work and has at least one year of social work experience in a health care setting.

(28) "Speech Pathologist" means a person who is licensed in accordance with ORS 681.250 and has a Certificate of Clinical Competence in speech pathology or audiology from the American-Speech-Language-Hearing Association.

ADMINISTRATIVE RULES

(29) "Stable and predictable condition" means a situation where the patient's clinical or behavioral state is known, not characterized by rapid changes, and does not require continuous reassessment and evaluation.

(30) "Subunit" means an agency that provides services for a parent agency in a geographic area different from that of the parent agency and at a distance that exceeds 60 miles from the parent agency.

(31) "Survey" means an inspection of an applicant for a home health agency license or licensed home health agency to determine the extent to which the applicant or agency is in compliance with ORS chapter 443 and these rules.

(32) "Therapeutic services" means services provided for curative, rehabilitative, or preventive purposes.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.005 & 443.085

Hist.: HD 151, f. & ef. 12-30-77; HD 1-1982, f. & ef. 2-4-82; HD 19-1987, f. 11-10-87, ef. 12-1-87; HD 22-1988, f. & cert. ef. 9-16-88; HD 20-1993, f. & cert. ef. 10-28-93; OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0010

Application for Licensure

(1) An agency that establishes, purports to manage or operate as a home health agency must be licensed by the Division and comply with ORS 443.005–443.095 and OAR chapter 333, division 027.

(2) An applicant wishing to apply for a license to operate a home health agency shall submit an application on a form prescribed by the Division and pay the applicable fee as specified in OAR 333-027-0025.

(3) If an owner or administrator will have direct contact with a patient, the owner or administrator must submit background information to the Division, in accordance with OAR 333-027-0064 for the purposes of conducting a criminal records check.

(4) If any of the information delineated in the agency's most recent application changes at a time other than the annual renewal date, the agency shall notify the Division in writing within 30 days.

(5) A subunit must independently comply with all licensure requirements.

(6) A branch office is part of the parent agency and therefore need not independently comply with these licensure requirements. The Division shall determine on a case-by-case basis exceptions to the 60 mile travel distance from the parent agency requirement for a branch office and subunits as defined in OAR 333-027-0005.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.015 & 443.065

Hist.: HD 151, f. & ef. 12-30-77; HD 19-1987, f. 11-10-87, ef. 12-1-87; OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0015

Review of License Application

(1) In reviewing an application for a home health agency license, the Division shall verify that the agency:

(a) Is primarily engaged in providing skilled nursing and at least one of the following other services: physical therapy, occupational therapy, speech therapy, medical social services, home health aide, or other therapeutic services;

(b) Has a governing body established pursuant to ORS 443.055 and OAR 333-027-0060;

(c) Has policies established by professional personnel associated with the entity, including one or more physicians and one or more registered nurses, at least two of whom are neither owners or employees of the agency, and two consumers, to govern the services that it provides;

(d) Has a physician, a nurse practitioner or registered nurse supervise all services provided by the agency as described under subsection (1)(a) of this rule;

(e) Maintains clinical and financial records on all patients; and

(f) Has an overall plan and budget in effect.

(2) The Division shall conduct a survey in accordance with OAR 333-027-0035 of the agency, and may include subunits or branch locations, to determine if the agency is in compliance with ORS chapter 443 and OAR chapter 333, division 027 and has the intent to provide home health services. If an agency is in compliance and has the intent to provide home health services to patients, a license may be issued for the operation of the agency.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.015

Hist.: HD 151, f. & ef. 12-30-77; HD 1-1982, f. & ef. 2-4-82; HD 19-1987, f. 11-10-87, ef. 12-1-87; HD 3-1989, f. & cert. ef. 5-24-89; HD 20-1993, f. & cert. ef. 10-28-93; OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0017

Approval of License Application

(1) The Division shall notify an applicant in writing if a license application is approved.

(2) A license shall be issued only for the agency and person(s) named in the application and may not be transferred or assigned.

(3) The license shall be conspicuously posted in an office that is viewable by the public.

(4) A licensed home health agency that provides personal care services that are necessary to assist an individual's daily needs, but do not include curative or rehabilitative services is not required to be licensed as an in-home care agency. Such agencies shall comply with ORS 443.305 through 443.355 and OAR 333-536-0000 through 333-536-0125 with the exception of the licensing requirements.

Stat. Auth.: ORS 443.085

Stat. Implemented: ORS 443.015, 443.085 & 443.090

Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0018

Denial of License Application

If the Division intends to deny a license application, it shall issue a Notice of Proposed Denial of License Application in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 443.085

Stat. Implemented: ORS 443.045

Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0020

Expiration and Renewal of License

(1) Each license shall expire on the 31st day of December of each calendar year.

(2) An agency shall submit a completed application for renewal on a form prescribed by the Division, accompanied by the required fee, to the Division not less than 30 days prior to the license expiration date.

(3) The Division may issue a renewal license contingent upon evidence of the agency's compliance with ORS chapter 443 and OAR chapter 333, division 027; attestation to the delivery of agency services to patient(s) during the last calendar year; and, if requested, receipt of an annual statistical report containing such information as may be prescribed by the Division.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.015

Hist.: HD 151, f. & ef. 12-30-77; HD 19-1987, f. 11-10-87, ef. 12-1-87; HD 20-1993, f. & cert. ef. 10-28-93; OHD 13-1998, f. & cert. ef. 11-6-98, Renumbered from 333-027-0095; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0025

Fees

(1) The fee for an initial agency license shall be \$1,600 plus an additional \$1,600 for each subunit of a parent agency.

(2) If the ownership of an agency changes, other than at the time of the annual renewal, the agency's licensure fee shall be \$500, plus an additional \$500 for each subunit. If the change of ownership of the agency does not involve the majority owner or partner, or the administrator operating the agency, the license fee shall be \$100.

(3) The annual license renewal fee for an agency shall be \$850 plus an additional \$850 for each subunit.

(4) A hospital exempted under ORS 443.025 may provide home health services without maintaining a separate governing body and administrative services so long as the services provided meet the requirements of 443.005 through 443.095 and the hospital pays the home health licensing fee under 443.035.

(5) License fees will not be prorated and are non-refundable.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.015 & 443.035

Hist.: HD 151, f. & ef. 12-30-77; HD 20-1981, f. & ef. 10-9-81; HD 21-1986(Temp), f. & ef. 12-24-86; HD 19-1987, f. 11-10-87, ef. 12-1-87; HD 20-1993, f. & cert. ef. 10-28-93; OHD 13-1998, f. & cert. ef. 11-6-98, Renumbered from 333-027-0075; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0029

Denial, Suspension, or Revocation of License

(1) The Division may deny an agency's initial or renewal application, and may suspend or revoke an agency's license for failure to comply with ORS 443.004, 443.005 through 443.105 or OAR chapter 333, division 027.

(2) If the Division intends to suspend or revoke an agency license, it shall do so in accordance with ORS Chapter 183.411 through 183.470.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.045

Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

ADMINISTRATIVE RULES

333-027-0033

Return of Agency License

Each license certificate in the licensee's possession shall be returned to the Division immediately upon the suspension or revocation of the license, failure to renew the license by the date of expiration, or if operation is discontinued by the voluntary action of the licensee.

Stat. Auth.: ORS 443.085
Stats. Implemented: ORS 443.085
Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0036

Surveys

(1) The Division shall, in addition to any investigations conducted pursuant to OAR 333-027-0038, conduct at least one on-site inspection of each agency prior to licensure and once every three years thereafter as requirement of licensing and at such other times as the Division deems necessary.

(2) In lieu of the on-site inspection required by section (1) of this rule, the Division may accept a certification or accreditation from a federal agency or an accrediting body approved by the Division that the state licensing standards have been met if the agency:

(a) Notifies the Division to participate in any exit interview conducted by the federal agency or accrediting body; and

(b) Provides copies of all documentation concerning the certification or accreditation requested by the Division.

(3) An agency shall permit Division staff access to any location from which it is operating its agency or providing services during a survey.

(4) A survey may include but is not limited to:

(a) Interviews of patients, patient family members, agency management and staff;

(b) On-site observations of patients and staff performance;

(c) Review of documents and records;

(d) Patient audits.

(5) An agency shall make all requested documents and records available to the surveyor for review and copying.

(6) Following a survey, Division staff may conduct an exit conference with the agency owner or his or her designee. During the exit conference, Division staff shall:

(a) Inform the agency representative of the preliminary findings of the inspection; and

(b) Give the person a reasonable opportunity to submit additional facts or other information to the surveyor in response to those findings.

(7) Following the survey, Division staff shall prepare and provide the agency owner or his or her designee specific and timely written notice of the findings.

(8) If the findings result in a referral to another regulator agency, Division staff shall submit the applicable information to that referral agency for its review and determination of appropriate action.

(9) If no deficiencies are found during a survey, the Division shall issue written findings to the agency owner indicating that fact.

(10) If deficiencies are found, the Division shall take informal or formal enforcement action in compliance with OAR 333-027-0180 or 333-027-0185.

Stat. Auth.: ORS 443.085
Stats. Implemented: ORS 443.019 & 443.085
Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0037

Complaints

(1) Any person may make a complaint verbally or in writing to the Division regarding an allegation as to the care or services provided by a home health agency or violations of home health agency laws or regulations.

(2) The identity of a person making a complaint will be kept confidential.

(3) Information obtained by the Division during an investigation of a complaint or reported violation under this section is confidential and not subject to public disclosure under ORS 192.410 through 192.505.

(4) Upon the conclusion of the investigation, the Division may publicly release a report of its findings but may not include information in the report that could be used to identify the complainant or any patient of a home health agency. The Division may use any information obtained during an investigation in an administrative or judicial proceeding concerning the licensing of a home health agency.

(5) An employee or contract provider with knowledge of a violation of ORS Chapter 443 or OAR chapter 333, division 027, shall use the reporting procedures established by the home health agency before notifying the

Division or other state agency of the inappropriate care or violation, unless the employee or contract provider:

(a) Believes a patient's health or safety is in immediate jeopardy; or

(b) Files a complaint in accordance with section (1) of this rule.

(6) If the complaint involves an allegation of criminal conduct or an allegation that is within the jurisdiction of another local, state, or federal agency, the Division will refer the matter to that agency.

Stat. Auth.: ORS 443.085
Stats. Implemented: ORS 443.355
Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0038

Investigations

(1) An unannounced complaint investigation will be carried out within 45 calendar days of the receipt of the complaint and may include, but is not limited to:

(a) Interviews of the complainant, caregivers, patients, a patient's representative, a patient's family members, witnesses, and agency management and staff;

(b) On-site observations of the patient(s), staff performance, patient environment; and

(c) Review of documents and records.

(2) Should the complaint allegation represent an immediate threat to the health or safety of a patient, the Division will notify appropriate authorities to ensure a patient's safety, and an investigation will be commenced within two working days.

(3) An agency shall permit Division staff access to the agency during an investigation.

(4) The agency shall cooperate with investigations of allegations of client abuse and neglect conducted by the Department of Human Services, Oregon Health Authority, Adult Protective Services, and other agencies such as law enforcement.

Stat. Auth.: ORS 443.085
Stats. Implemented: ORS 443.355
Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0040

Services and Supplies

If services or supplies are required by law to be prescribed by a physician or a nurse practitioner, the agency shall offer or provide such services and supplies only under an order for treatment and plan of treatment. Services and supplies offered or provided by an agency shall include only the following:

(1) Nursing care provided by or under the supervision of a registered nurse;

(2) Physical, occupational, or speech therapy, or medical social services;

(3) Other therapeutic services conforming to generally accepted and established standards;

(4) Home health aide services; and

(5) Medical supplies, other than drugs and biologicals, and medical appliances. When patient care supplies are stored in the agency, the agency shall store such supplies in a manner that prevents their contamination and ensures that the supplies do not exceed the manufacturer's expiration date.

Stat. Auth.: ORS 443.085
Stats. Implemented: ORS 443.075
Hist.: HD 151, f. & ef. 12-30-77; HD 19-1986, f. & ef. 12-9-86; HD 19-1987, f. 11-10-87, ef. 12-1-87; HD 20-1993, f. & cert. ef. 10-23-93; OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0050

Changes in Services Provided

(1) An agency must obtain written approval from the Division prior to the implementation of the provision of additional services. When an agency applies for approval of additional services, the agency must provide evidence of:

(a) Governing body approval of addition of the services and all revisions in agency policies pertaining to the new services;

(b) The agency's professional policy-making committee development and approval of all policies and procedures pertaining to the new services; and

(c) Adherence to agency personnel policies and ORS Chapter 443 and OAR chapter 333, division 027 by all individuals providing services through the agency. If a new service is provided under the designation of "other therapeutic services" and is not in a category of licensure/certification covered by Oregon law, the governing body must designate and approve standards of educational or technical qualifications of personnel providing the services.

ADMINISTRATIVE RULES

(2) An agency must notify the Division if it no longer provides a service listed on its current license.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.085

Hist.: HD 151, f. & ef. 12-30-77; HD 1-1982, f. & ef. 2-4-82; HD 19-1987, f. 11-10-87, ef. 12-1-87; HD 20-1993, f. & cert. ef. 10-28-93; OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0060

Administration of Home Health Agency

An agency shall clearly set forth in writing the organization, services provided, administrative control, and lines of authority for the delegation of responsibility to the patient care level. An agency shall not delegate administrative and supervisory functions to another agency, individual, or organization.

(1) The primary agency shall monitor and control all services provided through contractual agreements between the primary agency and any patient service provider.

(2) An agency shall maintain appropriate administrative records for each of its offices. If an agency has any branch offices, it shall ensure that each branch office is part of the agency and shares administration, supervision, and services on a daily basis.

(3) If an agency chooses to provide professional students with a practicum in home health, the governing body must ensure that:

(a) A contract between the agency and the accredited educational institution is in effect and it includes at a minimum, a description of:

(A) Program objectives;

(B) Program coordination;

(C) Student supervision;

(D) Adherence to agency policy; and

(E) Conformance with applicable professional practice laws, rules, and regulations.

(b) The agency maintains documentation of each practicum and the student's activities, supervision and the evaluation of these activities.

(c) The agency maintains documentation of patient care services provided by the student.

(4) An agency's governing body, or its designee, shall assume full legal and fiscal responsibility for the agency's operation. The agency's governing body shall provide for effective communication with administration of the agency and the owner of the agency.

(5) An agency's governing body shall:

(a) Employ a qualified administrator, unless exempted under ORS 443.025, who may also serve as Director of Professional Services;

(b) Regularly monitor the performance of the administrator;

(c) Appoint a professional policy-making committee;

(d) Adopt and annually review its written by-laws or acceptable equivalent; and

(e) Document all decisions affecting home health services.

(6) The Administrator shall have the following qualifications:

(a) A physician or registered nurse, currently licensed in Oregon, who has education, experience, and knowledge in community health service systems appropriate to the fulfillment of his/her responsibilities; or

(b) An individual who has education, experience, and knowledge in a related community health service systems and at least one year overall administrative experience in home health care or related community health program appropriate to the fulfillment of his/her responsibilities.

(7) The Administrator shall:

(a) Have authority and responsibility for the agency's overall management and operation;

(b) Organize and direct the agency's ongoing functions;

(c) Maintain ongoing communication between agency's governing body, professional policy-making committee, and staff;

(d) Employ qualified personnel and ensure the provision of adequate staff education and the completion of performance evaluations;

(e) Involve the Director of Professional Services in health care decisions;

(f) Ensure the accuracy of information provided to the public regarding the agency and its services;

(g) Implement an effective budgeting and accounting system;

(h) Designate, in writing, an individual qualified to serve as acting administrator in the administrator's absence; and

(i) Ensure that adequate and appropriate staff resources are available and used to meet the care needs of the agency's patients as identified in the plans of treatment.

(8) The agency shall employ a Director of Professional Services who must be a physician or registered nurse. The agency shall ensure that the Director of Professional Services or a similarly qualified alternate, designat

ated in writing, is available for consultation at all times during operating hours of the agency. The Director of Professional Services or designee shall have written authority, responsibility, and accountability for:

(a) Functions, activities, and evaluations of all health care personnel;

(b) The quality of home health services;

(c) Orientation and in-service education for all agency health care personnel;

(d) Coordination of home health services;

(e) Development and documentation of all written material related to agency services, including policies, procedures, and standards;

(f) Participation and involvement in employment decisions affecting home health care personnel;

(g) Assignment of adequate and appropriate staff resources to meet the home health care needs of the agency's patients; and

(h) Designating, in writing, a person qualified to serve as acting Director of Professional Services in the Director's absence.

(9)(a) The agency shall develop personnel policies which must be appropriate to the agency, be documented, and include:

(A) Hours of work;

(B) Orientation that is appropriate to the classification of the employee. The following portions of the orientation shall be completed within two weeks of employment; and shall include at a minimum: policies and procedures of the agency; job description and responsibility; role as team member providing services in the home setting; and information regarding other community agencies, infection control, ethics and confidentiality.

(C) An inservice program that provides ongoing education to ensure that staff skills are maintained for the responsibilities assigned and ensures that staff are educated in their responsibility in infection control;

(D) Work performance evaluations;

(E) Employee health program;

(F) Provisions for tuberculosis screening in accordance with OAR 333-019-0041; and

(G) Provisions for the completion of criminal records checks in accordance with ORS 443.004 and OAR 333-027-0064.

(b) Personnel records shall include job descriptions, personnel qualifications, evidence of any required licensure or certification, evidence of orientation and performance evaluations, evidence of a completed criminal records check and fitness determination.

(c) An agency may provide services by agency personnel working out of their individual homes within a portion of the geographic area served by an agency. The individual homes are not construed to be a branch. These services must be controlled, supervised, and evaluated by the agency, in accordance with all written agency policies. Such policies shall, at a minimum require documentation of:

(A) A meeting at least every two weeks of the supervisor and the individual to review the plan(s) of treatment;

(B) A telephone conference on at least a weekly basis between meetings;

(C) Supervisor participation in the development of each plan of treatment; and

(D) Procedures for submitting clinical and progress notes, summary reports, schedule of visits and periodic evaluations.

(10) An agency contracting with individual personnel or public or private entities for home health care services shall maintain written contracts and shall clearly designate:

(a) That patients are accepted for care only by the primary agency;

(b) The services to be provided;

(c) The rights and responsibilities of the contracting individual or entity in the coordination, supervision, and evaluation of the care or service provided;

(d) The obligation to comply with all applicable agency policies;

(e) The party with responsibility for development and revisions of the plan of treatment, patient assessment, progress reports, and patient care conferences, scheduling of visits or hours, and discharge planning;

(f) Appropriate documentation of services provided on record forms provided by the agency; and

(g) The terms of the agreement and basis for renewal or termination.

(11) An agency, under the direction of the governing body, shall prepare and document an overall program plan and annual operating budget. The agency's operating budget shall include all anticipated income and expenses related to items that would, under generally accepted accounting principles, be considered income and expense items. The agency's overall program plan and budget shall be reviewed and updated at least annually by a committee consisting of representatives of the governing body, the administrative staff, and the professional staff of the agency.

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(12) An agency's governing body shall appoint a professional policy-making committee composed of professional personnel associated with the agency.

(a) The committee shall include one or more physicians and one or more registered nurses, at least two of whom are neither owners nor employees of the agency, and two consumers.

(b) The committee shall establish in writing and review annually, the agency's policies governing scope of services, admission and discharge policies, medical supervision, plans of treatment, emergency care, clinical records, personnel qualifications, and program evaluation.

(c) The committee shall meet as needed to advise the agency on other professional issues.

(d) The committee members shall participate with the agency staff in the annual evaluation of the agency's program.

(e) The agency shall document the committee's systematic involvement and effective communication with the governing body and the management of the agency.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.004, 443.055, 443.065 & 443.085

Hist.: HD 151, f. & ef. 12-30-77; HD 19-1987, f. 11-10-87, ef. 12-1-87; HD 22-1988, f. & cert. ef. 9-16-88; HD 20-1993, f. & cert. ef. 10-28-93; OHD 13-1998, f. & cert. ef. 11-6-98; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0064

Criminal Records Check

(1) For the purposes of this rule, the following definitions apply:

(a) "Direct contact with" means to provide home health services and includes meeting in person with a potential or current patient to discuss services offered by an agency or other matters relating to the business relationship between an agency and client;

(b) "Disqualifying condition" means a non-criminal personal history issue that makes an individual unsuitable for employment, contracting or volunteering for an agency, including but not limited to discipline by a licensing or certifying agency, or drug or alcohol dependency;

(c) "Subject Individual" (SI) means an individual on whom an agency may conduct a criminal records check and from whom an agency may require fingerprints for the purpose of conducting a national criminal records check, including:

(A) An employee or prospective employee;

(B) A contractor, temporary worker, volunteer or owner of an agency who has direct contact with an agency client or potential client; and

(C) A prospective contractor, temporary worker, or volunteer or owner who may have direct contact with an agency client.

(d) "Vendor" means a researcher or company hired to provide a criminal records check on a subject individual.

(2) An agency shall conduct a criminal records check before hiring or contracting with an SI and before allowing an SI to volunteer to provide services on behalf of the agency, if the SI will have direct contact with a patient of the agency.

(3) An SI who has or will have direct contact with a recipient of home health services may not be employed, contract with, or volunteer with an agency in any capacity if the criminal records check conducted reveals the SI has been convicted of a crime as described in ORS 443.004(3).

(4) An agency shall have a policy on criminal records check requirements which shall include weighing test actions should the background check screening indicate that an SI has been convicted for crimes against an individual or property other than those identified in ORS 443.004(3). The policy must include the following provisions for performing a weighing test:

(a) The agency shall consider circumstances regarding the nature of potentially disqualifying convictions and conditions including but not limited to:

(A) The details of incidents leading to the charges of potentially disqualifying convictions or resulting in potentially disqualifying conditions;

(B) Age of the SI at time of the potentially disqualifying convictions or conditions;

(C) Facts that support the convictions or potentially disqualifying conditions; and

(D) Passage of time since commission of the potentially disqualifying convictions or conditions.

(b) Other factors which should be considered when available include but are not limited to:

(A) Other information related to criminal activity including charges, arrests, pending indictments and convictions. Other behavior involving contact with law enforcement may also be reviewed if information is relevant to other criminal records or shows a pattern relevant to criminal history;

(B) Periods of incarceration;

(C) Status of and compliance with parole, post-prison supervision or probation;

(D) Evidence of alcohol or drug issues directly related to criminal activity or potentially disqualifying conditions;

(E) Evidence of other treatment or rehabilitation related to criminal activity or potentially disqualifying conditions;

(F) Likelihood of repetition of criminal behavior or behaviors leading to potentially disqualifying conditions, including but not limited to patterns of criminal activity or behavior;

(G) Changes in circumstances subsequent to the criminal activity or disqualifying conditions including but not limited to:

(i) History of high school, college or other education related accomplishments;

(ii) Work history (employee or volunteer);

(iii) History regarding licensure, certification or training for licensure or certification; or

(iv) Written recommendations from current or past employers;

(H) Indication of the SI's cooperation, honesty or the making of a false statement during the criminal records check process, including acknowledgment and acceptance of responsibility of criminal activity and potentially disqualifying conditions.

(c) An agency shall consider the relevancy of the SI's criminal activity or potentially disqualifying conditions to the paid or volunteer position, or to the environment in which the SI will work, especially, but not exclusively:

(A) Access to medication;

(B) Access to clients' personal information;

(C) Access to vulnerable populations.

(5) An agency shall document the weighing test and place in the employee's file.

(6) A background check shall be performed by:

(a) The Department of Human Services Background Check Unit; or

(b) A vendor that:

(A) Is accredited by the National Association of Professional Background Screeners (NAPBS); or

(B) Meets the following criteria:

(i) Has been in business for at least two years;

(ii) Has a current business license and private investigator license, if required in the company's home state; and

(iii) Maintains an errors and omissions insurance policy in an amount not less than \$1 million.

(7) An agency may use the Oregon State Police, Open Records Unit in order to fulfill the state records requirement for a criminal records check, however, an agency would still need to complete a nationwide check through a qualified vendor.

(8) The criminal records check must include the following:

(a) Name and address history trace;

(b) Verification that the SI's records have been correctly identified, via date of birth check and Social Security number trace;

(c) A local criminal records check, including city and county records for SI's places of residence for the last seven years;

(d) A nationwide multijurisdictional criminal database search, including state and federal records;

(e) A nationwide sex offender registry search;

(f) The name and contact information of the vendor who completed the background check;

(g) Arrest, warrant and conviction data, including but not limited to:

(A) Charge(s);

(B) Jurisdiction; and

(C) Date.

(h) Source(s) for data included in the report.

(9) An agency shall perform and document a query of an SI with the National Practitioner Data Bank (NPDB) and the List of Excluded Individuals and Entities (LEIE).

(10) All criminal records checks conducted under this rule shall be documented in writing and made part of the agency's personnel files.

(11) An agency that has a contract with the Department of Human Services (Department) or Oregon Health Authority for the provision of home health services on or after April 1, 2012 and who is subject to the Department's criminal records check rules does not have to comply with subsection (12) of this rule.

(12) For an SI working or volunteering for an agency on or after July 6, 2011, an agency shall have until July 1, 2012 to ensure that the agency is in compliance with section (3) of this rule.

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(13) On or after April 1, 2012 an agency shall ensure that a criminal records check is performed on an SI every three years from the date of the SIs last criminal records check in accordance with these rules.

(14) Notwithstanding subsections (12) and (13) of this rule, the Division and not the agency shall conduct a criminal records check on an owner of any agency who is subject to a criminal records check under subsection (1)(c) of this rule. The Division shall conduct a criminal records check:

(a) At the time of application for a person who applies for a license on or after April 1, 2012 and every three years thereafter.

(b) By April 1, 2013 for an agency that is licensed on or before April 1, 2012, and every three years thereafter.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.004 & 443.085

Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0080

Patients' Rights

(1) Bill of Rights: An agency must provide each patient with a written notice of the patient's rights prior to furnishing care to the patient or during the initial evaluation visit prior to the initiation of treatment. This notice shall state that a patient of the agency has the following rights:

(a) The right to have personal property treated with respect;

(b) The right to voice grievances regarding treatment or care, a lack of respect for property by anyone furnishing services on behalf of the agency, or any other issue, without discrimination or reprisal for exercising such rights. The agency must investigate all complaints made by the patient or the patient's family or guardian regarding the above and must document the investigation and the resolution of the complaint;

(c) The right to be informed, in advance, about the care to be furnished, any changes in the care to be furnished, the disciplines that will furnish care, and the frequency of visits proposed to be furnished;

(d) The right to participate in the planning of care;

(e) The right to have clinical records confidentially maintained by the agency;

(f) The right to be advised, before care is initiated, of the extent that payment for the agency services may be expected from Medicare or other sources, and the extent that payment may be required from the patient. The agency must provide this information orally and in writing before care is initiated; and

(g) The right to be advised orally and in writing of any changes in the information provided in accordance with subsection (1)(f) as soon as possible, but no later than 30 working days from the date that the agency becomes aware of a change.

(2) Health Care Directives: An agency shall maintain written policies and procedures, applicable to any person 18 years of age or older, or to any adult as defined under ORS 127.505, who is receiving health care by, or through, the agency, that provide for:

(a) Delivery to the patient or the patient's legal representative of the following information and materials, in written form, without recommendation:

(A) Information on the rights of the individual under Oregon law to make health care decisions;

(B) Information on the policies of the agency with respect to the implementation of the rights of the individual under Oregon law to make health care decisions;

(C) A copy of the advance directive set forth in ORS 127.531 along with a disclaimer attached to each form in at least 16-point bold type stating "You do not have to fill out and sign this form"; and

(D) The name of a resource that can provide additional information concerning the forms for advance directives.

(b) Documentation placed prominently in the patient's record and reflecting whether the patient has executed an advance directive.

(c) Compliance by the agency with Oregon law relating to advance directives; and

(d) Education of agency personnel and the community on issues relating to advance directives.

(3) An agency shall provide the written information described in section (2) to the patient not later than 15 days after the initial provision of care by the agency, but in any event before discharge of the patient;

(4) An agency need not furnish a copy of an advance directive to a patient or the patient's legal representative if it has reason to believe that the patient has received a copy of an advance directive in the form set forth in ORS 127.531 within the preceding 12-month period or has previously executed an advance directive.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.085

Hist.: HD 151, f. & ef. 12-30-77; HD 19-1987, f. 11-10-87, ef. 12-1-87; OHD 13-1998, f. & cert. ef. 11-6-98; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0090

Plan of Treatment

The primary agency is responsible for the patient's plan of treatment signed by the physician or nurse practitioner, including home health services provided to the patient through contractual arrangements with other organizations or individuals. A registered nurse must conduct an initial assessment visit to determine the immediate care and support needs of the patient. When rehabilitation therapy service (speech therapy, physical therapy or occupational therapy) is the only service ordered by the physician, and if the need for that service establishes program eligibility, the initial assessment visit may be made by the appropriate rehabilitation skilled professional.

(1) The agency shall ensure that the plan of treatment is developed in consultation with the agency personnel and established at the time of, or prior to, acceptance of the patient.

(2) The agency shall ensure that the plan of treatment is transmitted to the patient's physician or nurse practitioner for signature within 10 calendar days of admission to service.

(3) The plan of treatment shall cover the following:

(a) All pertinent diagnoses, mental status, types of services and equipment required;

(b) Frequency of visits;

(c) Prognosis;

(d) Rehabilitation potential;

(e) Functional limitations;

(f) Activities permitted;

(g) Nutritional requirements;

(h) Medications and treatments;

(i) Safety measures to protect against injury;

(j) Instructions for timely discharge or referral; and

(k) Any other appropriate items.

(4) If a patient is accepted under a plan of treatment that cannot be completed until after an evaluation visit, the physician or nurse practitioner shall be consulted to approve revisions to the original plan.

(5) Orders for therapy services shall include the specific procedures and modalities to be used and, as appropriate, the amount, frequency, and duration.

(6) The therapist and other agency personnel shall participate in developing the plan of treatment.

(7) The plan of treatment shall be signed by the physician or nurse practitioner and included in the patient's clinical record within the time period specified in the agency's policy but no longer than 30 calendar days after admission.

(8) The agency shall submit all plans of treatment to the primary physician or nurse practitioner and shall send copies to other physicians or nurse practitioners involved in the patient's care.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.075 & 443.085

Hist.: HD 151, f. & ef. 12-30-77; HD 20-1993, f. & cert. ef. 10-28-93; OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0100

Periodic Review of Plan of Treatment

An agency shall ensure that:

(1) The plan of treatment shall be reviewed by the attending physician or nurse practitioner and agency personnel as often as the patient's condition requires, but at least once every two months;

(2) Agency professional personnel promptly alert the physician or nurse practitioner to any changes that suggest a need to alter the plan of treatment;

(3) Information provided to the physician or nurse practitioner is documented in the clinical record; and

(4) The updated plan of treatment is included in the patient's clinical record within 30 calendar days of the revision.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.075 & 443.085

Hist.: HD 151, f. & ef. 12-30-77; HD 20-1993, f. & cert. ef. 10-28-93; OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0110

Conformance with Physician's or Nurse Practitioner's Orders

(1) Agency personnel shall administer drugs and treatments only as ordered by the patient's physician in accordance with 42 CFR 484.18 or by other providers as authorized by Oregon law.

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(2) The nurse or therapist who receives a verbal order shall immediately record the order and transmit it to the physician or nurse practitioner within 72 hours.

(3) The physician's or nurse practitioner's countersignature shall be obtained within 30 calendar days of the verbal order.

(4) Agency professional personnel shall check all medicines that a patient may be taking to identify possible ineffective drug therapy, adverse reactions, significant side effects, drug allergies, and contraindicated medication.

(5) Agency professional personnel shall promptly report any problems to the patient's physician or nurse practitioner.

(6) Only medications and treatments that must be administered to the patient by agency personnel need to be on a written order form from the physician or nurse practitioner.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.075 & 443.085

Hist.: OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0120

Coordination of Patient Services

(1) All personnel furnishing services shall ensure that their efforts are coordinated effectively and support the objectives outlined in the patient's plan of care.

(2) The clinical record or minutes of case conferences shall reflect that effective communication and coordination of patient care occurs.

(3) A written summary report for each patient shall be sent to the attending physician or nurse practitioner at least every 62 days.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.085

Hist.: OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0130

Nursing Services

The agency shall provide skilled nursing service by or under the supervision of a registered nurse in accordance with agency policies and the plan of treatment. Such services shall comply with applicable laws. For the purposes of this rule, "critical and fluctuating" means a situation where the patient's clinical or behavioral state is of a serious nature, expected to rapidly change, and in need of continuous reassessment and evaluation.

(1) Registered Nurse's Duties: The registered nurse shall make the initial visit, regularly reevaluate the patient's nursing needs, initiate appropriate preventive and rehabilitative nursing procedures, provide those services requiring substantial specialized nursing skills, prepare clinical and progress notes, coordinate services, inform the physician or nurse practitioner and other personnel (including paid caregivers) of changes in the patient's condition and needs, counsel the patient, family or other caregivers (as applicable) in meeting nursing and related needs, participate in inservice programs, and supervise, teach, and assign care tasks to other nursing personnel. The registered nurse may delegate aspects of patient care to unlicensed individuals in accordance with OAR chapter 851, division 047.

(a) Supervision of the licensed practical nurse shall include:

(A) Initial evaluation of the patient to identify appropriate tasks to be performed by the licensed practical nurse. These tasks shall be documented in the patient's clinical record; and

(B) A supervisory visit every 60 days when the patient's condition is stable and predictable, and at least every two weeks when the patient's condition is critical and fluctuating. This visit shall be made either when the licensed practical nurse is present to observe and assist or when the licensed practical nurse is absent, to assess relationships and determine that goals are being met. Documentation of these activities shall be maintained in the patient's clinical record.

(b) Home Health Aide Supervision: The registered nurse is responsible for supervising for quality and appropriateness of care provided by the home health aide service. The registered nurse shall be readily available to the home health aide by telephone at all hours services are provided. Supervisory visits by the registered nurse or therapist shall be documented in the patient's clinical record.

(A) When skilled nursing services and home health aide services are being furnished to the patient, the registered nurse shall make a supervisory visit to the patient's residence at least every two weeks, either when the home health aide is present to observe and assist, or when the home health aide is absent to assess relationships and determine if goals are being met.

(B) If a patient is receiving only skilled therapy services and home health aide services, a skilled therapist may make the supervisory visits at

least every two weeks, in lieu of a registered nurse. The therapist must convey information about the performance of the home health aide to the aide's registered nurse supervisor.

(C) When only home health aide services are being furnished to a patient, a registered nurse must make a supervisory visit to the patient's residence at least once every 60 days. Each supervisory visit must occur when the aide is furnishing patient care.

(2) Licensed Practical Nurse:

(a) Duties: The licensed practical nurse shall provide services in accordance with agency policies, prepare clinical and progress notes, assist the physician or nurse practitioner or registered nurse in performing specialized procedures, prepare equipment and materials for treatments, observe aseptic techniques as required, and assist the patient in learning designated self-care techniques.

(b) Supervision of Licensed Practical Nurse: A licensed practical nurse shall provide services only under the supervision of a registered nurse.

(3) Home Health Aide: When an agency provides or arranges for home health aide service, an aide shall be assigned if the plan of treatment, as described in OAR 333-027-0090, specifies that the patient needs personal care. Home health aide services shall be provided under the supervision of the registered nurse and in accordance with the registered nurse's assignment and agency policies.

(a) The duties of a home health aide shall include:

(A) Performance of simple procedures as assigned by the registered nurse;

(B) Personal care;

(C) Ambulation and exercise;

(D) Household services essential to health care at home;

(E) Assistance with medications that are ordinarily self-administered;

(F) Reporting changes in the patient's condition and needs; and

(G) Completing appropriate records.

(b) A home health aide must have the following qualifications:

(A) Oregon Certified Nursing Assistant (CNA) certification and inclusion on the Oregon State Board of Nursing Nurse Aide Registry.

(B) Prior to providing care to a patient, the home health aide must be evaluated by a registered nurse for competency in each of the following areas:

(i) Communication skills;

(ii) Observation of, reporting of, and documentation about the patient and care provided;

(iii) Maintenance of a clean, safe and healthy environment;

(iv) Basic infection control procedures;

(v) Basic nutrition and fluid intake, including food preparation techniques as appropriate;

(vi) Reading and recording temperature, pulse, and respiration;

(vii) Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;

(viii) Recognizing emergencies and knowledge of emergency procedures;

(ix) The physical, emotional, and developmental needs of, and ways to work with, the populations served by the agency, including the need for respect for the patient, the patient's privacy, and the patient's property;

(x) Appropriate and safe techniques in personal hygiene and grooming that include:

(I) Bed bath;

(II) Sponge, tub, or shower bath;

(III) Shampoo: sink, tub, or bed;

(IV) Nail and skin care;

(V) Oral hygiene; and

(VI) Toileting and elimination.

(xi) Safe transfer techniques and ambulation;

(xii) Normal range of motion and positioning; and

(xiii) Any other task the agency may choose to have the home health aide perform.

(c) Home health aide competency evaluation:

(A) An individual may furnish home health aide services on behalf of an agency only after that individual has successfully completed a competency evaluation program that meets the following requirements:

(i) The competency evaluation program must address each of the subjects listed in subparagraphs (3)(b)(B)(i) through (xiii) of this rule;

(ii) The subject areas listed at subparagraphs (3)(b)(B)(vi), (x), (xi), and (xii) of this rule must be evaluated through observation of the aide's performance of the tasks with a patient; and

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(iii) All other subject areas listed in paragraph (3)(b)(B) of this rule may be evaluated through written examination, oral examination, or observation of the aide with a patient.

(B) A home health aide is not considered competent in any task for which the aide's performance is evaluated as unsatisfactory. The aide must not perform that task without direct supervision by a licensed nurse until the aide receives training in the tasks for which the aide's performance was evaluated as unsatisfactory and passes a subsequent evaluation with a satisfactory rating.

(C) A home health aide has not successfully passed a competency evaluation if the aide's performance is unsatisfactory in more than one of the areas delineated in paragraph (3)(b)(B) of this rule.

(D) The agency must maintain documentation that demonstrates that the home health aide has met competency evaluation requirements.

(d) Home Health Aide Orientation: The agency shall complete orientation of the home health aide to the agency's program and document the completion within two weeks of employment. This orientation must include information about:

(A) Policies and objectives of the agency;

(B) The duties of a home health aide;

(C) The functions of other agency personnel and how they relate to each other in caring for the patient;

(D) Other community agencies; and

(E) Ethics and confidentiality.

(e) Training on the Job: In addition to orientation, an agency shall provide the home health aide patient-specific, on-the-job instruction for carrying out procedures that are not transferable to another patient. Such training shall be in accordance with OAR chapter 851, division 061, and shall be documented in the patient's clinical record.

(f) Inservice Training: The agency shall arrange for and document at least 12 hours of inservice training annually. These training sessions shall pertain to the role and responsibilities of the home health aide.

(g) Home Health Aide Assignment: The agency shall provide teaching and supervision of the home health aide in accordance with OAR chapter 851, division 061. All assignments for patient care shall be written, prepared by a registered nurse, and updated on a monthly basis, or more often if the patient's condition requires. Special tasks of nursing care may be delegated by a registered nurse to a home health aide according to the provisions of OAR chapter 851, division 047.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.065 & 443.085

Hist.: OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0140

Therapy Services

(1) Physical Therapy Services: If an agency provides physical therapy services, either directly or under contract, these services shall be provided only by a physical therapist or by a physical therapist assistant. The physical therapist and the physical therapist assistant shall provide physical therapy services in accordance with applicable laws, rules, agency policies and the patient's plan of treatment. Services provided by a physical therapist assistant shall be supervised by a physical therapist.

(a) Duties of a physical therapist include: assisting a physician in evaluating levels of function, helping to develop and revise the plan of treatment, preparing clinical and progress notes, advising and consulting with the family and other agency personnel, participating in inservice programs, and providing services.

(b) Duties of the physical therapist assistant include: performing services that are planned, assigned, delegated, and supervised by the physical therapist; assisting in preparation of clinical notes and progress reports; participating in the education of the patient and family; and participating in inservice programs.

(c) Supervision of the physical therapist assistant shall include at a minimum:

(A) Initial evaluation of the patient by the physical therapist to identify appropriate tasks to be performed by the physical therapist assistant. These tasks shall be documented in each patient's clinical records; and

(B) A visit to the patient's residence by the physical therapist at least once a month when the patient's condition is no longer stable and predictable, or at 60-day intervals when the patient's condition is stable, either when the assistant is present to observe and assist or when the assistant is absent, to assess relationships and determine that goals are being met. Documentation of these visits by the physical therapist shall be maintained in the patient's clinical record.

(2) Occupational Therapy Services: If an agency provides occupational therapy services, either directly or under contract these services shall be provided only by an occupational therapist or by an occupational therapy assistant under the supervision of an occupational therapist. The occupational therapist and occupational therapy assistant shall provide occupational therapy services in accordance with applicable statutes, rules, agency policies and the patient's plan of treatment. The agency shall assure that services provided by an occupational therapy assistant shall be supervised by an occupational therapist.

(a) Duties of the occupational therapist include: assisting the physician in evaluating levels of function, helping to develop and revise the plan of treatment, preparing clinical and progress notes, advising and consulting with the family and other agency personnel, participating in inservice programs, and providing services.

(b) Duties of the occupational therapy assistant include: performing services planned, assigned, delegated, and supervised by the occupational therapist; assisting in the preparation of clinical notes and progress reports; participating in the education of the patient and family; and participating in inservice programs.

(c) Supervision of the occupational therapy assistant shall include at a minimum:

(A) Initial evaluation of the patient by the occupational therapist to identify appropriate tasks to be performed by the occupational therapy assistant. These tasks shall be documented in each patient's clinical record; and

(B) A visit to the patient's residence by the occupational therapist at least once a month when the patient's condition is no longer stable and predictable, or at 60-day intervals when the patient's condition is stable, either when the assistant is present to observe and assist or when the assistant is absent, to assess relationships and determine that goals are being met. The occupational therapist shall document these visits in each patient's clinical record.

(3)(a) Speech Therapy Services: If an agency provides speech therapy services, either directly or under contract, these services shall be provided only by a speech pathologist. The speech pathologist shall provide speech therapy services in accordance with applicable statutes, rules, agency policies and the patient's plan of treatment.

(b) Duties of the speech pathologist include: assisting the physician in evaluating the patient's level of function; helping to develop and revise the plan of treatment; preparing clinical and progress notes; advising and consulting with the family and other agency personnel; participating in inservice programs; and providing services.

(4) Medical Social Services: If an agency provides medical social services, either directly or under contract these services shall be provided only by a social worker, or by a social work assistant. The social worker or the social work assistant shall provide social work services in accordance with applicable statutes, rules, agency policies and the patient's plan of treatment.

(a) Duties of the social worker include: assisting the physician, other team members, and the family in understanding the significant social and emotional factors related to health problems of the patient; participating in the development of the plan of treatment; preparing clinical and progress notes; working with the family; utilizing appropriate community resources; participating in discharge planning and inservice programs; and acting as a consultant to other agency personnel.

(b) Duties of the social work assistant include: performing services planned, assigned, delegated, and supervised by the qualified social worker, preparing clinical notes and progress reports; and participating in inservice programs.

(c) Supervision of the social work assistant shall include at a minimum:

(A) Initial evaluation of the patient by the social worker to identify appropriate tasks to be performed by the social work assistant. These tasks shall be documented in the individual patient's clinical records; and

(B) After the initial evaluation by the social worker and development of the plan of treatment, documented supervisory conferences with the social work assistant shall be held at least two times monthly to assess adherence to the goals and quality of relationships. In the event the patient's situation changes and requires a change in the treatment plan and goals, the social worker will make a joint visit with the social work assistant to revise the plan of treatment.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.065 & 443.085

Hist.: HD 151, f. & ef. 12-30-77; HD 19-1987, f. 11-10-87, ef. 12-1-87; HD 20-1993, f. & cert. ef. 10-28-93; Renumbered from 333-027-0055, OHD 13-1998, f. & cert. ef. 11-6-98; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

ADMINISTRATIVE RULES

333-027-0150

Clinical Records

General Requirements for Clinical Records:

(1) An agency shall maintain, for each patient, a clinical record that covers the service(s) the agency provides directly, or through contract with another agency. All entries in the patient's clinical record must be dated and authenticated. Authentication of an entry requires the use of a unique identifier such as a signature, code thumbprint, voice print, or other means, that provides identification and the title of the individual responsible for the entry. Clinical notes shall be written the day services are rendered and shall be incorporated into the clinical record at least weekly. The agency shall maintain an approved list of standard abbreviations, signs and symbols for use in the clinical record.

(a) The record of each patient receiving home health services shall contain pertinent past and current findings. The findings shall include, but not be limited to, history and physical examination, and hospital discharge summary. The record shall contain other appropriate information such as: patient identifying information; name of physician; signed and dated clinical and progress notes; copies of summary reports that have been sent to the physician; and a discharge summary.

(b) The record shall contain the patient's plan of treatment.

(c) Clinical records shall contain all original or facsimile physician orders and agency caregiver documentation.

(2) Retention and Protection of Records:

(a) The administrator of the agency shall be responsible for proper preparation, adequate content, and preservation of the clinical records. The agency shall permit authorized personnel of the Division to review clinical records as necessary to determine compliance with these rules.

(b) An agency shall have written policies governing access to, and maintenance, retention, utilization, storage, and disposition of all clinical records.

(c) An agency shall complete all clinical records of discharged patients within 30 calendar days of the patient's discharge.

(d) Clinical records are the property of the agency.

(e) Upon a patient's request, the agency shall provide information from the patient's clinical record related to the patient's condition and the care provided.

(f) An agency shall ensure that original clinical records are readily retrievable. Clinical records may be retained on paper, microfilm, electronic, or other media.

(g) An agency shall keep all clinical records for a period of 10 years after the date of the patient's last discharge from the agency.

(h) An agency shall keep clinical records in a safe and secure environment that will protect them from damage and harm.

(i) If an agency changes ownership, the agency shall retain all clinical records in original or microfilmed form and it shall be the responsibility of the successor agency to protect and maintain these records.

(j) In the event of dissolution of an agency, the agency administrator shall notify the Division where the clinical records will be stored.

(k) The agency shall retain non-medical records according to the policy of the individual agency.

(l) An agency shall comply with ORS 192.518 through 192.529, which governs the use and disclosure of patient's protected health information.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.065 & 443.085

Hist.: OHD 13-1998, f. & cert. ef. 11-6-98; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0170

Waivers

(1) Each agency must comply with ORS chapter 443 and OAR chapter 333, division 027. However, an agency may request that the Division grant an exception to these rules for the use of alternative concepts, methods, procedures, techniques, equipment, facilities, personnel qualifications or the conducting of pilot projects or research. If an agency seeks an exception to the Division's rules, it must:

(a) Submit the request in writing to the Division;

(b) Identify the specific rule for which an exception is requested;

(c) Explain the special circumstances relied upon to justify the exception;

(d) List any alternatives that were considered and the reasons those alternatives were not selected;

(e) Demonstrate that the proposed exception is desirable to maintain or improve the health and safety of the patients and will not jeopardize patient health and safety; and

(f) State the proposed duration of the exception.

(2) After reviewing the written request, the Division may grant the exception. If the Division grants an exception, it shall issue its decision in writing.

(3) An agency may not implement any exception until it has received the Division's written approval of the exception.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.085

Hist.: HD 20-1993, f. & cert. ef. 10-28-93; Renumbered from 333-027-0067, OHD 13-1998, f. & cert. ef. 11-6-98; OHD 9-2002, f. & cert. ef. 7-2-02; PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0175

Violations

In addition to non-compliance with any law that governs a home health agency, it is a violation to:

(1) Refuse to cooperate with an investigation or survey, including but not limited to failure to permit Division staff access to the agency, its documents or records;

(2) Fail to implement an approved plan of correction;

(3) Refuse or fail to comply with an order issued by the Division;

(4) Refuse or fail to pay a civil penalty;

(5) Fail to comply with rules governing the storage of records following the closure of an agency;

(6) Fail to report suspected abuse of elderly persons as defined in ORS 124.050;

(7) Fail to return a license as provided in OAR 333-027-0033; or

(8) Operate without a license.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.045 & 443.085

Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0180

Informal Enforcement

(1) If during an investigation or survey Division staff document violations of home health licensing rules or laws, the Division may issue a statement of deficiencies that cites the law alleged to have been violated and the facts supporting the allegation.

(2) A signed plan of correction must be mailed to the Division within 10 business days from the date the statement of deficiencies was received by the agency. A signed plan of correction will not be used by the Division as an admission of the violations alleged in the statement of deficiencies.

(3) An agency shall correct all deficiencies within 60 days from the date of the exit conference, unless an extension of time is requested from the Division. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(4) The Division shall determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Division, the Division shall notify the agency owner in writing or by telephone:

(a) Identifying which provisions in the plan the Division finds unacceptable;

(b) Citing the reasons the Division finds them unacceptable; and

(c) Requesting that the plan of correction be modified and resubmitted no later than 10 working days from the date the letter of non-acceptance was received by the owner.

(5) If the agency does not come into compliance by the date of correction reflected on the plan of correction or 60 days from date of the exit conference, whichever is sooner, the Division may propose to deny, suspend, or revoke the agency license, or impose civil penalties.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.045 & 443.085

Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

333-027-0185

Formal Enforcement

(1) If during an investigation or survey Division staff document a substantial failure to comply with home health licensing laws or rules, or if an agency fails to pay a civil penalty imposed under ORS 443.045, the Division may issue a Notice of Proposed Suspension or Notice of Proposed Revocation in accordance with 183.411 through 183.470.

(2) The Division may issue a Notice of Imposition of Civil Penalty for violations of home health licensing laws.

(3) At any time the Division may issue a Notice of Emergency License Suspension under ORS 183.430(2).

(4) If the Division revokes an agency license, the order shall specify when, if ever, the agency may reapply for a license.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.045 & 443.085

Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

ADMINISTRATIVE RULES

333-027-0190

Civil Penalties

(1) An agency that violates home health licensing laws or rules, an administrative order, or settlement agreement is subject to the imposition of a civil penalty not to exceed \$1,000 per violation and may not total more than \$2,000.

(2) In determining the amount of a civil penalty, the Division shall consider whether:

(a) The Division made repeated attempts to obtain compliance;

(b) The licensee has a history of non-compliance with home health licensing laws and rules;

(c) The violation poses a serious risk to the public's health; and

(d) There are mitigating factors, such as a licensee's cooperation with an investigation or actions to come into compliance.

(3) The Division shall document its consideration of the factors in section (2) of this rule.

(4) Each day a violation continues is an additional violation.

(5) A civil penalty imposed under this rule shall comply with ORS 183.746.

Stat. Auth.: ORS 443.085

Stats. Implemented: ORS 443.045 & 443.085

Hist.: PH 7-2012, f. 3-30-12, cert. ef. 4-1-12

Oregon Health Licensing Agency

Chapter 331

Rule Caption: Allow individuals with a tattoo license which is not equivalent to Oregon to obtain a six month temporary reciprocal tattoo license.

Adm. Order No.: HLA 5-2012(Temp)

Filed with Sec. of State: 3-20-2012

Certified to be Effective: 3-21-12 thru 6-25-12

Notice Publication Date:

Rules Adopted: 331-915-0027, 331-915-0029

Subject: Allow individuals to obtain a temporary reciprocal tattoo license if they hold a current valid tattoo license issued by another regulatory authority which is not equivalent to Oregon's tattoo licensure qualifications. A temporary reciprocal tattoo licensee must be enrolled in an Oregon licensed career school and may work without supervision for six months.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-915-0027

Temporary Tattoo License – Reciprocal Licensure

(1) A temporary reciprocal tattoo license may be issued to a tattoo artist with a current, valid tattoo artist license issued by another regulatory authority, when qualifications for that license are not equivalent to Oregon qualifications, if that artist is enrolled in a career school for tattoo licensed under ORS 345 at the time of application. To retain a temporary reciprocal tattoo license, the holder must remain enrolled throughout the time that the tattoo artist holds the temporary reciprocal license.

NOTE: Temporary reciprocal tattoo licensure does not qualify an individual for permanent licensure. The holder of the temporary reciprocal license must independently qualify for permanent licensure, but may so qualify if that holder successfully completes a career school's tattoo program within the six months of temporary licensure. Additionally, temporary reciprocal tattoo licenses will be issued for only six months after the effective date of this rule. After that time, applicants wishing to perform tattoo services must qualify for permanent licensure.

(2) A temporary reciprocal tattoo license is good for six months and expires on the last day of the month six months from the date of issuance.

(3) A temporary reciprocal tattoo license authorizes the holder to perform tattoo services unsupervised for up to six months.

(4) A temporary reciprocal tattoo license holder must meet all requirements and adhere to all standards within OAR 331-915-0065, 331-925-0050, 331-925-0055 and OAR chapter 331, division 930

Stat. Auth.: ORS 676.607, 676.615, 690.385, 690.405

Stats. Implemented: ORS 676.606, 676.607, 676.608

Hist.: HLA 5-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 6-25-12

331-915-0029

Application Requirements for Temporary Reciprocal Tattoo License

An individual applying for licensure to practice tattooing temporarily while receiving education from a private career school licensed under ORS 345 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 documentation having completed blood borne pathogens training from an agency approved;

(4) Submit documentation having completed cardiopulmonary resuscitation and basic first aid training from an agency approved provider;

(5) Submit documentation showing proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000.

(6) Submit proof of having a high school diploma or equivalent;

(7) Submit an affidavit of licensure pursuant to OAR 331-030-0040 demonstrating proof of current licensure, which is active with no current or pending disciplinary action, as a tattoo artist. The license must have been issued by a regulatory body of another state or a national association recognized by the agency;

(8) Pay examination fees;

(9) Submit passing score of an Agency approved written examination in accordance with OAR 331-915-0030(1)(a) within two years from the date of application; and

(10) Upon passage of all required examinations and before issuance of a license, applicant must pay all license fees.

Stat. Auth.: ORS 676.607, 676.615, 690.385, 690.405

Stats. Implemented: ORS 676.606, 676.607, 676.608

Hist.: HLA 5-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 6-25-12

Rule Caption: Suspend temporary rule for temporary reciprocal tattoo license.

Adm. Order No.: HLA 6-2012(Temp)

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 3-30-12 thru 6-25-12

Notice Publication Date:

Rules Suspended: 331-915-0027, 331-915-0029

Subject: Suspend temporary rule creating a temporary reciprocal tattoo license due to other administrative rules providing a pathway to licensure for an individual applying for licensure through reciprocity.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-915-0027

Temporary Tattoo License – Reciprocal Licensure

(1) A temporary reciprocal tattoo license may be issued to a tattoo artist with a current, valid tattoo artist license issued by another regulatory authority, when qualifications for that license are not equivalent to Oregon qualifications, if that artist is enrolled in a career school for tattoo licensed under ORS 345 at the time of application. To retain a temporary reciprocal tattoo license, the holder must remain enrolled throughout the time that the tattoo artist holds the temporary reciprocal license.

NOTE: Temporary reciprocal tattoo licensure does not qualify an individual for permanent licensure. The holder of the temporary reciprocal license must independently qualify for permanent licensure, but may so qualify if that holder successfully completes a career school's tattoo program within the six months of temporary licensure. Additionally, temporary reciprocal tattoo licenses will be issued for only six months after the effective date of this rule. After that time, applicants wishing to perform tattoo services must qualify for permanent licensure.

(2) A temporary reciprocal tattoo license is good for six months and expires on the last day of the month six months from the date of issuance.

(3) A temporary reciprocal tattoo license authorizes the holder to perform tattoo services unsupervised for up to six months.

(4) A temporary reciprocal tattoo license holder must meet all requirements and adhere to all standards within OAR 331-915-0065, 331-925-0050, 331-925-0055 and OAR chapter 331, division 930

Stat. Auth.: ORS 676.607, 676.615, 690.385, 690.405

Stats. Implemented: ORS 676.606, 676.607, 676.608

Hist.: HLA 5-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 6-25-12; Suspended by HLA 6-2012(Temp), f. & cert. ef. 3-30-12 thru 6-25-12

331-915-0029

Application Requirements for Temporary Reciprocal Tattoo License

An individual applying for licensure to practice tattooing temporarily while receiving education from a private career school licensed under ORS 345 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 documentation having completed blood borne pathogens training from an agency approved;

ADMINISTRATIVE RULES

- (4) Submit documentation having completed cardiopulmonary resuscitation and basic first aid training from an agency approved provider;
 - (5) Submit documentation showing proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000.
 - (6) Submit proof of having a high school diploma or equivalent;
 - (7) Submit an affidavit of licensure pursuant to OAR 331-030-0040 demonstrating proof of current license, which is active with no current or pending disciplinary action, as a tattoo artist. The license must have been issued by a regulatory body of another state or a national association recognized by the agency;
 - (8) Pay examination fees;
 - (9) Submit passing score of an Agency approved written examination in accordance with OAR 331-915-0030(1)(a) within two years from the date of application; and
 - (10) Upon passage of all required examinations and before issuance of a license, applicant must pay all license fees.
- Stat. Auth.: ORS 676.607, 676.615, 690.385, 690.405
Stats. Implemented: ORS 676.606, 676.607, 676.608
Hist.: HLA 5-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 6-25-12; Suspended by HLA 6-2012(Temp), f. & cert. ef. 3-30-12 thru 6-25-12

**Oregon Health Licensing Agency,
Board of Licensed Dietitians
Chapter 834**

Rule Caption: Standardize fees by making them yearly by making the temporary rule permanent.

Adm. Order No.: BELD 1-2012

Filed with Sec. of State: 3-28-2012

Certified to be Effective: 3-28-12

Notice Publication Date: 12-1-2011

Rules Adopted: 834-040-0000

Subject: The passage of Senate Bill 939 during the 2011 Legislative session moved the Board of Licensed Dietitians to the Oregon Health Licensing Agency which was effective July 1, 2011. Section 12 of the enrolled version of Senate Bill 939 gives the agency the authority to establish fees by rule. The Board's 2009 statute stated licenses expire October 31 of odd numbered years and were prorated on a monthly basis if issued less than 24 months. Senate Bill 939 changed the statute to say the license expires one year from the date of issuance. The old rule stated the fee was \$6.25 a month. The agency filed a fee change with the Department of Administrative Services and Legislative Fiscal Office and a temporary administrative rule with the Secretary of State effective October 1, 2011. The change made the fee \$75 (\$6.25 X 12) a year. The Agency is filing the temporary rule as permanent.

Rules Coordinator: Samantha Patnode—(503) 373-1917

834-040-0000

Fees

(1) Applicants and registrants are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

- (a) Application: \$50;
- (b) Original license: \$75 for one year;
- (c) Renewal of license: \$75 for one year;
- (d) Other administrative fees;
- (A) Delinquency fee: \$25 for each year in inactive status up to three years.

(B) Replacement of license, including name change: \$25.

(C) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 676.606, 676.607, 676.608, 676.615, 691.435, 691.445, 691.465
Stats. Implemented: ORS 691.435, 691.445, 691.465, 676.605, 676.606, 676.607, 676.608, 676.615, OL 2011 Ch. 630
Hist.: BELD 1-2012, f. & cert. ef. 3-28-12

**Oregon Housing and Community Services Department
Chapter 813**

Rule Caption: Amends rules to reflect program requirements, industry standards and ensures consistency with statutory requirements.

Adm. Order No.: OHCS 1-2012

Filed with Sec. of State: 3-27-2012

Certified to be Effective: 3-27-12

Notice Publication Date: 2-1-2012

Rules Amended: 813-020-0005, 813-020-0020, 813-020-0025, 813-020-0035, 813-020-0045, 813-020-0060, 813-020-0070

Rules Repealed: 813-020-0010, 813-020-0015, 813-020-0016, 813-020-0033, 813-020-0005(T), 813-020-0020(T), 813-020-0025(T), 813-020-0035(T), 813-020-0045(T), 813-020-0060(T), 813-020-0070(T)

Rules Renumbered: 813-020-0017 to 813-020-0021, 813-020-0030 to 813-020-0022, 813-020-0040 to 813-020-0046, 813-020-0041 to 813-020-0047, 813-020-0042 to 813-020-0048, 813-020-0032 to 813-020-0049, 813-020-0024 to 813-020-0054, 813-020-0050 to 813-020-0056, 813-020-0051 to 813-020-0057

Subject: These rules have been reviewed for statutory compliance and are intended to reflect the operation of the program. In several cases, rules have been renumbered for ease and clarity of the rules.

813-020-0005 Clarifies the purpose and objectives of the rules.

813-020-0010 The definitions for the rules will be centralized in the department's general administration procedural rules. This rule has been repealed.

813-020-0015 This rule is repealed as this information is procedural and is contained within the Program's Procedural Guide.

813-020-0017 (Renumbered to 813-020-0021) - Amendments clarify the purpose and objective of the rules.

813-020-0020 Amendments clarify the purpose and objective of the rules. Repealed language is procedural and is contained within the Program's Procedural Guide.

813-020-0024 (Renumbered to 813-020-0054) Amendments clarify when and the requirements for a borrower to transfer ownership in a property financed by program funds.

813-020-0025 Clarifies when a loan is eligible for purchase under the program.

813-020-0030 (Renumbered to 813-020-0022) - Amendments are intended for clarification of the program requirements.

813-020-0032 (Renumbered to 813-020-0049) Provides clarification for the permission use and requirements for property financed by the program.

813-020-0033 This rule will be repealed. The information is procedural and is contained within the Program's Procedural Guide.

813-020-0035 Amendments are intended to clarify the eligibility criteria for residences to participate in the program.

813-020-0040 (Renumbered to 813-020-0046) Amendments include an adjustment of the loan amount requiring mortgage insurance.

813-020-0041 (Renumbered for 813-020-0047) Clarifies the requirement for title insurance for loans under the program.

813-020-0042 (Renumbered to 813-020-0048) Clarifies the requirement for hazard insurance for loans under the program.

813-020-0045 Amendments are intended to clarify lender action on a loan application for the program.

813-020-0050 (Renumbered to 813-020-0056) Amendments to these rules clarify approved servicers that may participate under the program.

813-020-0051 (Renumbered to 813-020-0057) Amendments are generally administrative in nature and are intended for clarification only.

813-020-0060 Amendments serve to provide clarification and reference to specific regulations that are applicable for qualifications as a 'Special Purpose Credit Program.'

813-020-0070 Amendments to this rule are intended to clarify any federal eligibility requirements pertinent to participation in the program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

ADMINISTRATIVE RULES

813-020-0005

Purpose and Objectives

The rules of OAR chapter 813, division 20 establish and implement the Single-Family Mortgage Program. Under the program, the Department purchases loans issued by lenders for acquisition of single family homes in order to encourage and assist moderate- and lower-income persons in Oregon to purchase, improve and rehabilitate owner-occupied new and existing residential housing.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0020

Approved Lenders

(1) A bank, savings bank or other financial institution that is authorized under the laws of a state or of the United States to engage in the business of making secured loans for residential housing may apply to become a lender under the Single Family Mortgage Program. An applicant shall submit to the Department:

- (a) An application in the form prescribed by the Department;
- (b) An opinion by the counsel of the applicant regarding the power and authority of the applicant to enter into a loan purchase agreement with the Department;
- (c) A list of the authorized officers of the applicant and the signature of each officer;
- (d) The most recent audited financial statements of the applicant;
- (e) Documentation evidencing the applicant's bond and insurance coverage; and
- (f) An application charge in an amount established by the Department for its costs of evaluation and administration.

(2) An applicant may qualify as a lender under the program if the Department determines that the applicant:

- (a) Makes loans for single family residences in the regular, usual and normal course of its business;
- (b) Has the capability and resources to originate loans under the program in a sound and professional manner; and
- (c) Has or will have a valid and binding contract with a loan servicer approved by the Department under OAR 813-020-0050.

(3) A determination by the Department under section (2) of this rule is subject to the Department's consideration of factors that include but are not limited to the following:

- (a) The number and experience of employees available to originate program loans;
- (b) The applicant's financial capability to originate program loans;
- (c) The applicant's qualification as a seller or servicer for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration, or as a "Special Lender" under the federal Servicemen's Readjustment Act;
- (d) Whether the applicant's deposits are insured by the Federal Deposit Insurance Corporation; and
- (e) The applicant's reputation, experience and performance in the area of residential lending and any other area of the applicant's business.

(4) Before a lender that is qualified by the Department under section (2) of this rule may make a program loan, the lender shall enter into an agreement with the Department providing for the manner and terms of sale of program loans, according to a standard form prescribed by the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0021

Reservation System

(1) A lender approved by the Department under OAR 813-020-0020 may apply to the Department for a reservation of Department funds with which the Department may purchase a loan made by the lender under the Single Family Mortgage Program. A lender applies for a reservation by submitting to the Department the name of the applicant for the loan, the address of the property to which the loan applies, the amount of the loan, the acquisition cost and any other information and documents requested by the Department.

(2) Program loan funds are reserved on a first-come first-served loan by loan basis, except that the Department may also move to the list of approved loan reservations a reservation from a list of standby reservations established by the Department whenever a reservation approved by the Department is cancelled by a lender.

(3) A lender may assign a reservation approved by the Department to another lender approved by the Department if both lenders consent to the assignment in writing and if the Department authorizes the assignment.

(4) A lender shall report and confirm to the Department for each reservation, on a regular basis established by the Department, all of the following information:

- (a) The name of the borrower;
- (b) The address of the property to which the loan applies;
- (c) The loan amount; and
- (d) The date on which the loan was cancelled or the dates on which the loan was approved and closed.

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

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.640

Hist.: HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0017 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; Renumbered from 813-020-0017 by OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0022

Eligible Borrowers

(1) A person is eligible to receive a loan under the Single Family Mortgage Program if, on the dates of application and loan closing:

(a) The total of the annualized gross household income, from any source and before taxes and withholding, of all non-minor persons who will reside in the single family residence to which the loan applies does not exceed the applicable income limit established by the Department and by the Internal Revenue Code of 1986, as amended;

(b) The person:

(A) Is a resident or intends to be a resident of Oregon;

(B) In good faith intends to occupy the single-family residence as a permanent principal residence;

(C) Possesses the legal capacity to incur the obligations of the program loan;

(D) Has a credit standing acceptable to the Department;

(E) Agrees that any other residential property owned by the person will be sold by the time of closing; and

(F) Meets applicable requirements established by Section 143 of the Internal Revenue Code of 1986, as amended and as described in OAR 813-020-0070, if the program loan is to be made from the proceeds of bonds sold after September 15, 1982.

(2) A loan under the program is also subject to the following provisions:

(a) The application for the loan must be processed according to the rules of this division;

(b) The acquisition cost may not exceed the limit established by the Department and in effect when the loan application is made; and

(c) An applicant for a loan may not have held a present ownership interest in a principal residence at any time within the three years immediately preceding the date of the loan application unless the residence is located within a targeted area as designated under OAR 813-020-0070.

(3) Subject to OAR 813-020-0045 regarding a lender's refusal of a program loan, a lender shall determine the applicant's qualifications to be a borrower under the program.

(4) If a program loan is insured by the Federal Housing Administration or a Qualified Mortgage Insurer or guaranteed by the Veterans' Administration or USDA Rural Development, the Department authorizes the lender to accept approval by such a federal agency or a qualified mortgage insurer as satisfactory evidence of the creditworthiness of the applicant. In all other instances, a lender must determine the acceptability of the applicant's credit standing after thoroughly evaluating the applicant's credit, taking into account such factors as:

(a) The ratio between the applicant's stable monthly income and estimated housing expenses, including repayment of the program loan and any secondary housing debt financing;

(b) The ratio between the applicant's stable monthly income and the estimated monthly payments on all indebtedness of the applicant, including the program loan;

(c) The applicant's ability to accumulate wealth, including funds needed for down payment and closing costs on the program loan;

(d) The history of the applicant's previous ability to meet debt service requirements; and

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(e) Any other factors commonly considered by prudent institutional mortgage investors, such as prior bankruptcy of the applicant, history of slow payments on previous obligations, job tenure, frequent changes of residence and the existence of lawsuits, judgments or foreclosures involving the applicant.

Publications: Publications referenced are available from the agency.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 15-1980, f. & ef. 12-4-80; 1HD 9-1981, f. & ef. 8-27-81; 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; 1HD 17-1984, f. 12-31-84, ef. 1-1-85; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0030 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; Renumbered from 813-020-0030 by OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0025

Program Loans

(1) A loan under the Single-Family Mortgage Program is eligible for purchase by the Department:

(a) If the borrower holds title to the single-family residence in fee simple or in another form of ownership acceptable to the Department; and

(b) If the loan:

(A) Meets to the satisfaction of the Department the requirements in the purchase agreement between the Department and the lender;

(B) Has a final maturity at least fifteen and not more than forty years from the date of its making;

(C) Is secured by a first lien deed of trust granted by the borrower on the single-family residence financed by the loan; and

(D) Is made solely to finance the purchase, construction or purchase and rehabilitation of an existing or newly constructed single-family residence for use as the permanent, principal residence of the borrower.

(2) A loan may not be made under the program to refinance an existing loan unless the existing loan is a temporary loan with a loan term of 24 months or less for constructing or rehabilitating a single-family residence. The temporary loan also must have been made on or after the commencement date of the commitment term during which the program loan is sold to the Department. If a program loan is made to refinance such a loan, the lender shall certify to the Department that construction or rehabilitation has been satisfactorily completed before the delivery of the program loan for purchase.

(3) A lender may execute a program loan with a borrower only on forms approved by the Department and in a manner satisfactory to the Department. The forms must prescribe program loan requirements regarding insurance, escrow payments, late charges, deficiencies, defaults, priority of liens and similar matters.

(4) The Department may purchase a program loan with a graduated or other payment schedule based on criteria established by the Department.

(5) A program loan is subject to prepayment at the Department's option if at any time the borrower does not reside in the residence financed by the program loan but remains the owner of the residence, or if the lender or Department determines that the borrower was ineligible at the time the loan was made.

(6) To establish the interest rate for a program loan, the Department shall consider the rates of interest on the bonds, prevailing rates for similar loans and the ability of borrowers under the program to afford such rates.

(7) The original principal amount of a program loan and any secondary financing may not exceed 97 percent of property value unless the program loan is insured by the Federal Housing Administration or a qualified mortgage insurer, or guaranteed by the Veterans' Administration or USDA Rural Development. Property value must be calculated on the lesser of the purchase price of the property or its appraised value.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1981, f. & ef. 8-27-81; 1HD7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0035

Eligible Residences

(1) A residence is eligible for a loan from the Single-Family Mortgage Program if:

(a) The residence is located in Oregon;

(b) The residence is structurally sound and functionally adequate;

(c) The residence is only one single-family residential unit;

(d) The residence conforms with all applicable zoning requirements, building codes and similar requirements; and

(e) The acquisition cost, including any deferred, indirect or nonmonetary consideration other than labor of the borrower and the borrower's family, and the appraised value of the residence do not exceed limits established by the Department under this rule.

(2) In addition to the requirements of section (1) of this rule:

(a) If the loan on a residence includes proceeds of bonds sold after September 15, 1982, a residence is eligible for a program loan only if no more than 15 percent of the total living area of the residence is of a character that is subject to being rented for or used in the operation of a trade or business conducted on any part of the land or improvements, thereby qualifying the use as a deduction for federal income tax purposes under Section 280A of the Internal Revenue Code.

(b) If a residence to which this rule applies is a part of a condominium or planned unit development, the eligibility of the residence for a program loan is subject to a determination by the Department whether granting the loan would result in an excessive percentage of units in the condominium or development that are financed by program loans.

(3) For the purpose of this rule, a determination by the Department of limits on:

(a) The acquisition cost of a residence is subject to consideration of the following factors:

(A) The cost and condition of housing within the state;

(B) Income levels established for the program;

(C) Purchase price limits under applicable federal law; and

(D) Reasonable down payment requirements.

(b) The appraised value of a residence is subject to limits established by the Department and to consideration of the following factors:

(A) The cost and condition of housing within the state;

(B) The market value of such housing, assuming arms'-length sales transactions;

(C) The probability of non-arms'-length sales transactions;

(D) The effect of the limits on the lender's ability to originate program loans; and

(E) The effect of the limits on the security of program loans.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620 & ORS 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0045

Lender Action on Loan Application

(1) A lender shall proceed in good faith to process a loan application under the Single Family Mortgage Program and shall make the program loan if the lender determines that:

(a) Loan funds are available;

(b) The application is complete;

(c) The application appears to comply with the rules of this division and the terms of the applicable loan agreement; and

(d) The applicant appears to be a borrower who is eligible for a loan under OAR 813-020-0030.

(2) A person who is refused a program loan by a lender may demand of the lender, in writing, a written explanation of the specific reasons for the refusal. The lender shall comply with the demand not later than the 30th day after the date on which the lender receives the demand.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0046

Mortgage Insurance

If the amount of a loan under the Single-Family Mortgage Program is greater than 80 percent of the original acquisition cost or, if lower, its value according to an appraisal acceptable to the Department, the borrower shall obtain and maintain in force mortgage insurance or a guarantee of the program loan by a qualified mortgage insurer. The following requirements apply to the mortgage insurance policy or guarantee:

(1) The policy must be in effect at the time of sale of the Program Loan to the Department;

(2) The Department must be named as the mortgagee insured or guaranteed; and

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(3) The amount, terms and extent of coverage of the insurance or guaranty must meet the requirements of the indenture of trust and the bond indenture declaration governing the bonds used for the acquisition of the residence as determined by the Department to provide reasonable security against loss in the event of default.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0040 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; Renumbered from 813-020-0040 by OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0047

Title Insurance

A loan under the Single-Family Mortgage Program must be covered by a title insurance policy issued in American Land Title Association (ALTA) form by a title insurance company authorized to transact insurance in Oregon by the Department of Consumer and Business Services. All of the following requirements apply to a title insurance policy under this rule:

(1) The amount of coverage of the policy must be at least equal to the outstanding principal balance of the program loan.

(2) The benefits of the policy must run to the Department, as either named insured or assignee.

(3) The policy may not be subject to any exceptions or conditions other than those previously approved by:

- (a) The Department;
- (b) The federal Department insuring or guaranteeing the loan, if any;

or

(c) A private mortgage insurer, if any.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0041 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; Renumbered from 813-020-0041 by OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0048

Hazard Insurance

A borrower under the Single-Family Mortgage Program must carry hazard insurance on the residence financed by the program loan that meets the requirements of the loan agreement. The hazard insurance must be in effect at the time the program loan is made, and must remain in effect for the term of the program loan.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; Renumbered from 813-020-0042 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; Renumbered from 813-020-0042 by OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0049

Permissible Use of Property Financed by a Program Loan

(1) A borrower under the Single-Family Mortgage Program shall continuously occupy the single-family residence financed by the program loan as the borrower's permanent and principal residence during the time the borrower has the program loan, except under the conditions specified in section (2) of this rule. Prior to repayment of the program loan or prior to assumption of the loan when the Department allows assumption, the borrower may not sell, transfer or otherwise dispose of the single-family residence and may not be a party to any formal or informal arrangement to sell, transfer or otherwise dispose of the residence.

(2) A borrower under the program may not vacate, rent or agree to rent the single-family residence during the term of the program loan unless the borrower requests and receives permission from the loan servicer and, if the servicer requires, from the Department. Permission must be based upon the determination of the servicer, and of the Department when the Department's permission is requested, that one of the following conditions applies:

(a) The borrower is making a good faith effort to sell the residence or refinance the program loan; or

(b) The circumstances causing the borrower to move out of the residence are beyond the borrower's control, including but not limited to any of the following or substantially similar circumstances:

(A) The borrower or the borrower's spouse is drafted into military service;

(B) The borrower or the borrower's spouse is involuntarily transferred by an employer on a temporary basis;

(C) The borrower or the borrower's spouse becomes disabled and needs medical rehabilitation, and consequently cannot live in the residence; or

(D) The borrower or the borrower's spouse must move to finish an educational degree requirement and has taken a temporary leave of absence from employment.

(3) For a determination whether a circumstance under section (2) of this rule applies, the loan servicer or the Department may require evidence from the borrower of continuing sales or refinancing efforts or of the specific circumstances asserted.

(4) A borrower shall submit a request under section (2) of this rule in writing to the loan servicer, and to the Department if the loan servicer requires the Department's permission, one month before the borrower vacates or rents the residence. The borrower may request permission to rent or vacate the residence for a period of time not to exceed one year, and may request additional one-year extensions. Permission to rent or vacate or to extend is subject to a determination by the loan servicer, and by the Department if the Department also granted permission, that the condition under section (2) of this rule as asserted by the borrower continues to apply. A borrower must submit a request for extension to the servicer, and to the Department when applicable, before the approved period ends.

(5) If a program loan was made from the proceeds of bonds sold after September 15, 1982, the principal residence requirements of Section 143 of the Internal Revenue Code of 1986, as amended, apply instead of the principal residence requirement under this rule. A borrower must submit evidence satisfactory to the Department that the borrower will comply with federal residence requirements.

(6) A borrower who does not comply with a provision of this rule is subject at any time and without notice to acceleration of all payments due under the program loan and to any other remedy or civil penalty allowable by law.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 15-1980, f. & ef. 12-4-80; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0032 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; Renumbered from 813-020-0032 by OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0054

Change of Ownership; Assumptions by Substitution of Liability for a Program Loan

(1) A borrower under the Single-Family Mortgage program may transfer ownership of property financed by a program loan pursuant to an assumption if the Department determines prior to the transfer that the assumption results in a substitution of liability and the purchaser is eligible to be a borrower under OAR 813-020-0030. The assumption may be made subject to the terms of the existing loan without an interest rate increase. An assumption under this section is also subject to the following provisions:

(a) The application for the assumption must be processed according to the rules of this division, and applicable terms of the agreement between the loan servicer and the Department;

(b) The acquisition cost may not exceed the limit established by the Department and in effect at the time the assumption application is made if the original program loan was made from the proceeds of bonds sold after September 15, 1982;

(c) An applicant for an assumption may not have held a present ownership interest in a principal residence at any time within the three years immediately preceding the date of the assumption unless:

(A) The original program loan was made from the proceeds of bonds sold on or before September 15, 1982; or

(B) The residence is located within a targeted area as designated under OAR 813-020-0070; and

(d) The borrower must have an annualized gross household income that does not exceed certain limits established by the Department in accordance with the Internal Revenue Code of 1986, as amended.

(2) An assumption under this rule is not subject to a minimum down payment requirement if no secondary financing is involved in the transaction. If any part of a down payment is to be provided by secondary financing, the purchaser shall make at least a five percent down payment from liquid assets or cash equity, calculated on the current purchase price of the residence to which the assumption applies. Secondary financing under this section must amortize over a specified period and may not provide for a balloon payment.

(3) A loan servicer may collect fees on an assumption under this rule as follows:

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(a) The servicer may collect a nonrefundable assumption application fee. The fee, including the credit report fee, may not exceed \$150. If the assumption is denied, the loan servicer may retain the portion of the fee not applied to the costs of the credit report. If the assumption is approved, the loan servicer shall apply the portion not applied to the costs of the credit report as a credit to the processing fee allowed under subsection (b) of this section.

(b) The servicer may charge a fee for processing an assumption. The fee on a conventional loan may be one percent of the loan balance or \$400, whichever is greater, but may not exceed the customary fees charged in the geographic area for assumptions on mortgage loans owned by private lenders. The processing fee on a loan insured by the Federal Housing Administration (FHA) may not exceed the usual and customary fees allowed. A fee charged under this subsection must be commensurate with the work on the loan by the servicer.

(4) A loan servicer for an assumption under this rule shall make any necessary disclosures, ensure that all insurance policies reflect the new ownership and take any action necessary to continue the benefits of the mortgage insurance or guaranty without interruption.

(5) An assumption transaction must retain the Department's original loan number.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD3-1981, f. & ef. 1-30-81; 1HD 11-1981, f. & ef. 10-5-81; 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 1-1984, f. & ef. 1-3-84; 1HD 9-1984, f. & ef. 9-4-84; 1HD 16-1984, f. & ef. 12-31-84, ef. 1-1-85; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0024 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; Renumbered from 813-020-0024 by OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0056

Approved Servicers

(1) A bank, savings bank or other financial institution that is authorized under the laws of a state or of the United States to engage in the business of servicing loans for residential housing may apply to become a loan servicer under the Single-Family Mortgage Program by submitting the following to the Department:

(a) An application in the form prescribed by the Department;

(b) An opinion by the counsel of the applicant regarding the power and authority of the applicant to enter into a loan servicing agreement with the Department;

(c) A list of the authorized officers of the applicant and the signature of each officer;

(d) The most recent audited financial statements of the applicant;

(e) Documentation evidencing bond and insurance coverage;

(f) An application charge in an amount established by the Department for its costs of evaluation and administration; and

(g) Documentation indicating the volume of residential loans produced by the applicant's mortgage lending offices in Oregon.

(2) An applicant under section (1) of this rule must demonstrate to the Department's satisfaction that:

(a) One of the applicant's principal functions is servicing loans secured by residential real estate;

(b) Such servicing is a customary and regular business activity of the applicant;

(c) The applicant is qualified to engage in servicing mortgage loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and is, if required, a mortgagee approved by the Federal Housing Administration or Veterans' Administration;

(d) The applicant deposits funds to accounts in depositories that comply with the requirements of ORS 295.002, 295.005, 295.015 to 295.018 and 295.205 and that are insured to the full extent legally possible by the Federal Deposit Insurance Corporation or other similar federal insuring Department; and

(e) The applicant will maintain servicing facilities adequately staffed with trained personnel familiar with all rules, regulations and requirements pertaining to or affecting program loans.

(3) An applicant may service program loans if the Department determines that an applicant is qualified to service program loans and if the applicant enters into an agreement with the Department to service program loans according to a standard form prescribed by the Department.

(4) A program loan servicer may assign program loan servicing to another servicer upon written approval by the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 5-1990, f. & cert. ef. 5-2-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-

23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0050 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; Renumbered from 813-020-0050 by OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0057

Program Loan Servicing

(1) A program loan servicer shall service a loan under the Single-Family Mortgage Program in accordance with the servicing agreement and the rules of this division.

(2) A program loan servicer shall charge for loan servicing according to uniform servicing rates established by the Department that are based on the estimated costs of servicing program loans and prevailing rates for similar services.

(3) For the term of a program loan, the borrower shall make monthly escrow payments for real estate property taxes and assessments, hazard insurance premiums and, if necessary, mortgage insurance premiums, except as otherwise provided in the terms of the loan agreement. A program loan servicer may pay interest on program loan escrow reserve accounts at its option.

(4) Upon approval by the Department, a program loan servicer may take one or more actions to protect the Department's security in a residence financed by a program loan. The actions may include but are not limited to the following:

(a) Loan modification;

(b) Property maintenance and repair;

(c) Foreclosure or deed-in-lieu of foreclosure proceedings; and

(d) Representation of the Department's interest in bankruptcy proceedings.

(5) If a program loan servicer fails to comply with the Department's servicing, reporting or remittance requirements, the Department may assess a penalty or may terminate the servicing agreement.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0051 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; Renumbered from 813-020-0051 by OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0060

Qualifications as a "Special Purpose Credit Program"

The Single-Family Mortgage Program is meant to and does benefit an economically disadvantaged class of persons. As such, the Department establishes the program as a "special purpose credit program" to satisfy the requirements of Interpretation Section 202.8(a)(1) of Regulation B of the Federal Equal Credit Opportunity Act. (U.S.C. 15, Chapter 41, Subchapter 4, Paragraph 6091.)

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 1-1980, f. & ef. 2-21-80; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 1-2012, f. & cert. ef. 3-27-12; OHCS 1-2012, f. & cert. ef. 3-27-12

813-020-0070

Federal Eligibility Requirements

(1) Section 143 of the Internal Revenue Code of 1986, as amended, requires the Department to meet the following requirements for each loan made under the Single-Family Mortgage Program in order to preserve the federal tax exemption for bonds issued to finance program loans:

(a) The residence financed by a program loan must be used as a qualifying principal residence by the borrower;

(b) A person who has held a present ownership interest in a principal residence at any time within the three years preceding the date of a loan closing may not obtain a program loan except as authorized in sections (2) and (3) of this rule;

(c) The acquisition cost of a residence financed by a program loan may not exceed the limits established by the Department pursuant to the Internal Revenue Code of 1986, as amended for new and existing Single-Family Residences;

(d) Only a new mortgage may be financed, except as provided in OAR 813-020-0025(2); and

(e) A borrower must have an annualized gross household income that does not exceed limits established by the Department in accordance with the Internal Revenue Code of 1986, as amended; and

(f) The assumption of a program loan is prohibited unless each person assuming the loan meets the requirements of this section.

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(2) A lender may approve a program loan to a person who has held a present ownership interest in a principal residence at any time within the preceding three years subject to a determination by the Department that takes into account the federal restrictions on the aggregate dollar volume of such loans for a specific commitment and the circumstances of the prior ownership. The Department may give preference to applicants who have lost prior ownership interests involuntarily, as through divorce settlements, eminent domain proceedings or similar circumstances.

(3) In certain Targeted Areas, a higher maximum Acquisition Cost may be applicable and the limitation with respect to prior home ownership does not apply. Certain census tract areas are designated as Targeted Areas by Section 143 of the Internal Revenue Code of 1986, as amended. The Department may apply for approval of additional or revised Targeted Areas after considering certain statutory variables. In designating such areas, the Department shall solicit requests from all cities within the state, and apply certain criteria specified by the United States Department of Housing and Urban Development for such purpose to other urban and non-urban areas. The Department shall submit its findings for approval by the Secretary of the United States Department of Housing and Urban Development and the Secretary of the United States Treasury. The Department shall retain a current list of designated Targeted Areas.

(4) The Department is required to establish procedures that ensure compliance with applicable requirements of Section 143 of the Internal Revenue Code of 1986, as amended. Any failure to meet these requirements shall be corrected within a reasonable time. The Department shall grant no exceptions or waivers unless allowed by federal law.

(5)(a) When authorized by federal law, the Department may elect to credit certain amounts that may become available to its eligible borrowers, rather than to the United States Treasury. The Department shall periodically determine the overall amounts subject to credit. The Department shall distribute any credits in compliance with federal law, taking into consideration such factors as the security of its bonds, the ability of borrowers to repay program loans, fluctuations in market interest rates and other factors that may affect the Department's ability to achieve its purpose and objectives.

(b) When required by federal law, the Department shall calculate and rebate certain amounts, if any, to the United States Treasury.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640
Hist.: 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 1-2012, f. & cert. ef. 3-27-12; OHCS 2-2012, f. & cert. ef. 3-27-12

Rule Caption: Amends rules to reflect program requirements, industry standards and ensures consistency with statutory requirements.

Adm. Order No.: OHCS 2-2012

Filed with Sec. of State: 3-27-2012

Certified to be Effective: 3-27-12

Notice Publication Date: 2-1-2012

Rules Adopted: 813-044-0055

Rules Amended: 813-044-0000, 813-044-0030, 813-044-0040, 813-044-0050

Rules Repealed: 813-044-0010, 813-044-0020, 813-044-0060, 813-044-0000(T), 813-044-0030(T), 813-044-0040(T), 813-044-0050(T), 813-044-0055(T)

Subject: These rules have been reviewed for statutory compliance and are intended to reflect the operation of the program. In many cases, rules have

been renumbered for ease of understanding and to ensure clarity.

813-044-0000 Clarifies the purpose and objectives of the rules.

813-044-0010 The definitions for the rules will be centralized in the department's general and procedural rules. This rule has been repealed.

813-044-0020 This rule is repealed as this information is procedural and is contained within the Program's Procedural Guide.

813-044-0030 Amendments provide clarification on how funds in the program will be distributed.

813-044-0040 Amendments provide clarification on the application procedure and requirements for an organization applying for a grant from the program. Language has been included to reflect that

supplemental application charges shall be paid by an organization that requests additional resources.

813-044-0050 Provides clarification regarding the department's consideration of individual proposals and the use of competitive funds.

813-044-0055 This new rule sets out the requirements for an organization that receives a grant under the program.

813-044-0060 These rules will be repealed. The rules clarify when a loan is eligible for purchase under the program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-044-0000

Purpose and Objectives

The rules of OAR chapter 813 Division 44 establish the Home Ownership Assistance Program in order to implement the purposes of the Home Ownership Assistance Account of the Oregon Housing Fund described in ORS 458.655.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.620, 458.625 & 458.655

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 2-2012, f. & cert. ef. 3-27-12

813-044-0030

Distribution of Funds

The amount of a maximum program award to an organization under the Home Ownership Assistance Account is subject to determination by the State Housing Council.

Stat. Auth.: ORS 456.555 & 458.600 - 458.655

Stats. Implemented: ORS 458.620, 458.625 & 458.655

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 2-2012, f. & cert. ef. 3-27-12

813-044-0040

Application Procedure and Requirements

(1) An organization may apply for a grant from the Home Ownership Assistance Account under ORS 458.655 if the organization:

(a) Is a nonprofit corporation established under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235 or a local government as defined in ORS 197.015; and

(b) Sponsors and manages low income homeownership programs as required by ORS 458.655.

(2) An organization applies for a grant under this rule by submitting to the Department all of the following:

(a) An application, on a form established by the Department;

(b) A nonrefundable application charge established by the Department; and

(c) All project information required by the Department, including, but not limited to:

(A) A written description of the purposes for which the grant will be used, including but not limited to the proposed services to prospective homeowners, criteria for selecting prospective homeowners and any other pertinent information ;

(B) A description of the housing type and target home owners to be housed, the manner in which the project may expand the percentage of home ownership for Oregonians and how the project will provide home ownership opportunities for low or very low income households, persons with disabilities, minorities and farm workers;

(C) A proforma of project expenses, financing and, if applicable, income;

(D) The grant amount requested and total project development costs, including a description of all additional project funding and funding sources;

(E) A description of the experience of the sponsor or manager in developing, managing and operating home ownership programs;

(F) A description of the organization's program management responsibilities; and

(G) Any other documentation required by the Department

(3) An organization that requests additional resources on a project funded by the Home Ownership Assistance Account shall pay all supplemental application charges imposed by the Department for the resources.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.620 & 458.655

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 2-2012, f. & cert. ef. 3-27-12

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813-044-0050

Criteria for Funding

(1) Grants by the Department under the Home Ownership Assistance Program are subject to the availability of funds in the Home Ownership Assistance Account and to limits established by law. The process by which the Department makes grants may include but is not limited to consideration of individual proposals and the use of a competitive review process.

(2) In addition to the criteria in ORS 458.655 for preference in making grants, a grant application is subject to subordinate criteria established by the Department and included in a competitive proposal solicitation.

(3) When an organization provides assistance under the Home Ownership Assistance Program for down payments, including closing costs, the organization shall do the following:

(a) Provide education and training in home ownership to recipients of the assistance from a source approved by the Department; and

(b) Require each recipient to take the education and training as a condition of eligibility to receive assistance funds.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.620, 458.625 & 458.655

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 2-2012, f. & cert. ef. 3-27-12

813-044-0055

Use of Grant Funds

An organization that receives a grant under the Home Ownership Assistance Program:

(1) Is subject to the condition that the organization continue to use the grant for the targeted ownership group for the duration and to the extent authorized by the grant application.

(2) May provide in its agreements with homeowners that when a homeowner sells the home for which the organization's assistance was furnished, the organization may recapture some or all of the assistance from proceeds of the sale;

(3) May use funds recaptured under section (2) of this rule to furnish further assistance under the program; and

(4) May be required by the Department to repay all or part of the grant if the organization withdraws from the project all or part of the commitments to home owner groups or the period of use for low or very low income housing from the project.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.620 & 458.655

Hist.: OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 2-2012, f. & cert. ef. 3-27-12

Rule Caption: Authorizes the department to waive or deviate from the competitive procurement procedures in certain circumstances.

Adm. Order No.: OHCS 3-2012(Temp)

Filed with Sec. of State: 4-2-2012

Certified to be Effective: 4-2-12 thru 9-28-12

Notice Publication Date:

Rules Amended: 813-006-0025

Subject: 813-006-0025 – Allows the department to waive or deviate from the competitive procurement procedures when certain circumstances exist.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-006-0025

Competitive Procurement Procedures

(1) A Request for Proposals (RFP) shall be prepared for the contracts for which Competitive Procurement procedures will be used. The RFP shall include, at a minimum, the following information:

(a) Date and hour by which proposals must be received;

(b) Return address where proposals must be received;

(c) Description of work;

(d) Evaluation criteria; and

(e) Agency project manager's name, address and phone number.

(2) The agency shall, by mail, notify persons who have indicated a desire to be notified of contracting opportunities or that have indicated expertise in the subject area, and any other persons deemed necessary, of projects for which an RFP may be issued. Notification of the project for which an RFP may be issued may be announced to the public and may be advertised in appropriate periodicals. The RFP shall be sent to all persons responding to the notification in the required manner.

(3) Exceptions to section (2) of this rule may be granted by the Director or his/her designee when the RFP is preceded by a Request for Information (RFI). When an RFI is widely distributed to solicit information

and interest in a proposed contract, eligibility for the subsequent RFP may be limited to parties responding to the RFI.

(4) Proposals shall be evaluated in accordance with the evaluation criteria included in the RFP. An objective rating system shall be used in the evaluation process. Records pertaining to the procurement process and the selection of the consultant shall be maintained in the Department's files.

(5) Exceptions to the notification procedures in sections (2) and (3) of this rule may be granted by the Director or his/her designee if warranted by time or cost considerations.

(6) As it deems necessary or appropriate for its purposes, the department may waive or deviate from the foregoing provisions of this section, including any otherwise applicable model contracting rules adopted by the Attorney General, to the extent of the department's statutory authority to employ its own procurement and contracting procedures. Factors that the department may consider in waiving or deviating from such provision or in determining what other procurement or contracting procedures it will apply in a particular circumstance may include, but are not limited to:

(a) Serving department purposes;

(b) Collaborating with reputable and effective partners;

(c) Leveraging past resources, experience, or services;

(d) Efficiently and effectively using department resources;

(e) Addressing exigent or unusual circumstances;

(f) Advancing the development or maintenance of safe, sanitary, and affordable housing;

(g) Advancing the delivery and effectiveness of community services;

(h) Building or sustaining the capacity of department partners;

(i) Promoting the coordination of relevant skills, resources, and efforts;

(j) Educating persons and entities concerning housing and community services needs and opportunities; or

(k) Ensuring compliance with department or other applicable standards. Included within this authority to waive or deviate from such procedures, or to apply other procurement or contracting procedures in particular circumstances, the department may amend an existing contract without additional competition, inter alia, to extend its term, to modify the compensation, to delete services, or to add any services within the scope of the relevant procurement provided the amendment, in the department's determination, is consistent with relevant factors identified in this subsection or consistent with factors otherwise relevant to such action.

Stat. Auth.: ORS 90.800 - 90.840, 91.886, 183, 456.515 - 456.723 & 458.210 - 458.650

Stats. Implemented: ORS 456.515 - 456.720

Hist.: HSG 14-1987, f. & ef. 12-21-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 6-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 3-2012(Temp), f. & cert. ef. 4-2-12 thru 9-28-12

Rule Caption: Amend the application process and review requirements for participation in the program.

Adm. Order No.: OHCS 4-2012

Filed with Sec. of State: 4-11-2012

Certified to be Effective: 4-11-12

Notice Publication Date: 3-1-2012

Rules Amended: 813-140-0096

Subject: 813-140-0096 – Clarifies and amends the application process and requirements for projects receiving funding from the Community Development Incentive Project Fund.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-140-0096

Application Process for Funding from Housing Preservation Community Incentive Fund

(1) All housing projects financed by OHCS with HUD Section 8 rental assistance contracts that have been renewed or will be renewed are eligible to apply for funding from the Community Development Incentive Project Fund.

(2) An applicant for funding from the fund shall submit an application for funding to the Department on the form provided by the Department.

(3) If the Department determines that funding is needed for financing developments because other state or private financing sources are inadequate or unavailable, unless the Department determines that financing is needed for the purpose of preserving affordable housing, the Department shall submit a funding application under section (2) of this rule to the Community Development Incentive Advisory Board for its review and recommendation.

(4) An application for funding that has been reviewed by the board under section (3) of this rule is subject to the Department's approval or dis-

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approval after the Director has reviewed the Board's recommendation. The Department's determination under this section is subject to its evaluation of the application on the basis of applicable statutory criteria.

Stat. Auth.: ORS 458.705 - 458.740

Stats. Implemented: ORS 458.705 - 458.740

Hist.: OHCS 6-2008, f. & cert. ef. 6-23-08; OHCS 2-2010, f. & cert. ef. 1-7-10; OHCS 10-2011(Temp), f. & cert. ef. 10-17-11 thru 4-12-12; OHCS 4-2012, f. & cert. ef. 4-11-12

Oregon Liquor Control Commission Chapter 845

Rule Caption: Amend and adopt rules to update and modernize the distilled spirits retail store system.

Adm. Order No.: OLCC 1-2012

Filed with Sec. of State: 3-20-2012

Certified to be Effective: 4-1-12

Notice Publication Date: 10-1-2011

Rules Amended: 845-015-0101, 845-015-0105, 845-015-0115, 845-015-0118

Subject: Staff's goal with this rule package is to enhance the distilled spirits retail system within the existing context of a control state structure. By updating and modernizing the system the Commission will enhance its ability to both keep up with customers' growing expectations and provide enough incentive to attract & retain effective liquor store agents. This in turn will lead to optimal revenue generation for the state of Oregon. The amendments in this rule package provide the flexibility to update the current business model in two main areas: 1) Allowing a corporation to be appointed as a retail sales agent – the amendments to OAR 845-015-0115 Retail Sales Agent Eligibility, OAR 845-015-0118 Retail Sales Agent Prohibited Interests, and OAR 845-015-0101 Definitions allow for this additional option. 2) Building more flexibility into the retail store classification process – the amendment of OAR 845-015-0105 Types of Retail Liquor Stores allows the Commission to change a retail liquor store's classification to non-exclusive based on the retail sales agent's business plan in addition to the other factors already considered. The specifics of such a business plan evaluation will be contained in the Retail Operations Manual.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-015-0101

Definitions

As used in OAR chapter 845, division 015:

(1) "Commission" includes the 5-member body of Commissioners appointed by the Governor, the administrator (director) and agency staff. Any of the actions or decisions specified in this division may be delegated to the administrator (director) as provided in ORS 471.040(2).

(2) "Disabled Retail Sales Agent" is one who has a physical or mental impairment that has continued more than one year or is permanent that prevents a retail sales agent from properly performing contractual duties. The Commission determines retail sales agent disability after reviewing medical reports from the retail sales agent's physician. The Commission may require additional medical information from a Commission-selected physician.

(3) "Full On-Premises Sales Licensee" means any person or entity holding a Full On-Premises Sales license.

(4) "Retail Liquor Store" is a premises or a specific area in a premises the Commission approves for the sale of packaged distilled spirits for off-premises consumption, other than an Oregon licensed distillery or portion of such a distillery which has been approved for the sale of packaged distilled spirits manufactured by the distillery.

(5) "Retail Sales Agent" or "Agent" is an individual person or legal entity appointed by the Commission who enters into a retail sales agent agreement to sell packaged distilled spirits on behalf of the Commission in a retail liquor store.

(6) "Retail Sales Agent Agreement" is a written contract between the Commission and a retail sales agent that specifies the terms, conditions, and obligations between both parties.

(7) "Temporary Retail Sales Agent" or "Temporary Agent" is an individual person or legal entity selected by the Commission to temporarily operate a retail liquor store.

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

Stats. Implemented: ORS 471.750 & 471.752

Hist.: LCC 25-1980, f. 9-30-85, ef. 1-1-81; LCC 9-1985, f. 11-6-85, ef. 1-1-86; Renumbered from 845-015-0040; LCC 23-1986, f. 10-16-86, ef. 1-1-87; OLCC 2-2003, f. 1-27-03, cert.

ef. 2-1-03, Renumbered from 845-015-0007; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06; OLCC 15-2011, f. 12-6-11, cert. ef. 1-1-12; OLCC 1-2012, f. 3-20-12, cert. ef. 4-1-12

845-015-0105

Types of Retail Liquor Stores

(1) A retail liquor store is either exclusive or non-exclusive. In an exclusive retail liquor store, a retail sales agent sells only distilled spirits and related items authorized by OAR 845-015-0143. In a non-exclusive retail liquor store, a retail sales agent operates a retail liquor store as an adjunct to another business. A retail sales agent must secure Commission approval for a retail liquor store's association with another business.

(2) The Commission may change the type of a retail liquor store from exclusive to non-exclusive or non-exclusive to exclusive. In making a type change, the Commission evaluates various factors, including retail liquor store sales, business plan and customer service. The procedures in OAR 845-015-0110 apply to such changes.

(3) When the Commission changes a retail liquor store from one type to another, the retail sales agent has the right to continue as retail sales agent after the change.

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

Stats. Implemented: ORS 471.750(1)

Hist.: LCC 21-1986, f. 10-16-86, ef. 1-1-87; OLCC 7-2002, f. 5-10-02, cert. ef. 6-1-02; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0012; OLCC 1-2012, f. 3-20-12, cert. ef. 4-1-12

845-015-0115

Retail Sales Agent Eligibility

(1) A retail sales agent who is an individual person must be at least 21 years old. Retail sales agents must devote enough time to a retail liquor store to ensure its efficient operation and reasonable service to the public.

(2) A retail sales agent may not have a financial interest or business connection that ORS 471.710(3) or OAR 845-015-0118 prohibits.

(3) A retail sales agent cannot be a Commission licensee or an officer, director, substantial stockholder or member of a licensee, except that:

(a) A non-exclusive retail sales agent may be an Off-Premises Sales licensee. An exclusive retail sales agent may be an Off-Premises Sales licensee provided that the licensed business is separate from the retail liquor store; or

(b) The Commission may appoint a licensee if the licensee is the only suitable applicant for appointment as retail sales agent in a very small town in a remote area. This retail liquor store must be non-exclusive and must be located in a part of the premises completely separated from the service or consumption of alcoholic beverages.

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

Stats. Implemented: ORS 471.750(1)

Hist.: OLCC 19-1987, f. 6-10-87, ef. 7-1-87; OLCC 15-1989, f. 10-31-89, cert. ef. 11-1-89; OLCC 7-1999(Temp), f. 5-25-99, cert. ef. 6-1-99 thru 11-27-99; OLCC 19-1999, f. 11-2-99, cert. ef. 11-28-99; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0027; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04; OLCC 1-2012, f. 3-20-12, cert. ef. 4-1-12

845-015-0118

Retail Sales Agent Prohibited Interests, ORS 471.710(3)

(1) Definitions: As used in ORS 471.710(3) and this rule:

(a) "Liquor Store Agent" has the same meaning as a retail sales agent, as defined in OAR 845-015-0101(5);

(b) "Financial Interest" means knowingly having an ownership interest, as a sole proprietor, partner, limited partner or stockholder or any direct or indirect ownership interest through a device such as a holding company, in a business licensed with a Distillery or Full On-Premises Sales license or any distillery whose products are sold in Oregon;

(c) "Business Connections" include, but are not limited to:

(A) Knowingly providing anything of value to a person or business licensed with a Distillery or Full On-Premises Sales license or to any distillery whose products are sold in Oregon, in return for something of value. This rule does not, however, prohibit persons and licensees from providing commodities and services to each other that they routinely provide to the general public under the same terms;

(B) Partnerships with a person or business licensed with a Distillery or Full On-Premises Sales license, or to any distillery whose products are sold in Oregon, and similar ventures formed for the purpose of making profit,

(d) "Knowingly" means a person actually knew or reasonably should have known;

(e) "Household" means all persons living as a family unit in the same dwelling;

(f) "Immediate Family" means spouse or Domestic Partner, and minor dependent children.

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(g) "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act.

(h) "Company Principal" means a person who holds any of the following interests in a legal entity that is a retail sales agent or an applicant for appointment as a retail sales agent:

(A) An officer;

(B) A director;

(C) A person who owns or controls 10% or more stock in the entity or holds 10% or more of the total membership interests in the entity or whose investment interest is 10% or more of the total investment interests in the entity;

(D) A manager of a limited liability corporation or limited liability partnership or the general partner of a limited partnership.

(2) Prohibited Interests. No retail sales agent, company principal, or member of the agent's household or immediate family may hold a Financial Interest or Business Connection as those terms are defined in section (1) of this rule.

(3) Additional Prohibitions:

(a) No retail sales agent, company principal or member of the agent's household or immediate family may be employed by a business that is licensed with a Distillery or Full On-Premises Sales license unless:

(A) The person's job duties do not include involvement with that portion of the business that requires an alcoholic beverage license to operate; or

(B) The person exercises no management control over that portion of the business that requires an alcoholic beverage license to operate.

(b) No retail sales agent, company principal or member of the agent's household or immediate family may be employed by any distillery whose products are sold in Oregon.

(4) Reporting Requirements:

(a) All retail sales agent applicants must complete and sign a form describing any financial interest or business connection the applicant, company principal or any person in the applicant's household or immediate family has, that the applicant would reasonably know of, with a Distillery or Full On-Premises Sales licensee, or with a distillery whose products are sold in Oregon. The Commission will determine whether any prohibited interest or connection exists. An applicant, company principal or person in the applicant's household or immediate family who has a prohibited interest or connection must divest the interest or connection before the Commission appoints the applicant;

(b) A retail sales agent must report, to the agent's district manager, any prohibited interest or connection with a Distillery, Full On-Premises Sales licensee or a distillery whose products are sold in Oregon as soon as the agent would reasonably know of the interest or connection. If ORS 471.710(3) or this rule prohibits the interest or connection, the Commission will set a reasonable time period for divestiture. If the retail sales agent, company principal, household member or immediate family member fails to divest, the Commission will terminate the agent's contract.

(5) Gifts and Gratuities: No retail sales agent will accept any gift, gratuity or thing of value from any Distillery or Full On-Premises Sales licensee or any distillery or any person representing a distillery, except that a retail sales agent may accept:

(a) Items totaling \$25 or less per year per licensee or distillery offered to retail sales agents as customers of the licensee or distillery as long as the items are offered on an equal basis to all customers irrespective of any connection to the Commission;

(b) Food and beverages provided for immediate consumption at a convention or a business conference or meeting that are offered to all participants irrespective of any connection to the Commission;

(c) A non-alcoholic beverage for immediate consumption that a licensee offers at a business meeting;

(d) Items offered to all participants at a convention irrespective of any connection to the Commission.

(6) Disciplinary Actions: The Commission will appropriately discipline a retail sales agent who:

(a) Fails to report a prohibited interest or connection as section (4) of this rule requires;

(b) Knowingly acquires an interest or establishes a connection that ORS 471.710 or this rule prohibits; and

(c) Accepts a gift or gratuity that section (5) of this rule prohibits.

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

Stats. Implemented: ORS 471.710(3)

Hist.: OLCC 15-1989, f. 10-31-89, cert. ef. 11-1-89; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0028; OLCC 10-2006, f. 7-19-06, cert. ef. 8-1-06; OLCC 9-2008, f. 6-12-08, cert. ef. 7-1-08; OLCC 1-2012, f. 3-20-12, cert. ef. 4-1-12

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

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

Filed with Sec. of State: 4-5-2012

Certified to be Effective: 4-5-12 thru 10-1-12

Notice Publication Date:

Rules Amended: 845-005-0413

Subject: This rule describes the Special Events license that is available to current Distillery licensees and also describes the application process. The 2012 legislature has passed House Bill (HB) 4092, signed by the governor on March 5, 2012, which amends ORS 471.230 to provide the additional privileges of selling their distilled spirits by the drink and by the bottle at these special events. We need to amend this rule on a temporary basis to comply with the new statutory language now in effect.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-005-0413

Special Events Distillery License

ORS 471.230 authorizes the Commission to issue a Special Events Distillery (SED) license to an Oregon Distillery licensee. This rule sets the qualifications and requirements for a Special Events Distillery license.

(1) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$10.00 per license day or any part of a license day.

(d) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product on the distillery licensed premises in Oregon.

(e) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(f) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(g) "Trade visitor" means a person whose job includes the purchase, or recommended purchase, of distilled spirits by a licensee of the Commission or distributors and others in the commercial distribution chain; or a person representing an agency of mass communication, such as television, radio, newspaper, magazine, and internet.

(h) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(2) Only the holder of a Distillery license issued under ORS 471.230 may qualify for a Special Events Distillery license.

(a) The SED license is only for a location other than that designated as the Distillery licensee's annually licensed premises.

(b) A distillery licensee providing tastings of distilled liquor for retailers at an educational seminar that is not open to the public is not required to obtain a SED and is subject to OAR 845-013-0060.

(c) A distillery licensee providing tastings of distilled liquor at a retail liquor store must follow OAR 845-015-0155. A distillery licensee is not eligible for a SED at a retail liquor store.

(3) The Commission will not approve more than five license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than five days.

(4) Applicants must apply in writing for a Special Events Distillery license, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures

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required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(5) The application for a SED license under this rule shall include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

- (A) The event to prevent problems and violations;
- (B) Patronage by minors as set out in subsection (6) of this rule; and
- (C) Alcohol consumption by adults.

NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (4) of this rule to refuse to process any application that is not complete;

(b) Identification of the individuals to be employed by the licensee to manage events on the SED licensed premises;

(c) Identification of the premises or area proposed to be licensed;

(d) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, and proposed hours of operation;

(e) A description of how the licensee will distinguish trade visitors from members of the general public, such as by providing tastings for trade visitors in separate areas or at separate times from tastings for the general public, by using distinctive glassware for trade visitors, or by the use of badges or name tags;

(f) The recommendation in writing of the local governing body where the licensed premises will be located; and

(g) License fees as established by ORS 471.311.

(h) If the licensee will provide distilled liquor by the drink, a written proposal showing compliance with the food service standards of OAR 845-006-0465.

(6) A plan for managing patronage by minors under subsection (5)(a) of this rule must meet the following requirements:

(a) If the SED license will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the SED license will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(7) Minors are prohibited from the SED licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(8) The Commission may deny, cancel or restrict a SED license for any reason for which the Commission may deny, cancel or restrict a regular license.

(9) The Commission may deny or restrict a SED license if the applicant has a serious violation history at events previously licensed with a special license within the past 36 months.

(10) The Commission shall limit the issuance of a SED license to the same applicant at the same location to no more than 31 license days from January 1 to December 31 of each year.

(11) The Commission may refund the SED license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(12) When the Commission approves a written plan under subsection (5)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(13) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may

immediately prohibit minors from the licensed premises or portion(s) of the premises.

(14) A distillery licensee with a SED may:

(a) Permit tastings of distilled liquor manufactured by the licensee. The distillery licensee must purchase the distilled liquor that the licensee uses for conducting tastings at the event from the Commission at the price set by the Commission for distilled liquor removed from bond for tastings.

(b) Permit sales by the drink of distilled liquor manufactured by the licensee. The distillery licensee must purchase the distilled liquor that the licensee uses for sales by the drink at the event at the retail price set by the Commission for the month in which the distilled liquor is sold by the drink.

(c) If the distillery licensee has been appointed as a distillery retail outlet agent, sell factory-sealed containers of distilled liquor manufactured by the licensee for consumption off the licensed premises of the event. The distillery licensee must purchase and sell the factory-sealed containers in accordance with the terms of the Distillery Retail Outlet Agent Agreement and the Commission's Distillery Retail Outlet Manual.

(15) Tastings provided to the general public.

(a) A tasting provided to the general public shall be no more than one-half fluid ounce of distilled liquor in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A licensee may charge a member of the general public a fee for tastings.

(b) A distillery licensee shall not provide more than two and one-half fluid ounces of distilled liquor per person per license day.

(16) Tastings provided to a trade visitor.

(a) A tasting provided to a trade visitor shall be no more than one fluid ounce of distilled liquor in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than three ounces. A licensee may not charge a trade visitor a fee for tastings.

(b) There is no daily limit on distilled liquor tastings provided to a trade visitor.

(c) Trade visitors must be distinguished from members of the general public per subsection (5)(e) of this rule.

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

Stats. Implemented: ORS 471.230

Hist.: OLCC 1-2010, f. 2-22-10, cert. ef. 3-1-10; OLCC 2-2012(Temp), f. & cert. ef. 4-5-12 thru 10-1-12

Rule Caption: Amendments clarifying where minors are allowed on a licensed premises and a minor employee's duties.

Adm. Order No.: OLCC 3-2012

Filed with Sec. of State: 4-10-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 2-1-2012

Rules Amended: 845-006-0335

Subject: This rule describes the requirements and responsibilities of licensees and permittees to prevent minors from purchasing and consuming alcohol on their premises or from being in an area that is prohibited to minors. In section (6) regarding minor entertainers, staff recommends minor amendments to clarify our expectation that if a minor entertainer is not performing and a Commission approved area has not been designated on the licensed premises (on the floor plan) where the minor stays when not performing, then the minor entertainer must be off of the licenses premises. Our regulatory staff is seeing more licensees choosing not to designate an approved area on their licensed premises, but rather utilizing options such as trailers in parking lots, and our public safety interest is to clearly know where minors will be so that we can help ensure that no minors are in possession of alcoholic beverages. Staff also recommends amending section (4) regarding minor employees and service permittees in order to reflect recent minor posting changes made in the Minor Posting rule. A complete rewrite and reorganization of the language regarding the allowance of these minors in various posted areas, as well as what duties they are allowed to perform, is proposed to improve clarity. And finally, staff recommends deletion of language in sections (3)(a) and (2)(b)) to clarify that this rule section should only be used to charge allowing a minor to drink. Selling or serving minors would instead be charged under the applicable statute (ORS 471.410(2)), or as we typically do instead, charged under section (1) of this rule for failure to verify age. The statute has a knowingly or "with knowl-

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edge” element required for selling and serving to a minor, but there is no such limitation for allowing a minor to drink.

Rules Coordinator: Jennifer Huntsman — (503) 872-5004

845-006-0335

Age Verification; Minors on Licensed Premises

(1) Age Verification:

(a) ORS 471.130 requires a licensee or permittee to verify the age of a person who wants to buy or be served alcoholic beverages when there is “any reasonable doubt” that the person is at least 21 years old. The Commission requires a licensee or permittee to verify the age of anyone who wants to drink alcoholic beverages, or is in an area prohibited to minors, if there is reasonable doubt that the person is at least 21 years old. “Reasonable doubt” exists if the person appears to be under the age of 26;

(b) Whenever a licensee or permittee verifies age, he/she must verify it as ORS 471.130 requires (statement of age card or the specified items of identification) and must reject any obviously altered document or one which obviously does not identify the person offering it;

(c) Licensees must require all their employees who sell, serve, oversee or control the sale or service of alcoholic beverages to verify age as subsection (a) of this section requires.

(2) Sanctions for Failure to Verify Age:

(a) The Commission will sanction a licensee or permittee who does not verify the age of a person who appears to be under the age of 26 only if the person:

(A) Actually is a minor who buys, is served or drinks an alcoholic beverage at the licensed premises (Category III violation); or

(B) Actually is a minor who is in an area of the licensed premises prohibited to minors (Category IV violation).

(b) If the Commission sanctions a licensee or permittee for one or more of the following violations under this rule: Failure to verify the age of a minor; Allowing a minor to drink; or Allowing a minor in an area prohibited to minors, the Commission will not sanction the licensee or permittee separately under ORS 471.130 or 471.410 (2) for the same conduct. The Commission may charge a licensee or permittee for one or more violations under this rule and also charge violation of one or more of the statutes in the alternative.

(c) Failure to verify age as ORS 471.130 requires or to reject obviously altered or false identification is a Category III violation.

(3) Minors on Premises: General Prohibitions. No licensee, permittee, or licensee’s employee will permit a minor:

(a) To drink any alcoholic beverage on licensed premises;

(b) To be on licensed premises or an area of the licensed premises prohibited to minors, except as provided in ORS 471.430, 471.480, 471.482, and this rule. (The assigned minor posting(s) describes where on the premises minors are allowed or prohibited. See OAR 845-006-0340, Minor Postings.)

(4) Minor Employee and Minor Service Permittee:

(a) Whenever minors are prohibited from an entire licensed premises, minor employees and minor service permittees are also prohibited. This applies to a premises with a Number I minor posting and when minors are prohibited from the entire premises under a Number IIIA, IV or VI minor posting.

(b) When minors are allowed in a premises or portion of a premises, minor employees and minor service permittees are permitted in the areas of the premises where minors are allowed. This applies to a premises or area with a Number III posting and to a premises or area with a Number IIIA, IV or VI posting during the times when minors are allowed. The primary duty of minor service permittees must be food service.

(c) If a premises has one or more areas where minors are prohibited and one or more areas where minors are allowed, the following requirements apply. An example is a premises with a Number III posting in the dining room and a Number II posting in the lounge.

(A) Minor employees who are not service permittees may be in areas prohibited to minors only to restock supplies and perform food service related activities such as setting and clearing tables and delivering food. The minor shall not remain in the prohibited area longer than is necessary to perform these duties.

(B) Minor service permittees may perform the duties of minor employees as described in subsection (4)(c)(A) of this rule as well as enter the prohibited areas to order and pick up alcoholic drinks for service in other areas of the premises where minors are allowed.

(5) Minor Vendor or Contractor. A minor, other than a licensee’s employee, who has a legitimate business purpose, may be in the area of the

licensed premises normally prohibited to minors. (For example, a minor who is a plumber may repair the plumbing in a prohibited area).

(6) Minor Entertainer:

(a) A minor entertainer may perform on licensed premises. If the minor entertainer stays on the premises when not performing, he/she must stay in an area where minors are permitted, such as an area with a Number III posting. If there is no break room, dressing room or patron area where minors are permitted, the licensee may, with prior Commission approval, designate space for minor entertainers in an area of the licensed premises normally prohibited to them. At a minimum, this place must be within the bartender’s sight but not at the bar, and there must be no alcoholic beverages in this place. If a minor entertainer is not performing and not in a Commission approved designated area on the licensed premises, then the minor entertainer must be off the licensed premises.

(b) If the minor is under 18 years old, and the licensee proposes to employ that minor to conduct or assist in conducting any public dance, including but not limited to dancing by the child as a public performance, or to assist in or furnish music for public dancing, the licensee and minor must make sure the minor has the written permission of the appropriate juvenile court judge as required by ORS 167.840(2).

(c) If the minor is under 18 years old, and the licensee proposes to employ that minor to perform or entertain on the licensed premises in a capacity other than described in (6)(b) of this rule, before allowing the minor to perform on the licensed premises the licensee must apply for and receive prior written permission from the Administrator of the Oregon Liquor Control Commission, or the Administrator’s designee. Application must be made upon a form supplied by the Commission. The Administrator or designee shall grant such permission only if:

(A) The parents or legal guardians of the minor have consented to the child’s participation in such activity; and

(B) The Administrator or designee has found that participation in such activity will not be inconsistent with the health, safety and morals of the minor.

(d) Minors under 14 years old must also get a work permit if one is required by the Oregon Bureau of Labor and Industries.

(7) Minor Patron: A minor patron may be in areas of licensed premises normally prohibited to minors in the following circumstances:

(a) If the licensee permits it, a minor may be in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old. “Domestic Partner” means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act. The minor must not buy, possess or drink alcoholic beverages;

(b) A minor may order and eat a meal in a Number IV posted area during the specified meal periods. This meal must at least meet the minimum food service requirements of OAR 845-006-0460.

(8) Sanctions: A violation of subsection (3)(a) of this rule is a Category III violation. A violation of subsection (3)(b) through section (7) of this rule is a Category IV violation.

Stat. Auth.: ORS 471, 471.030, 471.040, 471.430, 471.482 & 471.730

Stats. Implemented: ORS 471.130, 471.410, 471.430, 471.480 & 471.482

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2002, f. 8-29-02, cert. ef. 1-2-03; OLCC 13-2003(Temp), f. & cert. ef. 9-23-03 thru 3-20-04; OLCC 4-2004, f. & cert. ef. 4-9-04; OLCC 9-2005, f. 11-21-05, cert. ef. 1-1-06; OLCC 9-2008, f. 6-12-08, cert. ef. 7-1-08; OLCC 2-2009, f. 3-17-09, cert. ef. 4-1-09; OLCC 3-2012, f. 4-10-12, cert. ef. 5-1-12

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Rule Caption: Add additional same-day delivery option to accommodate alcohol deliveries with evening meal orders.

Adm. Order No.: OLCC 4-2012

Filed with Sec. of State: 4-10-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 2-1-2012

Rules Amended: 845-006-0392, 845-006-0396

Subject: The Commission accepted a petition from Nathaniel Paschal (Restaurant Retrievers LLC) requesting amendment of OAR 845-006-0396 which describes the requirements for same-day delivery of malt beverages to a resident of Oregon. Because it contains parallel language, rulemaking was also initiated for OAR 845-006-0392 which describes same-day delivery requirements for wine or cider. The amendments allow the delivery of malt beverages and wine with evening meal orders from restaurants with an Off-Premises license privilege. The amendments allow the additional option of delivering up to 1.25 gallons (two 6-packs) of malt beverage and 2 (standard) bottles of wine to an Oregon residence per day, to be deliv-

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ered until 9:00 p.m., and with an order placement deadline of 7:00 p.m. The amendments also include in both OAR 845-006-0392 (8) and OAR 845-006-0396 (5) leaving both (b) & (c) options, which include unlimited amounts of alcohol being delivered, the same, and amending (a) & (d), that contain specific quantity limits, so that daily delivery amounts are per “residence”.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-006-0392

Requirements for Direct Shipment of Wine and Cider to a Resident of Oregon

(1) A person may sell and ship wine or cider to a resident of Oregon only if the person holds:

(a) A valid Direct Shipper Permit and holds a license issued by this state or another state that authorizes the person to hold a Direct Shipper Permit; or

(b) An off-premises sales license issued by the Commission.

(2) A person holding a Direct Shipper Permit must ship not more than a total of two cases of wine or cider containing not more than nine liters per case per month to a resident of Oregon who is at least 21 years of age.

(3) A person holding a Direct Shipper Permit or an off-premises sales license must retain a record for a minimum of eighteen months of the amount of alcohol contained in the shipment to the resident.

(4) A person holding a Direct Shipper Permit or an off-premises sales license must ship:

(a) Only wine or cider and only in manufacturer-sealed containers;

(b) Only to a resident of Oregon who is at least 21 years of age and only if the wine or cider is for personal use and not for the purpose of resale;

(c) Only for delivery to a resident who is not visibly intoxicated at the time of receiving the alcohol;

(d) The product in a container that is conspicuously labeled with the words “Contains alcohol: signature of person age 21 years or older required for delivery” or similar language approved by the Commission;

(e) Only pursuant to an order for the wine or cider that is received by the permit holder or licensee prior to shipment of the alcohol;

(f) Only for next-day delivery, unless the permit holder or licensee has been approved for same-day delivery; and

(g) Only to a home or business where the home or business has a permanent street address.

(5) If the permit holder or licensee ships via a for-hire carrier, the permit holder and licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424 and must comply with sections (2), (3), and (4) of this rule, as applicable.

(6) If the permit holder or licensee does not use a for-hire carrier, in addition to complying with sections (2), (3), and (4) of this rule, as applicable, the person making the delivery of the wine or cider must:

(a) Be age 18 or over;

(b) Verify by inspecting government-issued photo identification that the person receiving the alcohol is at least 21 years of age;

(c) Determine that the person receiving the alcohol is not visibly intoxicated; and

(d) Collect information that must be retained by the permit holder or licensee for a minimum of eighteen months from the date of delivery of the alcohol to the resident. The information may be collected and retained electronically (if the permit holder or licensee so chooses) and must include:

(A) The date and time the alcohol was delivered to the resident;

(B) The name or information that can be used to determine the name of the person delivering the alcohol to the resident; and

(C) The name, signature, and delivery address of the person receiving the alcohol.

(7) Same-day delivery for a permit holder. If a permit holder has also obtained approval to make same-day delivery of wine or cider, in addition to complying with sections (2), (3), (4), and either (5) or (6) of this rule, the permit holder must receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the wine and cider is delivered before 9:00 pm, and deliver not more than a total of two cases of wine or cider containing not more than nine liters per case per day to a resident of Oregon (and must also follow section (2) of this rule).

(8) Same-day delivery for a licensee. If a licensee has also obtained approval to make same-day delivery of wine or cider, in addition to complying with sections (3), (4), and either (5) or (6) of this rule, the licensee must:

(a) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the wine and cider is delivered before

9:00 pm, and deliver not more than a total of two cases of wine or cider containing not more than nine liters per case per day per Oregon residence; or

(b) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the wine and cider is delivered before 9:00 pm, and may deliver an unlimited amount of wine or cider if the alcohol accounts for no more than 25 percent of the retail cost of the order (at least 75 percent of the retail cost of the order must be items other than alcohol); or

(c) Receive the order from the resident no later than 9:00 am on the day the order is delivered, ensure that the wine and cider is delivered before 9:00 pm, and may deliver an unlimited amount of wine or cider; or

(d) Receive the order from the resident no later than 7:00 pm on the day the order is delivered, ensure that the wine and cider is delivered before 9:00 pm, and deliver not more than a total of two bottles of wine or cider containing not more than 750 milliliters per bottle per day per Oregon residence.

(9) A permit holder must:

(a) Allow the Commission to audit the permit holder’s records of wine and cider shipments to Oregon residents upon request and shall make those records available to the Commission in Oregon no later than 60 days after the Commission mails the notice;

(b) Report to the Commission all shipments of wine or cider made to a resident of Oregon under the permit as required by ORS Chapter 473. The report must be made in a form prescribed by the Commission; and

(c) Timely pay to the Commission all taxes imposed under ORS Chapter 473 on wine and cider sold and shipped directly to a resident of Oregon under the permit. For the purpose of the privilege tax imposed under ORS Chapter 473, all wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state. The permit holder, not the purchaser, is responsible for the tax.

(10) If the permit holder is located in a state outside of Oregon, it consents to the jurisdiction of the Commission and the courts of this state for the purpose of enforcing the provisions of this rule and any related laws or rules.

(11) A violation of section (9) of this rule is a Category IV violation. A violation of any other section of this rule is a Category III violation. In lieu of a criminal citation, the Commission may assess an administrative penalty for shipping wine or cider without a valid Direct Shipper Permit in violation of section (1) of this rule against any Oregon license held by the shipper, including a Certificate of Approval issued pursuant to ORS 471.289.

Stat. Auth.: ORS 471, 471.030, 471.040, 471.186 & 471.730(1) & (5)

Stats. Implemented: ORS 471.186, 471.282 & 473

Hist.: OLCC 23-2007(Temp), f. 12-14-07, cert. ef. 1-1-08 thru 6-28-08; OLCC 6-2008(Temp), f. & cert. ef. 4-18-08 thru 6-28-08; OLCC 8-2008, f. 6-12-08, cert. ef. 6-29-08; OLCC 4-2012, f. 4-10-12, cert. ef. 5-1-12

845-006-0396

Requirements for Same-Day and Next-Day Retail Delivery of Malt Beverages to a Resident of Oregon

This rule sets the requirements for same-day and next-day delivery of malt beverages to a resident of Oregon. A licensee must be approved by the Commission under OAR 845-005-0420 in order to provide same-day delivery of malt beverages.

(1) A licensee qualified to make same-day or next-day delivery of malt beverages under OAR 845-005-0420 must ship:

(a) Only malt beverages and only in a manufacturer-sealed container.

A container must not hold more than two and one-quarter gallons;

(b) Only to a resident of Oregon who is at least 21 years of age and only if the malt beverage is for personal use and not for the purpose of resale;

(c) Only for delivery to a resident who is not visibly intoxicated at the time of receiving the alcohol;

(d) The malt beverage in a package that is conspicuously labeled with the words “Contains alcohol: signature of person age 21 years or older required for delivery” or similar language approved by the Commission;

(e) Only pursuant to an order for the malt beverage that is received by the licensee prior to shipment of the alcohol;

(f) Only for next-day delivery unless the licensee has been approved for same-day delivery by the Commission; and

(g) Only to a home or business where the home or business has a permanent street address.

(2) A licensee must retain a record for a minimum of eighteen months of the amount of alcohol contained in the shipment to the resident.

(3) If the licensee ships via a for-hire carrier, in addition to complying with sections (1) and (2) of this rule, the licensee must use a for-hire carrier with a plan approved by the Commission under OAR 845-005-0424.

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(4) If the licensee does not use a for-hire carrier, in addition to complying with sections (1) and (2) of this rule, the person delivering the malt beverage must:

(a) Be age 18 or over;

(b) Verify by inspecting government-issued photo identification that the person receiving the alcohol is at least 21 years of age;

(c) Determine that the person receiving the alcohol is not visibly intoxicated; and

(d) Collect information that must be retained by the licensee for a minimum of eighteen months from the date of delivery of the alcohol to the resident. The information may be collected and retained electronically (if the licensee so chooses) and must include:

(A) The date and time the alcohol was delivered to the resident;

(B) The name or information which can be used to determine the name of the person delivering the alcohol to the resident; and

(C) The name, signature, and delivery address of the person receiving the alcohol.

(5) Same-day delivery. If the licensee is approved to make same-day delivery of malt beverages, in addition to complying with sections (1), (2), and either (3) or (4) of this rule, the licensee must:

(a) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and deliver not more than a total of five gallons of malt beverage per day per Oregon **residence**; or

(b) Receive the order from the resident no later than 4:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and may deliver an unlimited amount of malt beverage if the alcohol accounts for no more than 25 percent of the retail cost of the order (at least 75 percent of the retail cost of the order must be items other than alcohol); or

(c) Receive the order from the resident no later than 9:00 am on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and may deliver an unlimited amount of malt beverage; or

(d) Receive the order from the resident no later than 7:00 pm on the day the order is delivered, ensure that the malt beverage is delivered before 9:00 pm, and deliver not more than a total of 1.25 gallons (approx. two 6-packs) of malt beverage per day per Oregon **residence**.

(6) Sanction. A violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.305

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thru 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03; OLCC 23-2007(Temp), f. 12-14-07, cert. ef. 1-1-08 thru 6-28-08; OLCC 6-2008(Temp), f. & cert. ef. 4-18-08 thru 6-28-08; OLCC 8-2008, f. 6-12-08, cert. ef. 6-29-08; OLCC 4-2012, f. 4-10-12, cert. ef. 5-1-12

Oregon Patient Safety Commission Chapter 325

Rule Caption: Updates the Oregon Patient Safety Commission's 2011-2013 biennial budget by amending OAR 325-005-0015.

Adm. Order No.: PSC 1-2012

Filed with Sec. of State: 3-27-2012

Certified to be Effective: 4-1-12

Notice Publication Date: 3-1-2012

Rules Amended: 325-005-0015

Subject: In accordance with the rules governing semi-independent state agencies, this action amends the Oregon Patient Safety Commission's 2011-2013 biennial budget from \$1,426,006 to \$1,933,351 by amending OAR 325-005-0015.

Rules Coordinator: Bethany A. Higgins—(503) 224-9226

325-005-0015

Biennial Budget

The Commission hereby adopts by reference the Oregon Patient Safety Commission's 2011-2013 Biennial Budget of \$1,933,351 covering the period July 1, 2011, through June 30, 2013. The Commission's Administrator will amend budgeted accounts as necessary, within the approved budget of \$1,933,351 for the effective operation of the Commission. The Commission will not exceed the approved 2011-2013 Biennium Budget without amending this rule, notifying interested parties, and holding a public hearing as required by ORS Chapter 182.462. Copies of the budget are available from the Commission's office and are posted on the Commission's website.

Stat. Auth.: ORS 442.820 & Sec. 9 Ch. 686 OL 2003

Stats. Implemented: ORS 183.453(1), 183.453(2)

Hist.: PSC 1-2006, f. & cert. ef. 2-6-06; PSC 4-2007, f. & cert. ef. 7-2-07; PSC 1-2009, f. & cert. ef. 6-26-09; PSC 1-2011, f. & cert. ef. 7-1-11; PSC 1-2012, f. 3-27-12, cert. ef. 4-1-12

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Clarify petition for reconsideration requirements.

Adm. Order No.: PERS 3-2012

Filed with Sec. of State: 3-28-2012

Certified to be Effective: 3-28-12

Notice Publication Date: 2-1-2012

Rules Amended: 459-001-0025

Subject: In 2008, PERS adopted changes to OAR 459-001-0040 relating to reviews of petitions for reconsideration of a final order in a contested case. Those modifications conformed to the Department of Justice (DOJ) Model Rules of Procedure. During that rulemaking, section (2) of 459-001-0040 was deleted, which clarified specific information to be included in a petition for reconsideration. That rulemaking, however, did not modify OAR 459-001-0025, which references the now-deleted section (2) of OAR 459-001-0040.

These modifications delete the outdated citation. Instead, these modifications delegate from the PERS Board to the Director the authority to deny any petition that does not set forth the specific grounds for reconsideration. This is an admittedly subjective standard and, in practice, staff has broadly accepted petitions for reconsideration even if they do not fit within the deleted criteria.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-001-0025

Delegation to Director and Staff

(1) The Director is hereby authorized to take all action necessary or desirable to administer the system including but not limited to:

(a) Design application and other forms;

(b) Act on any application for refund of contributions; crediting service, correction of records, retirement for disability or service, and death benefits and allowances;

(c) Calculate and authorize payment of refunds, allowances or benefits except as provided in OAR chapter 459, division 15;

(d) Require medical, vocational or other professional examinations of disability retirement benefits applicants and recipients;

(e) Reinstate persons from disability retirement upon the Director's determination that disability does not exist; and

(f) Initially review, grant or deny petitions for reconsiderations. The Director may deny any petition:

(A) Which does not contain specific grounds for reconsideration; or

(B) Regarding which there is no bona fide dispute of material fact, the pertinent statutes and rules are clear in their application to the facts and there was no material administrative error.

(g) Define and settle administrative and court litigation.

(2) The Director may refer any matter to the Board or to an administrative law judge for a contested case or other hearing.

(3) The Director is hereby authorized to delegate to subordinates the authority to take any action on the Director's behalf.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 183.413 - 183.470 & 183.482

Hist.: PERS 4-1990, f. & cert. ef. 3-26-90; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 3-2012, f. & cert. ef. 3-28-12

Rule Caption: Adopt new rule to set a minimum retroactive payment amount.

Adm. Order No.: PERS 4-2012

Filed with Sec. of State: 3-28-2012

Certified to be Effective: 3-28-12

Notice Publication Date: 1-1-2012

Rules Adopted: 459-005-0615

Subject: Establishes a \$5.00 minimum amount for retroactive payments of underpaid benefits. This threshold will only be applied to one-time, retroactive payments; on-going monthly benefits that need adjusting would still be adjusted to the corrected benefit amount.

Rules Coordinator: Daniel Rivas—(503) 603-7713

ADMINISTRATIVE RULES

459-005-0615

Minimum Retroactive Payment

PERS may not issue a retroactive payment for underpaid monthly benefits or lump sum distributions if the total amount of the underpayment is less than \$5.

Stat. Auth.: ORS 238.650 and 238A.450
Stats. Implemented: ORS 238.601
Hist.: PERS 4-2012, f. & cert. ef. 3-28-12

Rule Caption: Clarify rate used to determine crediting of an installment payment in the year of distribution.

Adm. Order No.: PERS 5-2012

Filed with Sec. of State: 3-28-2012

Certified to be Effective: 3-28-12

Notice Publication Date: 1-1-2012

Rules Amended: 459-007-0090, 459-007-0270

Subject: During a review of the earnings crediting OARs, staff determined that OAR 459-007-0090 and 459-007-0270 currently refer to a proration of the annual rate to determine the crediting of an installment payment in the year of distribution, which is incorrect. The actual term used in performing this calculation is the “latest year-to-date calculation” as of the date of distribution. The rule modifications correct the misuse of these technical terms, and make other technical corrections.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-007-0090

Crediting Earnings upon Tier One Service Retirement, Two or More Installment Payments

Notwithstanding OAR 459-007-0070, if a Tier One member retires and elects to receive installment payments under ORS 238.305(4), earnings shall be credited from the effective date of the last annual rate to the date of distribution of the final installment payment in the manner specified in this rule.

(1) Regular account. Earnings shall be credited to the member’s regular account as follows:

(a) Prior year earnings. If earnings for the calendar year before the effective retirement date have not yet been credited, earnings shall be credited for that year based on the latest year-to-date calculation available for that year.

(b) Retirement year earnings. Earnings for the calendar year of the effective retirement date shall be based on the latest year-to-date calculation as of the effective retirement date.

(2) Variable account. If the member is participating in the Variable Annuity Account, earnings or losses shall be applied to the member’s variable account as follows:

(a) Prior year earnings. If earnings or losses for the calendar year before the effective retirement date have not yet been credited to the member’s variable account, earnings or losses for that year shall be credited based on the latest year-to-date calculation available for that year.

(b) Retirement year earnings. Earnings or losses for the calendar year of the effective retirement date shall be credited based on the latest year-to-date calculation as of the effective retirement date.

(c) In accordance with ORS 238.305(4)(a)(F), after crediting earnings or losses as provided in subsections (a) and (b) of this section, and before the distribution of the first installment, the adjusted balance of the member’s variable account shall be transferred to the member’s regular account as of the effective retirement date.

(3) Initial installment. Earnings shall be credited to the initial installment as follows:

(a) If the initial installment is distributed in the same year as the effective retirement date, earnings shall be paid with the initial installment based on the average annualized rate prorated from the effective retirement date to the date of distribution of the initial installment.

(b) If the initial installment is distributed in the year following the effective retirement date, earnings shall be paid with the initial installment based on the average annualized rate prorated from January 1 of the year following the effective retirement date to the date of distribution of the initial installment.

(4) Annual earnings – initial year. Earnings from the effective retirement date to December 31 of the year of retirement shall be credited to the member’s regular account in the following amount:

(a) The member’s regular account balance as of December 31 of the year of retirement, excluding the remaining earnings credited to the mem-

ber’s regular account under subsection (1)(b) of this rule and to the member’s variable account under subsection (2)(b) of this rule; multiplied by

(b) The annual rate for that year less the latest year-to-date calculation as of the effective retirement date.

(5) Annual earnings – subsequent years. Earnings shall be credited to the member’s regular account as of December 31 of each calendar year subsequent to the effective retirement date in the manner specified in this section.

(a) Earnings from January 1 to the date of distribution of the annual installment shall be credited in the following amount:

(A) The member’s regular account balance as of the date of distribution of the annual installment; multiplied by

(B) The latest year-to-date calculation as of the date of distribution.

(b) Earnings from the date of distribution of the annual installment to December 31 shall be credited in the following amount:

(A) The member’s regular account balance as of December 31; multiplied by

(B) The latest year-to-date calculation as of the date of distribution.

(6) Final installment. The final installment shall include the remaining balance of the member’s regular account as of the date of distribution of the final installment, plus earnings credited as follows:

(a) If earnings for the calendar year before the year of the final installment have not yet been credited to the member’s regular account, earnings shall be credited based on the latest year-to-date calculation available for that year.

(b) Earnings for the calendar year of the final installment shall be credited based on the latest year-to-date calculation as of the date of distribution of the final installment.

(7) The provisions of this rule shall be applied retroactively to April 1, 2004.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.260, 238.300 & 238.305

Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PER 1-1995, f. 9-12-95, cert. ef. 1-1-96; PER 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(10); PERS 9-1998, f. 5-22-98, cert. ef. 1-1-00; PERS 1-2000, f. & cert. ef. 1-7-00; PERS 20-2003, f. 12-15-03 cert. ef. 4-1-04; PERS 18-2005(Temp), f. & cert. ef. 10-26-05 thru 4-19-06; PERS 1-2006, f. & cert. ef. 2-1-06; PERS 5-2012, f. & cert. ef. 3-28-12

459-007-0270

Crediting Earnings upon Tier Two Service Retirement, Two or More Installment Payments

Notwithstanding OAR 459-007-0250, when a Tier Two member retires and elects to receive installment payments under ORS 238.305(4), earnings shall be credited from the effective date of the last annual rate to the date of distribution of the final installment payment in the manner specified in this rule.

(1) Regular account. Earnings shall be credited to the member’s regular account as follows:

(a) Prior year earnings. If earnings for the calendar year before the effective retirement date have not yet been credited, earnings shall be credited for that year based on the latest year-to-date calculation available for that year.

(b) Retirement year earnings. Earnings for the calendar year of the effective retirement date shall be based on the latest year-to-date calculation as of the effective retirement date.

(2) Variable account. If the member is participating in the Variable Annuity Account, earnings or losses shall be applied to the member’s variable account as follows:

(a) Prior year earnings. If earnings or losses for the calendar year before the effective retirement date have not yet been credited to the member’s variable account, earnings or losses for that year shall be credited based on the latest year-to-date calculation available for that year.

(b) Retirement year earnings. Earnings or losses for the calendar year of the effective retirement date shall be credited based on the latest year-to-date calculation as of the effective retirement date.

(c) In accordance with ORS 238.305(4)(a)(F), after crediting earnings or losses as provided in subsections (a) and (b) of this section, and before the distribution of the first installment, the adjusted balance of the member’s variable account shall be transferred to the member’s regular account as of the effective retirement date.

(3) Initial installment. Earnings shall be credited to the initial installment as follows:

(a) If the initial installment is distributed in the same year as the effective retirement date, earnings shall be paid with the initial installment based on the average annualized rate prorated from the effective retirement date to the date of distribution of the initial installment.

ADMINISTRATIVE RULES

(b) If the initial installment is distributed in the year following the effective retirement date, earnings shall be paid with the initial installment based on the average annualized rate prorated from January 1 of the year following the effective retirement date to the date of distribution of the initial installment.

(4) Annual earnings – initial year. Earnings from the effective retirement date to December 31 of the year of retirement shall be credited to the member's regular account in the following amount:

(a) The member's regular account balance as of December 31 of the year of retirement, excluding the remaining earnings credited to the member's regular account under subsection (1)(b) of this rule and to the member's variable account under subsection (2)(b) of this rule; multiplied by

(b) The annual rate for that year less the latest year-to-date calculation as of the effective retirement date.

(5) Annual earnings – subsequent years. Earnings shall be credited to the member's regular account as of December 31 of each calendar year subsequent to the effective retirement date in the manner specified in this section.

(a) Earnings from January 1 to the date of distribution of the annual installment shall be credited in the following amount:

(A) The member's regular account balance as of the date of distribution of the annual installment; multiplied by

(B) The latest year-to-date calculation as of the date of distribution.

(b) Earnings from the date of distribution of the annual installment to December 31 shall be credited in the following amount:

(A) The member's regular account balance as of December 31, multiplied by;

(B) The latest year-to-date calculation as of the date of distribution.

(6) Final installment. The final installment shall include the remaining balance of the member's regular account as of the date of distribution of the final installment, plus earnings credited as follows:

(a) If earnings for the calendar year before the year of the final installment have not yet been credited to the member's regular account, earnings shall be credited based on the latest year-to-date calculation available for that year.

(b) Earnings for the calendar year of the final installment shall be credited based on the latest year-to-date calculation as of the date of distribution of the final installment.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.260, 238.300 & 238.305

Hist.: PERS 7-1998, f. & cert. ef. 5-22-98; PERS 1-2000, f. & cert. ef. 1-7-00; PERS 26-2004, f. 11-23-04, cert. ef. 3-15-05; PERS 5-2012, f. & cert. ef. 3-28-12

Rule Caption: Adopt new rules to implement HB 2456 (2011).

Adm. Order No.: PERS 6-2012

Filed with Sec. of State: 3-28-2012

Certified to be Effective: 3-28-12

Notice Publication Date: 11-1-2011

Rules Adopted: 459-013-0310, 459-013-0320

Subject: House Bill 2456 (chapter 653, Oregon Laws 2011), became effective on August 2, 2011. The bill prohibits PERS from paying an increased benefit under the tax remedy provisions of HB 3349 (Chapter 569, Oregon Laws 1995) if a person is not subject to Oregon personal income tax under ORS 316.127(9). The prohibition against payment of the HB 3349 tax remedy does not apply to members who retired before January 1, 2012 and persons who received payments attributable to retirement of a member who retired before January 1, 2012. This bill does not affect the payment of the tax remedy enacted by SB 656 (1991 Session), previously codified at ORS 238.385. These two new rules are needed to implement the tax remedy provisions of HB 2456.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-013-0310

Payment of Increased Benefits under ORS 238.372 to 238.384

(1) For purposes of determinations under ORS 238.372 to 238.384:

(a) "Person" includes but is not limited to a trust or charitable organization that is a beneficiary.

(b) The increased benefit percentage to be added to a benefit paid to a beneficiary under ORS 238.390, 238.395, 238.400, 238.405, or under an optional form of retirement allowance under 238.305 or 238.325 will be determined based on:

(A) The increased benefit percentage(s) for which the member is otherwise eligible under ORS 238.364 and 238.366; and

(B) The residency of the beneficiary.

(c) A payment begins before January 1, 2012 if the effective date of the payment, as described in this chapter, is before January 1, 2012.

(2) This rule is effective January 1, 2012.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.362, 238.364, 238.366 & 238.372 - 238.384

Hist.: PERS 6-2012, f. & cert. ef. 3-28-12

459-013-0320

Payment of Increased Benefits to an Alternate Payee

(1) The provisions of this rule apply to an alternate payee who:

(a) Receives retirement benefit payments derived from an "alternate payee account" or a separate benefit option as provided under OAR 459-045-0010(2) or (3)(b); and

(b) Has an effective retirement date on or after January 1, 2012.

(2) If an alternate payee is eligible to receive increased benefits under ORS 238.465(5), the percentage of the increased benefit payable to the member, as determined under 238.364, 238.366, and 238.372 to 238.384, is the increased benefit percentage for which the alternate payee is eligible. If the member predeceases the alternate payee, the increased benefit percentage payable to the member at the time of death remains the increased benefit percentage for which the alternate payee is eligible.

(3) Payment of the increased benefit to the alternate payee under ORS 238.372 to 238.384 is governed by the residency of the alternate payee.

(4) An alternate payee described in section (1) of this rule whose effective retirement date is before January 1, 2012 may receive an increased benefit under ORS 238.364 or 238.366 regardless of the member's or alternate payee's residency.

(5) This rule is effective January 1, 2012.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.362, 238.364, 238.366, 238.465 & 238.372 - 238.384

Hist.: PERS 6-2012, f. & cert. ef. 3-28-12

Rule Caption: Update Social Security annual compensation limits and clarify ORS 238.082 military leave provisions.

Adm. Order No.: PERS 7-2012

Filed with Sec. of State: 3-28-2012

Certified to be Effective: 3-28-12

Notice Publication Date: 1-1-2012

Rules Amended: 459-017-0060

Subject: This rule was updated to reflect the increased Social Security annual compensation limits, effective January 1, 2012. The modifications also clarify ORS 238.082(6) – replacing an employee called to active military service means taking the position of the absent employee and performing duties appropriate for that position.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-017-0060

Reemployment of Retired Members

(1) For purposes of this rule, "retired member" means a member of the PERS Chapter 238 Program who is retired for service.

(2) Reemployment under ORS 238.082. A retired member may be employed under 238.082 by a participating employer without loss of retirement benefits provided:

(a) The period or periods of employment with one or more participating employers total less than 1,040 hours in a calendar year; or

(b) If the retired member is receiving retirement, survivors, or disability benefits under the federal Social Security Act, the period or periods of employment total less than 1,040 hours in a calendar year or no more than the total number of hours in a calendar year that, at the retired member's specified hourly rate of pay, limits the annual compensation of the retired member to an amount that does not exceed the following Social Security annual compensation limits:

(A) For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is \$14,640; or

(B) For the calendar year in which the retired member reaches full retirement age under the Social Security Act and only for compensation for the months before reaching full retirement age, the annual compensation limit is \$38,880.

(3) The limitations on employment in section (2) of this rule do not apply if the retired member has reached full retirement age under the Social Security Act.

(4) The limitations on employment in section (2) of this rule do not apply if:

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(a) The retired member meets the requirements of ORS 238.082(4), (5), (6), (7) or (8), and did not retire at a reduced benefit under the provisions of 238.280(1), (2), or (3);

(b) The retired member retired at a reduced benefit under ORS 238.280(1), (2) or (3), is employed in a position that meets the requirements of 238.082(4), the date of employment is more than six months after the member's effective retirement date, and the member's retirement otherwise meets the standard of a bona fide retirement;

(c) The retired member is employed by a school district or education service district as a speech-language pathologist or speech-language pathologist assistant and:

(A) The retired member did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or (3); or

(B) If the retired member retired at a reduced benefit under the provisions of ORS 238.280(1), (2) or (3), the retired member is not so employed until more than six months after the member's effective retirement date and the member's retirement otherwise meets the standard of a bona fide retirement;

(d) The retired member meets the requirements of section 2, chapter 499, Oregon Laws 2007;

(e) The retired member is employed for service during a legislative session under ORS 238.092(2); or

(f) The retired member is on active state duty in the organized militia and meets the requirements under ORS 399.075(8).

(g) For purposes of population determinations referenced by statutes listed in this section, the latest federal decennial census shall first be operative on the first day of the second calendar year following the census year.

(h) For purposes of ORS 238.082(6), a retired member replaces an employee if the retired member:

(A) Is assigned to the position of the employee; and

(B) Performs the duties of the employee or duties that might be assigned to an employee in that position.

(5) If a retired member is reemployed subject to the limitations of ORS 238.082 and section (2) of this rule, the period or periods of employment subsequently exceed those limitations, and employment continues into the month following the date the limitations are exceeded:

(a) If the member has been retired for six or more calendar months:

(A) PERS will cancel the member's retirement.

(i) If the member is receiving a monthly service retirement allowance, the last payment to which the member is entitled is for the month in which the limitations were exceeded.

(ii) If the member is receiving installment payments under ORS 238.305(4), the last installment payment to which the member is entitled is the last payment due on or before the last day of the month in which the limitations were exceeded.

(iii) If the member received a single lump sum payment under ORS 238.305(4) or 238.315, the member is entitled to the payment provided the payment was dated on or before the last day of the month in which the limitations were exceeded.

(iv) A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(B) The member will reestablish active membership the first of the calendar month following the month in which the limitations were exceeded.

(C) The member's account must be rebuilt in accordance with the provisions of section (7) of this rule.

(b) If the member has been retired for less than six calendar months:

(A) PERS will cancel the member's retirement effective the date the member was reemployed.

(B) All retirement benefits received by the member must be repaid to PERS in a single payment.

(C) The member will reestablish active membership effective the date the member was reemployed.

(D) The member account will be rebuilt as of the date that PERS receives the single payment. The amount in the member account must be the same as the amount in the member account at the time of the member's retirement.

(6) For purposes of determining period(s) of employment in section (2) of this rule:

(a) Hours of employment are hours on and after the retired member's effective retirement date for which the member receives wages, salary, paid leave, or other compensation.

(b) Hours of employment that are performed under the provisions of section (4) of this rule on or after the later of January 1, 2004 or the operative date of the applicable statutory provision are not counted.

(7) Reemployment under ORS 238.078(1). If a member has been retired for service for more than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(1):

(a) PERS will cancel the member's retirement effective the date the member is reemployed.

(b) The member will reestablish active membership on the date the member is reemployed.

(c) If the member elected a benefit payment option other than a lump sum option under ORS 238.305(2) or (3), the last monthly service retirement allowance payment to which the member is entitled is for the month before the calendar month in which the member is reemployed. Upon subsequent retirement, the member may choose a different benefit payment option.

(A) The member's account will be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts from the Benefits-In-Force Reserve (BIF) credited to the member's account under the provisions of paragraph (A) of this subsection will be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

(d) If the member elected a partial lump sum option under ORS 238.305(2), the last monthly service retirement allowance payment to which the member is entitled is for the month before the calendar month in which the member is reemployed. The last lump sum or installment payment to which the member is entitled is the last payment due before the date the member is reemployed. Upon subsequent retirement, the member may not choose a different benefit payment option unless the member has repaid to PERS in a single payment an amount equal to the lump sum and installment benefits received and the earnings that would have accumulated on that amount.

(A) The member's account will be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts from the BIF credited to the member's account under the provisions of paragraph (A) of this subsection, excluding any amounts attributable to repayment by the member, will be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

(e) If the member elected the total lump sum option under ORS 238.305(3), the last lump sum or installment payment to which the member is entitled is the last payment due before the date the member is reemployed. Upon subsequent retirement, the member may not choose a different benefit payment option unless the member has repaid to PERS in a single payment an amount equal to the benefits received and the earnings that would have accumulated on that amount.

(A) If the member repays PERS as described in this subsection the member's account will be rebuilt as required by ORS 238.078 effective the date that PERS receives the single payment.

(B) If any amounts from the BIF are credited to the member's account under the provisions of paragraph (A) of this subsection, the amounts may not be credited with earnings for the period from the date of retirement to the date of active membership.

(f) If the member received a lump sum payment under ORS 238.315:

(A) If the payment was dated before the date the member is reemployed, the member is not required or permitted to repay the benefit amount. Upon subsequent retirement:

(i) The member may choose a different benefit payment option.

(ii) The member's retirement benefit will be calculated based on the member's periods of active membership after the member's initial effective retirement date.

(B) If the payment was dated on or after the date the member is reemployed, the member must repay the benefit amount. Upon subsequent retirement:

(i) The member may choose a different benefit payment option.

(ii) The member's retirement benefit will be calculated based on the member's periods of active membership before and after the member's initial effective retirement date.

(iii) The member's account will be rebuilt as described in ORS 238.078(2)

(g) A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(8) Reemployment under ORS 238.078(2). If a member has been retired for less than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(2):

(a) PERS will cancel the member's retirement effective the date the member is reemployed.

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(b) All retirement benefits received by the member must be repaid to PERS in a single payment.

(c) The member will reestablish active membership effective the date the member is reemployed.

(d) The member account will be rebuilt as of the date that PERS receives the single payment. The amount in the member account must be the same as the amount in the member account at the time of the member's retirement.

(e) Upon subsequent retirement, the member may choose a different benefit payment option.

(9) Upon the subsequent retirement of any member who reestablished active membership under ORS 238.078 and this rule, the retirement benefit of the member must be calculated using the actuarial equivalency factors in effect on the effective date of the subsequent retirement.

(10) The provisions of paragraphs (7)(c)(B), (7)(d)(B), and (7)(e)(B) of this rule are applicable to retired members who reestablish active membership under ORS 238.078 and this rule and whose initial effective retirement date is on or after March 1, 2006.

(11) Reporting requirement. A participating employer that employs a retired member must notify PERS in a format acceptable to PERS under which statute the retired member is employed.

(a) Upon request by PERS, a participating employer must certify to PERS that a retired member has not exceeded the number of hours allowed under ORS 238.082 and section (2) of this rule.

(b) Upon request by PERS a participating employer must provide PERS with business and employment records to substantiate the actual number of hours a retired member was employed.

(c) Participating employers must provide information requested under this section within 30 days of the date of the request.

(12) Sick leave. Accumulated unused sick leave reported by an employer to PERS upon a member's retirement, as provided in ORS 238.350, may not be made available to a retired member returning to employment under sections (2) or (7) of this rule.

(13) Subsections (4)(c) and (4)(d) of this rule are repealed effective January 2, 2016.

(14) This rule is effective January 1, 2012.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.078, 238.082, 238.092, 399.075, & 2007 OL Ch. 499 & 774
Hist.: PERS 1-1994, f. 3-29-94, cert. ef. 4-1-94; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0182; PERS 13-1998, f. & cert. ef. 12-17-98; PERS 7-2001, f. & cert. ef. 12-7-01; PERS 18-2003(Temp), f. & cert. ef. 12-15-03 thru 5-31-04; PERS 19-2004, f. & cert. ef. 6-15-04; PERS 3-2006, f. & cert. ef. 3-1-06; PERS 18-2007, f. & cert. ef. 11-23-07; PERS 3-2009, f. & cert. ef. 4-6-09; PERS 11-2009, f. & cert. ef. 12-1-09; PERS 7-2012, f. & cert. ef. 3-28-12

Rule Caption: Updates the connection date to the federal Internal Revenue Code and other provisions of federal tax law.

Adm. Order No.: PERS 8-2012

Filed with Sec. of State: 3-28-2012

Certified to be Effective: 3-28-12

Notice Publication Date: 11-1-2011, 3-1-2012

Rules Amended: 459-080-0500

Subject: This rule was incorrectly listed as being repealed on a prior notice. The rule was resubmitted with the correct status of "Amend." No changes were made to the rule since it was first noticed in November 2011. Housekeeping edits were needed to update the connection date to the federal Internal Revenue Code and other provisions of federal tax law.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-080-0500

Limitation on Contributions

(1) Definitions. For purposes of this rule:

(a) "Annual addition" has the same meaning given the term in 26 U.S.C. 415(c)(2) as in effect on December 31, 2010.

(b) "Compensation" has the same meaning given the term in 26 U.S.C. 415(c)(3) as in effect on December 31, 2010.

(2) Annual addition limitation. Except as otherwise provided in this rule, the annual addition to a member account for any calendar year may not exceed \$50,000.

(3) Payment for military service. If a payment of employee contributions for a period of military service is made under OAR 459-080-0100:

(a) The payment shall be treated as an annual addition for the calendar year(s) of military service to which it relates;

(b) The payment shall not be treated as an annual addition for the calendar year in which it is made; and

(c) For the purpose of allocating payments under this section, the member's compensation shall be the amount described in OAR 459-080-0100(3)(d).

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.370

Hist.: PERS 21-2003, f. 12-15-03 cert. ef. 1-1-04; PERS 8-2012, f. & cert. ef. 3-28-12

Oregon State Marine Board Chapter 250

Rule Caption: Slow-no-wake on Dexter Dam Reservoir from the Covered Bridge to the west shore.

Adm. Order No.: OSMB 4-2012(Temp)

Filed with Sec. of State: 4-2-2012

Certified to be Effective: 4-2-12 thru 4-30-12

Notice Publication Date:

Rules Amended: 250-020-0221

Subject: This rule will temporarily adopt a slow-no-wake zone on the portion of the lake from the Covered Bridge to the west shore line for the weekend of April 13-15, 2012 and also on April 21, 2012 for scheduled rowing events.

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.

(C) On the portion of the lake from the Covered Bridge to the west shore from 3:00 pm Friday, April 13 through 11:59 am on Sunday, April 15, 2012 and again from 6:00 am to 3:00 pm on Saturday, April 21, 2012.

(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;

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- (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:
- (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 north-west 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 and floatplanes operating on the surface of Waldo Lake is prohibited year round. "Watercraft" includes boats and floatplanes operating on the surface of Waldo Lake. Official use of internal combustion motors in watercraft operated on the surface of 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 the surface of Waldo Lake. Emergency landings of private or governmental floatplanes on Waldo Lake are allowed without previous approval.

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

Oregon University System Chapter 580

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

Adm. Order No.: OUS 3-2012(Temp)

Filed with Sec. of State: 3-16-2012

Certified to be Effective: 3-16-12 thru 8-31-12

Notice Publication Date:

Rules Amended: 580-022-0045

Subject: On September 28, 2011, the Oregon Court of Appeals invalidated the Board's above-stated 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 control 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—(541) 346-5749

580-022-0045

Proscribed Conduct

Procedures to impose applicable sanctions may be instituted against any person engaging in any of the following proscribed conduct:

- (1) Obstruction or disruption of teaching, 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;
- (2) Obstruction or disruption interfering with freedom of movement, either pedestrian or vehicular, on institutionally owned or controlled property;
- (3) Possession or use of explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on institutionally owned or controlled property, unless authorized by law, Board, or institutional rules or policies;
- (4) Detention or physical abuse of any person or conduct intended to threaten imminent bodily harm or endanger the health of any person on any institutionally owned or controlled property;
- (5) 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;
- (6) 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, educational, or other appropriate institutional activities on such premises;
- (7) Unauthorized entry to or use of institutional facilities, including buildings and grounds;
- (8) Illegal use, possession, or distribution of drugs on institutionally owned or controlled property;
- (9) 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 that calls on the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent danger to the

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functions and purposes of the institution, including the safety of persons, and the protection of its property;

(10) Violating the Board's Policy for Intercollegiate Athletics as described in Section 8 of the Internal Management Directives, specifically including the subsection thereof entitled Code of Ethics.

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

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 3-1983, f. & ef. 3-17-83; HEB 1-1991, f. & cert. ef. 2-14-91; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96; OUS 3-2012(Temp), f. & cert. ef. 3-16-12 thru 8-31-12

Rule Caption: Amendment is housekeeping to define what constitutes a "major traffic offense."

Adm. Order No.: OUS 4-2012(Temp)

Filed with Sec. of State: 3-16-2012

Certified to be Effective: 3-16-12 thru 8-31-12

Notice Publication Date:

Rules Amended: 580-040-0030

Subject: Oregon Administrative Rule 580-040-0030 governs vehicle safety, including standards by which vehicles may be used for officially-sanctioned activities of the Board and OUS and its institutions. The administrative rule contains a reference to an Oregon Revised Statute that has been repealed. This proposed amendment is a housekeeping amendment in order to define what constitutes a "major traffic offense" for purposes of the rule without a cross-reference to a repealed statute.

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-040-0030

Vehicle Safety Rule

(1) The Board of Higher Education, concerned about travel safety, adopts these rules to require institution action to promote safe travel.

(2) For purposes of this rule:

(a) "Vehicle" means cars, vans, trucks, and buses;

(b) "State-Owned Vehicle" means a vehicle owned by or registered in the name of the State of Oregon, the Board, or any institution;

(c) "Hired Vehicle" means a vehicle that is leased, hired, or rented by the state, the Board, or any institution. This definition excludes borrowed vehicles;

(d) "Borrowed Vehicle" means a vehicle that is not a "state-owned vehicle" or a "hired vehicle" but that is used on state business. "Borrowed Vehicle" includes vehicles owned by employees, students and others participating in institution activities and used on state business;

(e) "State Business" means any activity for which all or part of the expenses may be reimbursed by any unit, department, or program of the Department of Higher Education.

(f) "Officially Sanctioned Program" means any program undertaken to further the instructional, research, or service missions of the institution or designed to promote the cultural and physical development of students. Such programs include but are not limited to:

(A) Academic department programs;

(B) Cocurricular programs;

(C) Intramural, recreational sports, club sports and intercollegiate athletic programs;

(D) Any student programs or activities identified by the institution president or designee. Examples of such activities include, but are not limited to, student government, student housing activities and activities sponsored by student organizations that are consistent with the institution's mission.

(g) "Major traffic offense" includes reckless driving, driving under the influence of intoxicants, failing to perform the duties of a driver, criminal driving while suspended or revoked, fleeing or attempting to elude a police officer.

(3) No motor vehicle owned, leased or controlled by the state shall be used to transport students to an event or activity not directly related to an officially sanctioned program. Institutions shall develop policies and procedures to implement this rule, including a means to identify officially sanctioned programs.

(4) The Board of Higher Education delegates to the institution presidents the authority and responsibility to establish specific rules governing travel safety, subject to the following general guidelines:

(a) Institution rules shall provide procedures for certifying that persons who operate state-owned or hired vehicles on state business possess a

valid driver's license and have not been convicted of a major traffic offense as defined by this rule within three years of the proposed operation;

(b) Institution rules shall require that vehicles (not including buses) used on state business have operable seat belts for all occupants. Institution rules shall also indicate the circumstances under which additional safety equipment such as a flashlight, ice scraper, first aid kit, emergency instructions, tire chains, etc., will be required;

(c) Institution rules shall indicate the circumstances under which relief drivers and the filing of itineraries will be required;

(d) Institution rules shall apply to state-owned vehicles and to hired vehicles. Institution rules also may apply to borrowed vehicles at the discretion of the institution, giving consideration to enforceability, the nature of the travel and other relevant factors.

(5) Each institution shall file a report with the Office of Finance and Administration by August 31 of each year commenting on the adequacy of the travel safety rules and summarizing the vehicle accidents and injuries that have occurred during travel on state business in the preceding 12 months.

(6) Institution travel safety rules and amendments thereto will be effective only upon approval of the Vice Chancellor for Finance and Administration or a designee.

Stat. Auth.: ORS 283.210 & 351.277

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 9-1984, f. & ef. 8-21-84; HEB 6-1986, f. & ef. 1-23-86; HEB 13-1986, f. & ef. 9-20-86; HEB 10-1990, f. & cert. ef. 7-26-90; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1994, f. & cert. ef. 4-28-94; HEB 5-1996, f. & cert. ef. 12-18-96; OUS 4-2012(Temp), f. & cert. ef. 3-16-12 thru 8-31-12

Oregon University System, Oregon State University Chapter 576

Rule Caption: Amending rules regarding prohibition of firearms on University property.

Adm. Order No.: OSU 1-2012(Temp)

Filed with Sec. of State: 3-30-2012

Certified to be Effective: 3-30-12 thru 6-30-12

Notice Publication Date:

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 Board-owned property through its rulemaking authority. The University is proposing to amend its rules to remove firearm prohibitions.

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:

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(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.

(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;

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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

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.;

(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

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

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

Oregon Youth Authority Chapter 416

Rule Caption: The proposed rule changes clarify OYA and DCS roles in enforcing child support obligations.

Adm. Order No.: OYA 2-2012

Filed with Sec. of State: 4-3-2012

Certified to be Effective: 4-3-12

Notice Publication Date: 3-1-2012

Rules Amended: 416-100-0000, 416-100-0005, 416-100-0010, 416-100-0020, 416-100-0030, 416-100-0040, 416-100-0050, 416-100-0060

Rules Repealed: 416-100-0070

Subject: The proposed rule changes clarify OYA's role in enforcing child support obligations of parents whose children are in OYA custody. The repeal of OAR 416-100-0070 is proposed to comply with child support law changes as reflected in Senate Bill 43 (2011).

Rules Coordinator: Winifred Skinner—(503) 373-7570

416-100-0000

Purpose

(1) OYA will make referrals to the Division of Child Support (DCS) to establish child support claims to pay support toward the care, education, and maintenance of offenders who are placed in state-financed substitute care, or close-custody facilities.

(2) These rules define the process by which OYA will partner with DCS to ensure child support obligations are enforced pursuant to Oregon laws.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108, 416.400 - 416.486 & 419C.597

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 9-2002, f. & cert. ef. 3-1-02; OYA 6-2006, f. & cert. ef. 10-9-06; OYA 2-2012, f. & cert. ef. 4-3-12

ADMINISTRATIVE RULES

416-100-0005

Definitions

(1) Child: An individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) Child Attending School: A child of the parties who is unmarried and unemancipated, is 18 years of age or older and under 21 years of age, is making satisfactory academic progress as defined by the school that the child attends, and has a course load that is no less than one-half of the load that is determined by the school to constitute full time enrollment.

(3) Close-custody facility: Any OYA facility, including but not limited to youth correctional facilities (YCF), work/study camps, and transition camps.

(4) DCS (Division of Child Support): The division of the Oregon Department of Justice that is responsible for providing services under ORS 25.080, Support Enforcement.

(5) Immediate family member: Legal spouse, domestic partner, parent, guardian, sibling, child, aunt, uncle, grandchildren and grandparents, including foster, in-law, and step relationships.

(6) Obligor: An individual or the estate of a decedent who owes or is alleged to owe a duty of support; who is alleged but has not been adjudicated to be a parent of a child; or who is liable under a support order.

(7) Offender: A person in the legal and physical custody of OYA, either in an OYA close-custody facility, substitute care placement, or placed in the community under supervision, or a person in the legal custody of the Department of Corrections and the physical custody of OYA in OYA a close-custody facility.

(8) Regularly-scheduled break: a summer semester or term; a period of time not exceeding four months between graduation from or completion of school and the beginning of the next regularly scheduled term, semester or course of study at school; a period of time between the end and beginning of regularly scheduled consecutive school semesters, terms or course of study; or any other scheduled break between courses of study that is defined by the school as a regularly-scheduled break.

(9) School: An educational facility such as a high school, community college, four-year college or university; a course of professional, vocational, or technical training, including the Job Corps, designed to fit the child for gainful employment; a high school equivalency course, including but not limited to a General Educational Development (GED) program, or an educational program for grade 12 or below and home schooling.

(10) Substitute care: Out-of-home residential placement in the community that provides 24-hour-a-day care and treatment, excluding a relative's home. Such placements include, but are not limited to, foster care and contracted residential treatment programs.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 6-2006, f. & cert. ef. 10-9-06; OYA 2-2012, f. & cert. ef. 4-3-12

416-100-0010

Referral Process

(1) OYA will send referral information to DCS when an offender in its legal or physical custody is placed in state-financed substitute care, or a close-custody facility.

(2) OYA will inform the parent(s) or other obligor(s) of:

(a) The referral to DCS;

(b) That DCS will contact the parent(s) or obligor(s) to determine the amount of support they may be required to pay; and

(c) That DCS will enforce collection of any determined amount of support obligation.

(3) At the time an offender is placed in OYA custody, any existing support orders will be electronically linked to that offender.

(4) OYA will electronically notify DCS when any of the following occurs:

(a) The offender enters or leaves paid placement;

(b) The cost of care changes;

(c) The offender's parent(s) or other obligor(s) are incarcerated or die, if OYA has such knowledge; and

(d) When corrections or updates are made to the referral.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108, 416.400 - 416.486 & 419C.597

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 9-2002, f. & cert. ef. 3-1-02; OYA 6-2006, f. & cert. ef. 10-9-06; OYA 2-2012, f. & cert. ef. 4-3-12

416-100-0020

Exemptions

The OYA Director, or designee, may approve or deny an exemption from the enforcement or establishment of a child support obligation on a case-by-case basis only where:

(1) The offender was adopted through a government agency;

(2) A grandparent or other family member adopted the offender;

(3) The offender's parent(s)'s parental rights were terminated prior to the offender's commitment to OYA; or

(4) The offender's offense conduct includes person-to-person victimization of an immediate family member.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 9-2002, f. & cert. ef. 3-1-02; OYA 2-2012, f. & cert. ef. 4-3-12

416-100-0030

Confidentiality

(1) OYA will comply with all laws regarding the confidentiality of child support records that apply to child support information. OYA employees will refer requests for information about a child support case to the OYA Child Support Coordinator, who will work with DCS to coordinate appropriate release of the information.

(2) When DCS has initiated a legal action and a party or an attorney for a party makes a request for discovery, OYA will work with DCS to provide all appropriate information.

(3) OYA employees may not access computer records or records of any other nature available to them only as employees of OYA that pertain to their own child support case or the child support case of any relative or other person with whom the employee has a personal friendship or business association. No employee may perform casework on his/her own child support case or the case of any relative or other person with whom the employee has a personal friendship or business association.

(4) Any OYA employee who discloses or uses the contents of any records, files, papers or communications in violation of federal/state laws is subject to progressive discipline, up to and including dismissal from employment.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 2-2012, f. & cert. ef. 4-3-12

416-100-0040

Special Circumstances Regarding Incarcerated Obligor

In some cases, offenders in the legal or physical custody of OYA may be considered obligors for the purpose of child support. OYA will follow DCS rules and coordinate the child support process with regard to these offenders.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 2-2012, f. & cert. ef. 4-3-12

416-100-0050

Child Attending School Provisions

(1) Under Oregon law, the court may enter an order against either parent, or both, or other obligors to provide for the support or maintenance of an offender who qualifies as a Child Attending School.

(2) Subject to state and federal confidentiality laws, OYA will provide all information necessary to DCS and obligors to establish eligibility to receive support under this section, including the name of the school and expected graduation date or date the offender will stop attending classes.

(3) OYA will notify DCS when the offender ceases to qualify as a Child Attending School.

(a) Support obligation for an offender that qualifies as a Child Attending School in OYA custody does not cease during regularly-scheduled breaks in school.

(b) DCS will notify the obligor when the offender in OYA custody ceases to meet the definition of a Child Attending School.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2001, f. & cert. ef. 6-25-01; OYA 9-2002, f. & cert. ef. 3-1-02; OYA 6-2006, f. & cert. ef. 10-9-06; OYA 2-2012, f. & cert. ef. 4-3-12

416-100-0060

Constituent Complaints

OYA has no obligation or responsibility to mediate or resolve constituent complaints with regard to child support issues. If such complaints

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are received, OYA staff will refer the person to DCS. OYA will cooperate with DCS if information is necessary to resolve a constituent complaint.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 107.108 & 416.400 - 416.486

Hist.: OYA 6-2001, f. & cert. ef. 6-25-01; OYA 6-2006, f. & cert. ef. 10-9-06; OYA 2-2012, f. & cert. ef. 4-3-12

Rule Caption: OYA's executive team structure has changed as reflected in these rule definition changes.

Adm. Order No.: OYA 3-2012

Filed with Sec. of State: 4-3-2012

Certified to be Effective: 4-3-12

Notice Publication Date: 3-1-2012

Rules Amended: 416-410-0010

Subject: OYA's executive team structure has changed since this rule was originally written, as reflected in definition changes. Specifically, the definitions of the Agency Case Review Committee and the agency's Cabinet.

Rules Coordinator: Winifred Skinner—(503) 373-7570

416-410-0010

Definitions

(1) Administrative Review Board (ARB): The facility committee that reviews and is responsible for all major decisions concerning offenders who currently reside in facilities. The ARB recommends initial placement of offenders, length of stay, and transfers to other levels of custody, and initiates placements to parole, foster care, or to the community.

(2) Agency Case Review Committee: Conducts the executive level review of all specified offenders and their identified movements within and from OYA facilities including the return of offenders to the Department of Corrections. Upon review, an approval or denial will be documented in the Findings and Order. The Agency Case Review Committee will have at least two representatives from OYA's executive team comprised of at least two assistant directors.

(3) Cabinet: An executive group that provides oversight to agency operations. Membership includes the Director, Deputy Director, assistant directors, and other persons as requested by Cabinet.

(4) Discretionary Bed Allocation (DBA): A category of beds in youth correctional facilities reserved for offenders not in the PSR or in the legal custody of DOC. Each county will be allocated a percentage of the total number of DBA beds based on a formula agreed to jointly by the OYA and the Oregon Juvenile Department Directors' Association (OJDDA).

(5) Public Safety Reserve (PSR): A category of beds in youth correctional facilities that are reserved for the most serious offenders.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.014 & 420.011

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 14-2002, f. & cert. ef. 10-11-02; OYA 20-2005, f. & cert. ef. 9-19-05; OYA 3-2012, f. & cert. ef. 4-3-12

Rule Caption: The proposed rule changes clarify OYA volunteer service application and coordination.

Adm. Order No.: OYA 4-2012

Filed with Sec. of State: 4-3-2012

Certified to be Effective: 4-3-12

Notice Publication Date: 3-1-2012

Rules Amended: 416-450-0000, 416-450-0010, 416-450-0020, 416-450-0030, 416-450-0040, 416-450-0050, 416-450-0060, 416-450-0070

Subject: The proposed rule changes clarify the OYA volunteer application process and establishes an agency volunteer coordinator.

Rules Coordinator: Winifred Skinner—(503) 373-7570

416-450-0000

Purpose

OYA will use volunteer services to enhance programs and expand services in its close-custody facilities, substitute care placements, and offices, as defined by these rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 9-2004, f. & cert. ef. 7-30-04; OYA 4-2012, f. & cert. ef. 4-3-12

416-450-0010

Definitions

(1) Close-custody facility: Any OYA facility, including but not limited to youth correctional facilities, work/study camps, and transition camps.

(2) Substitute care: Out-of-home residential placement in the community that provides 24-hour-a-day care and treatment, excluding a relative's home. Such placements include, but are not limited to, foster care and contracted residential treatment programs.

(3) Mentor program agency: Agency responsible for the recruitment, supervision, and training of its volunteer mentors.

(4) Office: Any parole/probation office (field office) or administrative office operated by OYA.

(5) OYA Volunteer Coordinator: An OYA staff member assigned to coordinate the agency's volunteer services program.

(6) Site Volunteer Coordinator: A person assigned to coordinate volunteer services for a specific OYA office or close-custody facility.

(7) Volunteers: Persons who on an unpaid basis provide services to OYA, including:

(a) Mentors: Mature, trustworthy and experienced persons who encourage an offender's personal growth, offer supportive friendships, act as positive role models and promote a constructive attitude and law-abiding behavior;

(b) Work Readiness Coaches: Persons who teach particular skills/tasks related to employment, or provide practical work experience;

(c) Students or Interns: Persons enrolled in a college- or university-sanctioned program who earn college credit for their activities;

(d) Tutors: Persons who work with individual offenders to improve the offender's academic performance; and

(e) Religious Services Assistants: Persons who assist with religious programming or services.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 9-2004, f. & cert. ef. 7-30-04; OYA 4-2012, f. & cert. ef. 4-3-12

416-450-0020

Exclusions

The following individuals are not considered volunteers, and are therefore excluded from these rules:

(1) Individuals under contract to OYA;

(2) Individuals on official business, such as an attorney for an offender;

(3) Individuals who provide services through an on-site school and are screened, trained, and supervised by school district personnel; and

(4) Guests invited to an OYA facility on a one-time basis for a special program. Such guests are not allowed contact with offenders out of the sight and hearing of OYA staff.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 4-2012, f. & cert. ef. 4-3-12

416-450-0030

Volunteer Coordinator and Site Volunteer Coordinators

(1) The OYA Volunteer Coordinator must:

(a) Maintain an agencywide volunteer database of all OYA volunteers and their service status;

(b) Manage an agency volunteer services communication and recruitment plan;

(c) Coordinate the volunteer orientation and training program;

(d) Oversee retention of all inactive volunteer records;

(e) Administer a volunteer recognition program; and

(f) Coordinate volunteer applicant criminal records checks.

(2) Each OYA close-custody facility and office will assign a Site Volunteer Coordinator who is responsible for coordinating volunteer activities on that site.

(3) The Site Volunteer Coordinator will maintain a system of recording information about volunteers including but not limited to:

(a) Personal information, including references and criminal records clearance;

(b) Assignment orientation documentation; and

(c) Service evaluation.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 4-2012, f. & cert. ef. 4-3-12

ADMINISTRATIVE RULES

416-450-0040

Application Process

(1) Volunteers will be recruited from all ethnic, cultural, and socio-economic segments of the community.

(2) All volunteers must be screened and approved by OYA prior to providing service. OYA holds the ultimate authority to approve or deny a volunteer application or continue volunteer service.

(a) Applications received from persons working within the juvenile justice system will be reviewed by OYA for possible conflicts of interest.

(b) Applications received from OYA employees will be reviewed by the OYA Human Resources Office for possible conflicts of interest.

(c) Persons may not serve as volunteers in a facility in which a relative or family friend is detained, unless an exception is granted by OYA.

(3) All prospective volunteers must:

(a) Be age 21 or older;

(A) Exceptions may be made for students age 18 or older who are required to participate in such volunteer experience to gain a college certificate or diploma or professional licensing.

(B) Exceptions may be granted for applicants age 18 or older whose volunteer service duties will not allow direct contact with offenders out of sight or hearing of OYA staff.

(b) Complete an OYA volunteer service application;

(c) Provide criminal offender information in the manner prescribed by these rules and OAR chapter 416, division 800, including an annual review of the person's criminal record;

(d) Complete the appropriate OYA orientation, as defined by the Volunteer Coordinator; and

(e) Be reviewed annually to ensure continued compliance with approval criteria, service performance, and need for continued service.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 9-2004, f. & cert. ef. 7-30-04; OYA 4-2012, f. & cert. ef. 4-3-12

416-450-0050

Criminal Records Check

(1) The fitness standards of OAR chapter 416, division 800 apply.

(2) OYA must conduct a criminal records check of all persons seeking or granted volunteer status, as follows:

(a) Computerized record reviews of volunteer applicants at the time of application.

(b) Finger-print based record reviews at the time of application of applicants who may have limited-supervised or unsupervised contact with offenders. These applicants may provide limited volunteer services on a preliminary basis after a computerized criminal record review pending a final fitness determination according to OAR 416-800-0040.

(c) All volunteers must submit to a computerized criminal records check at the time of the annual service evaluation. Volunteer status will be terminated if the results of these criminal records checks do not meet the fitness standards defined in OAR chapter 416, division 800.

(3) Site Volunteer Coordinators will notify all prospective and current volunteers of these requirements. If a person refuses to consent to a criminal records check, the person will be disqualified or terminated from volunteer service.

(4) Volunteers must immediately notify OYA of all criminal arrests, and unlawful uses of alcohol or drugs.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.010 & 420A.021

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 9-2004, f. & cert. ef. 7-30-04; OYA 4-2012, f. & cert. ef. 4-3-12

416-450-0060

Orientation and Responsibilities

(1) OYA may place restrictions on volunteer service to ensure safety and security of persons and facilities.

(2) The OYA Volunteer Coordinator will ensure that an orientation is provided to each volunteer. The orientation must include, at a minimum, the following:

(a) Safety and security procedures;

(b) Fire safety and emergency evacuation plan;

(c) Responsibilities during an emergency;

(d) Name of OYA staff responsible to work with the volunteer and monitor duties, and the line of authority in the close-custody facility or office;

(e) List of primary rules, policies and protocols associated with the services provided, including, at a minimum, the agency mission, confidentiality, offender rights, and appropriate relationship boundaries;

(f) OYA expectations of the volunteer if the volunteer becomes aware of actual, suspected, or alleged abuse of or by an offender;

(g) Time and place to report for duty and who to contact when unable to report for duty; and

(h) Tour of relevant areas of the close-custody facility, office or community where the volunteer will serve.

(3) All volunteers are responsible for following OYA rules, policies and protocols.

(4) Volunteers may not perform professional services requiring certification or licensing unless active credentials or certificates are available and on file in the volunteer's record.

(5) Volunteers must maintain a professional relationship with offenders.

(6) A volunteer may be terminated at any time for violation of OYA rules, policies, or protocols, or when there is no longer a need for the volunteer's services.

(7) Volunteers whose applications are denied or who are terminated as a result of performance of duty may not serve at another close-custody facility.

(8) Exceptions to any of the standards listed in this rule must be approved using a process defined in OYA policy.

Stat. Auth.: ORS 420A.025

Stats. Implemented: 420A.010

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 2-2002, f. & cert. ef. 1-18-02; OYA 13-2002, f. & cert. ef. 8-26-02; OYA 9-2004, f. & cert. ef. 7-30-04; OYA 4-2012, f. & cert. ef. 4-3-12

416-450-0070

Mentor Program

(1) Service delivery may be coordinated by a mentor program agency and provided by volunteer mentors who interact regularly with an offender in a one-to-one relationship. Mentor agencies use a case management approach, with follow through on each case from initial inquiry through closure. The mentor program case manager screens applicants, makes and supervises the matches, and closes the matches when eligibility requirements are no longer met or either party decides they can no longer participate fully in the relationship.

(2) Volunteer mentor screening must include a written application, a criminal records check, and an extensive interview.

(3) Offender assessment must involve a written application and interviews with the offender, the offender's juvenile parole/probation officer (JPPO), and the substitute care provider if the offender is in substitute care.

(4) Matches must be carefully considered and based on the needs of the offender; abilities of volunteer mentors; OYA and the substitute care provider preferences; and the capacity of program staff.

(5) The JPPO, volunteer mentor, and offender must initially meet to ensure the match is appropriate and clarify OYA expectations.

(6) JPPO supervision must be through regular contact with the volunteer mentor, offender, and substitute care provider when appropriate; monthly telephone contact with the volunteer mentor, substitute care provider, or offender during the first year; and quarterly contact with all parties during the duration of the match.

Stat. Auth.: ORS 420A.025

Stats. Implemented: 420A.010

Hist.: OYA 9-2004, f. & cert. ef. 7-30-04; OYA 4-2012, f. & cert. ef. 4-3-12

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	122-075-0160	2-1-2012	Adopt	3-1-2012
111-005-0042	1-13-2012	Amend(T)	2-1-2012	123-006-0035	4-2-2012	Amend	5-1-2012
111-010-0015	12-14-2011	Amend	1-1-2012	123-011-0035	12-8-2011	Amend(T)	1-1-2012
111-010-0015(T)	12-14-2011	Repeal	1-1-2012	123-011-0045	12-8-2011	Amend(T)	1-1-2012
111-040-0001	12-14-2011	Amend	1-1-2012	123-017-0080	2-23-2012	Amend(T)	4-1-2012
111-040-0001(T)	12-14-2011	Repeal	1-1-2012	123-018-0010	12-19-2011	Amend(T)	2-1-2012
111-040-0005	12-14-2011	Amend	1-1-2012	123-018-0065	12-19-2011	Amend(T)	2-1-2012
111-040-0005(T)	12-14-2011	Repeal	1-1-2012	123-018-0140	12-19-2011	Amend(T)	2-1-2012
111-040-0015	12-14-2011	Amend	1-1-2012	123-021-0000	12-8-2011	Amend(T)	1-1-2012
111-040-0015(T)	12-14-2011	Repeal	1-1-2012	123-021-0010	12-8-2011	Amend(T)	1-1-2012
111-040-0025	12-14-2011	Amend	1-1-2012	123-021-0015	12-8-2011	Amend(T)	1-1-2012
111-040-0025(T)	12-14-2011	Repeal	1-1-2012	123-021-0020	12-8-2011	Amend(T)	1-1-2012
111-040-0040	12-14-2011	Amend	1-1-2012	123-021-0040	12-8-2011	Amend(T)	1-1-2012
111-040-0040(T)	12-14-2011	Repeal	1-1-2012	123-021-0080	12-8-2011	Amend(T)	1-1-2012
111-050-0015	12-14-2011	Amend	1-1-2012	123-021-0090	12-8-2011	Amend(T)	1-1-2012
111-050-0015(T)	12-14-2011	Repeal	1-1-2012	123-021-0110	12-8-2011	Amend(T)	1-1-2012
111-050-0025	12-14-2011	Amend	1-1-2012	123-021-0130	12-8-2011	Amend(T)	1-1-2012
111-050-0025(T)	12-14-2011	Repeal	1-1-2012	123-042-0026	1-1-2012	Amend	2-1-2012
111-050-0030	12-14-2011	Amend	1-1-2012	123-042-0045	1-1-2012	Amend	2-1-2012
111-050-0030(T)	12-14-2011	Repeal	1-1-2012	123-043-0010	4-2-2012	Amend	5-1-2012
111-050-0045	12-14-2011	Amend	1-1-2012	123-043-0010(T)	4-2-2012	Repeal	5-1-2012
111-050-0045(T)	12-14-2011	Repeal	1-1-2012	123-043-0025	4-2-2012	Amend	5-1-2012
111-050-0050	12-14-2011	Amend	1-1-2012	123-043-0025(T)	4-2-2012	Repeal	5-1-2012
111-050-0050(T)	12-14-2011	Repeal	1-1-2012	123-043-0115	4-2-2012	Amend	5-1-2012
111-080-0005	12-14-2011	Amend	1-1-2012	123-043-0115(T)	4-2-2012	Repeal	5-1-2012
111-080-0005(T)	12-14-2011	Repeal	1-1-2012	123-091-0001	4-2-2012	Adopt	5-1-2012
115-010-0012	12-29-2011	Amend	2-1-2012	123-091-0010	4-2-2012	Adopt	5-1-2012
115-035-0000	12-29-2011	Amend	2-1-2012	123-091-0015	4-2-2012	Adopt	5-1-2012
115-035-0035	12-29-2011	Amend	2-1-2012	123-091-0020	4-2-2012	Adopt	5-1-2012
115-035-0045	12-29-2011	Amend	2-1-2012	123-091-0025	4-2-2012	Adopt	5-1-2012
115-040-0005	12-29-2011	Amend	2-1-2012	123-091-0030	4-2-2012	Adopt	5-1-2012
115-070-0000	12-29-2011	Amend	2-1-2012	123-475-0012	1-1-2012	Amend	2-1-2012
115-070-0035	12-29-2011	Amend	2-1-2012	123-475-0025	1-1-2012	Amend	2-1-2012
115-070-0050	12-29-2011	Amend	2-1-2012	123-475-0030	1-1-2012	Amend	2-1-2012
115-080-0010	12-29-2011	Amend	2-1-2012	125-246-0100	1-1-2012	Amend	2-1-2012
122-070-0000	2-1-2012	Repeal	3-1-2012	125-246-0300	1-1-2012	Amend	2-1-2012
122-070-0010	2-1-2012	Repeal	3-1-2012	125-246-0570	1-1-2012	Amend	2-1-2012
122-070-0020	2-1-2012	Repeal	3-1-2012	125-247-0100	1-1-2012	Amend	2-1-2012
122-070-0030	2-1-2012	Repeal	3-1-2012	125-247-0310	1-1-2012	Amend	2-1-2012
122-070-0040	2-1-2012	Repeal	3-1-2012	125-247-0320	1-1-2012	Amend	2-1-2012
122-070-0050	2-1-2012	Repeal	3-1-2012	125-247-0400	1-1-2012	Amend	2-1-2012
122-070-0060	2-1-2012	Repeal	3-1-2012	125-247-0410	1-1-2012	Amend	2-1-2012
122-070-0065	2-1-2012	Repeal	3-1-2012	125-247-0420	1-1-2012	Amend	2-1-2012
122-070-0070	2-1-2012	Repeal	3-1-2012	125-247-0440	1-1-2012	Amend	2-1-2012
122-070-0080	2-1-2012	Repeal	3-1-2012	125-247-0450	1-1-2012	Amend	2-1-2012
122-070-0100	2-1-2012	Adopt	3-1-2012	125-247-0460	1-1-2012	Amend	2-1-2012
122-070-0110	2-1-2012	Adopt	3-1-2012	125-247-0470	1-1-2012	Amend	2-1-2012
122-070-0120	2-1-2012	Adopt	3-1-2012	125-247-0480	1-1-2012	Amend	2-1-2012
122-070-0130	2-1-2012	Adopt	3-1-2012	125-247-0490	1-1-2012	Amend	2-1-2012
122-070-0140	2-1-2012	Adopt	3-1-2012	125-247-0525	1-1-2012	Amend	2-1-2012
122-070-0150	2-1-2012	Adopt	3-1-2012	125-247-0575	1-1-2012	Amend	2-1-2012
122-070-0160	2-1-2012	Adopt	3-1-2012	125-247-0620	1-1-2012	Amend	2-1-2012
122-075-0100	2-1-2012	Adopt	3-1-2012	125-247-0640	1-1-2012	Amend	2-1-2012
122-075-0110	2-1-2012	Adopt	3-1-2012	125-247-0650	1-1-2012	Amend	2-1-2012
122-075-0120	2-1-2012	Adopt	3-1-2012	125-247-0660	1-1-2012	Amend	2-1-2012
122-075-0150	2-1-2012	Adopt	3-1-2012	125-247-0670	1-1-2012	Amend	2-1-2012

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125-247-0710	1-1-2012	Amend	2-1-2012	125-249-0610	1-1-2012	Amend	2-1-2012
125-247-0720	1-1-2012	Amend	2-1-2012	125-249-0620	1-1-2012	Amend	2-1-2012
125-247-0731	1-1-2012	Amend	2-1-2012	125-249-0640	1-1-2012	Amend	2-1-2012
125-247-0740	1-1-2012	Amend	2-1-2012	125-249-0645	1-1-2012	Amend	2-1-2012
125-247-0750	1-1-2012	Amend	2-1-2012	125-249-0650	1-1-2012	Amend	2-1-2012
125-247-0760	1-1-2012	Amend	2-1-2012	125-249-0660	1-1-2012	Amend	2-1-2012
125-248-0100	1-1-2012	Amend	2-1-2012	125-249-0670	1-1-2012	Amend	2-1-2012
125-248-0110	1-1-2012	Amend	2-1-2012	125-249-0680	1-1-2012	Amend	2-1-2012
125-248-0120	1-1-2012	Amend	2-1-2012	125-249-0690	1-1-2012	Amend	2-1-2012
125-248-0130	1-1-2012	Amend	2-1-2012	125-249-0800	1-1-2012	Amend	2-1-2012
125-248-0200	1-1-2012	Amend	2-1-2012	125-249-0810	1-1-2012	Amend	2-1-2012
125-248-0210	1-1-2012	Amend	2-1-2012	125-249-0815	1-1-2012	Amend	2-1-2012
125-248-0220	1-1-2012	Amend	2-1-2012	125-249-0820	1-1-2012	Amend	2-1-2012
125-248-0230	1-1-2012	Amend	2-1-2012	125-249-0830	1-1-2012	Amend	2-1-2012
125-248-0240	1-1-2012	Amend	2-1-2012	125-249-0840	1-1-2012	Amend	2-1-2012
125-248-0250	1-1-2012	Amend	2-1-2012	125-249-0850	1-1-2012	Amend	2-1-2012
125-248-0260	1-1-2012	Amend	2-1-2012	125-249-0860	1-1-2012	Amend	2-1-2012
125-248-0300	1-1-2012	Amend	2-1-2012	125-249-0870	1-1-2012	Amend	2-1-2012
125-248-0310	1-1-2012	Amend	2-1-2012	125-249-0880	1-1-2012	Amend	2-1-2012
125-248-0340	1-1-2012	Amend	2-1-2012	125-249-0890	1-1-2012	Amend	2-1-2012
125-249-0100	1-1-2012	Amend	2-1-2012	125-249-0900	1-1-2012	Amend	2-1-2012
125-249-0130	1-1-2012	Amend	2-1-2012	125-249-0910	1-1-2012	Amend	2-1-2012
125-249-0140	1-1-2012	Amend	2-1-2012	137-003-0501	1-31-2012	Amend	2-1-2012
125-249-0150	1-1-2012	Amend	2-1-2012	137-003-0505	1-31-2012	Amend	2-1-2012
125-249-0160	1-1-2012	Amend	2-1-2012	137-003-0510	1-31-2012	Amend	2-1-2012
125-249-0200	1-1-2012	Amend	2-1-2012	137-003-0520	1-31-2012	Amend	2-1-2012
125-249-0210	1-1-2012	Amend	2-1-2012	137-003-0525	1-31-2012	Amend	2-1-2012
125-249-0220	1-1-2012	Amend	2-1-2012	137-003-0528	1-31-2012	Amend	2-1-2012
125-249-0230	1-1-2012	Amend	2-1-2012	137-003-0530	1-31-2012	Amend	2-1-2012
125-249-0240	1-1-2012	Amend	2-1-2012	137-003-0545	1-31-2012	Amend	2-1-2012
125-249-0250	1-1-2012	Amend	2-1-2012	137-003-0550	1-31-2012	Amend	2-1-2012
125-249-0260	1-1-2012	Amend	2-1-2012	137-003-0555	1-31-2012	Amend	2-1-2012
125-249-0270	1-1-2012	Amend	2-1-2012	137-003-0560	1-31-2012	Amend	2-1-2012
125-249-0280	1-1-2012	Amend	2-1-2012	137-003-0570	1-31-2012	Am. & Ren.	2-1-2012
125-249-0290	1-1-2012	Amend	2-1-2012	137-003-0570	1-31-2012	Am. & Ren.	2-1-2012
125-249-0300	1-1-2012	Amend	2-1-2012	137-003-0570	1-31-2012	Am. & Ren.	2-1-2012
125-249-0310	1-1-2012	Amend	2-1-2012	137-003-0570	1-31-2012	Am. & Ren.	2-1-2012
125-249-0320	1-1-2012	Amend	2-1-2012	137-003-0575	1-31-2012	Amend	2-1-2012
125-249-0330	1-1-2012	Amend	2-1-2012	137-003-0580	1-31-2012	Amend	2-1-2012
125-249-0340	1-1-2012	Amend	2-1-2012	137-003-0600	1-31-2012	Amend	2-1-2012
125-249-0350	1-1-2012	Amend	2-1-2012	137-003-0605	1-31-2012	Amend	2-1-2012
125-249-0360	1-1-2012	Amend	2-1-2012	137-003-0625	1-31-2012	Amend	2-1-2012
125-249-0370	1-1-2012	Amend	2-1-2012	137-003-0635	1-31-2012	Amend	2-1-2012
125-249-0380	1-1-2012	Amend	2-1-2012	137-003-0640	1-31-2012	Amend	2-1-2012
125-249-0390	1-1-2012	Amend	2-1-2012	137-003-0645	1-31-2012	Amend	2-1-2012
125-249-0395	1-1-2012	Amend	2-1-2012	137-003-0655	1-31-2012	Amend	2-1-2012
125-249-0400	1-1-2012	Amend	2-1-2012	137-003-0665	1-31-2012	Amend	2-1-2012
125-249-0410	1-1-2012	Amend	2-1-2012	137-003-0670	1-31-2012	Amend	2-1-2012
125-249-0420	1-1-2012	Amend	2-1-2012	137-003-0672	1-31-2012	Amend	2-1-2012
125-249-0430	1-1-2012	Amend	2-1-2012	137-003-0690	1-31-2012	Amend	2-1-2012
125-249-0440	1-1-2012	Amend	2-1-2012	137-020-0800	1-27-2012	Adopt(T)	3-1-2012
125-249-0450	1-1-2012	Amend	2-1-2012	137-020-0800(T)	2-15-2012	Suspend	3-1-2012
125-249-0460	1-1-2012	Amend	2-1-2012	137-020-0805	2-15-2012	Adopt(T)	3-1-2012
125-249-0470	1-1-2012	Amend	2-1-2012	137-045-0030	1-1-2012	Amend	1-1-2012
125-249-0490	1-1-2012	Amend	2-1-2012	137-045-0090	1-1-2012	Amend	1-1-2012

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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
137-048-0230	1-1-2012	Amend	1-1-2012	141-093-0220	4-2-2012	Adopt(T)	5-1-2012
137-048-0240	1-1-2012	Amend	1-1-2012	141-093-0225	4-2-2012	Adopt(T)	5-1-2012
137-048-0250	1-1-2012	Amend	1-1-2012	141-093-0230	4-2-2012	Adopt(T)	5-1-2012
137-048-0260	1-1-2012	Amend	1-1-2012	141-093-0235	4-2-2012	Adopt(T)	5-1-2012
137-048-0270	1-1-2012	Adopt	1-1-2012	141-093-0240	4-2-2012	Adopt(T)	5-1-2012
137-048-0300	1-1-2012	Amend	1-1-2012	141-110-0080	12-13-2011	Amend	1-1-2012
137-048-0310	1-1-2012	Amend	1-1-2012	150-18.385	1-1-2012	Amend	2-1-2012
137-048-0320	1-1-2012	Amend	1-1-2012	150-18.385(A)	1-1-2012	Amend	2-1-2012
137-049-0380	1-1-2012	Amend	1-1-2012	150-267.380(2)	1-1-2012	Amend	2-1-2012
137-049-0650	1-1-2012	Amend	1-1-2012	150-294.435(1)-(A)	1-1-2012	Amend	2-1-2012
137-049-0860	1-1-2012	Amend	1-1-2012	150-294.435(1)-(C)	1-1-2012	Amend	2-1-2012
137-050-0750	1-3-2012	Amend	2-1-2012	150-294.480	1-1-2012	Amend	2-1-2012
137-055-1100	1-3-2012	Amend	2-1-2012	150-294.525-(A)	1-1-2012	Amend	2-1-2012
137-055-1140	12-5-2011	Amend(T)	1-1-2012	150-305.810	2-1-2012	Amend(T)	3-1-2012
137-055-1140	1-3-2012	Amend	2-1-2012	150-307.250(1)(c)	1-1-2012	Am. & Ren.	2-1-2012
137-055-1145	12-5-2011	Suspend	1-1-2012	150-308.290(4)(b)	1-1-2012	Am. & Ren.	2-1-2012
137-055-1145	1-3-2012	Repeal	2-1-2012	150-308.505(3)	2-1-2012	Adopt(T)	3-1-2012
137-055-1160	1-3-2012	Amend	2-1-2012	150-311.216	1-1-2012	Amend	2-1-2012
137-055-1800	1-3-2012	Amend	2-1-2012	150-314.280-(F)	1-1-2012	Amend	2-1-2012
137-055-2100	1-3-2012	Adopt	2-1-2012	150-314.360	1-1-2012	Amend	2-1-2012
137-055-2160	1-3-2012	Amend	2-1-2012	150-314.HB2071(A)	1-1-2012	Adopt	2-1-2012
137-055-3220	1-3-2012	Amend	2-1-2012	150-314.HB2071(B)	1-1-2012	Adopt	2-1-2012
137-055-3430	1-3-2012	Amend	2-1-2012	150-315.326	1-1-2012	Adopt	2-1-2012
137-055-3640	1-3-2012	Amend	2-1-2012	150-315.354	1-1-2012	Repeal	2-1-2012
137-055-4130	1-3-2012	Amend	2-1-2012	150-315.HB 3672	11-29-2011	Adopt(T)	1-1-2012
137-055-4440	1-3-2012	Amend	2-1-2012	150-315.HB 3672(T)	11-29-2011	Suspend	1-1-2012
137-055-4520	1-3-2012	Amend	2-1-2012	150-315.HB3672	1-1-2012	Suspend	2-1-2012
137-055-5400	1-3-2012	Amend	2-1-2012	150-317.710(5)(b)	1-1-2012	Amend	2-1-2012
137-055-5420	1-3-2012	Amend	2-1-2012	160-010-0030	3-1-2012	Adopt	4-1-2012
137-055-6021	1-3-2012	Amend	2-1-2012	160-010-0310	3-1-2012	Amend	4-1-2012
137-055-6100	1-3-2012	Repeal	2-1-2012	160-010-0400	3-1-2012	Amend	4-1-2012
137-055-6200	1-3-2012	Amend	2-1-2012	160-010-0450	3-1-2012	Adopt	4-1-2012
137-055-6220	1-3-2012	Amend	2-1-2012	160-050-0115	3-1-2012	Adopt	4-1-2012
137-055-6240	1-3-2012	Amend	2-1-2012	160-050-0200	3-1-2012	Amend	4-1-2012
137-055-6260	1-3-2012	Amend	2-1-2012	160-050-0210	3-1-2012	Amend	4-1-2012

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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	165-007-0300	1-3-2012	Amend	2-1-2012
161-020-0015	11-17-2011	Amend	1-1-2012	165-007-0320	1-3-2012	Repeal	2-1-2012
161-020-0045	11-17-2011	Amend	1-1-2012	165-010-0005	1-3-2012	Amend	2-1-2012
161-020-0055	11-17-2011	Amend	1-1-2012	165-010-0060	1-3-2012	Amend	2-1-2012
161-020-0140	11-17-2011	Amend	1-1-2012	165-010-0085	1-3-2012	Repeal	2-1-2012
161-020-0150	11-17-2011	Amend	1-1-2012	165-012-0005	1-3-2012	Amend	2-1-2012
161-025-0060	11-17-2011	Amend	1-1-2012	165-012-0060	1-3-2012	Repeal	2-1-2012
161-025-0060	1-1-2012	Amend(T)	2-1-2012	165-012-0240	1-3-2012	Amend	2-1-2012
161-030-0000	1-1-2012	Amend	1-1-2012	165-013-0010	1-3-2012	Amend	2-1-2012
161-500-0000	1-1-2012	Adopt(T)	2-1-2012	165-013-0020	1-3-2012	Amend	2-1-2012
161-510-0010	1-1-2012	Adopt(T)	2-1-2012	165-014-0005	1-3-2012	Amend	2-1-2012
161-510-0030	1-1-2012	Adopt(T)	2-1-2012	165-014-0270	1-3-2012	Amend	2-1-2012
161-520-0010	1-1-2012	Adopt(T)	2-1-2012	165-020-0005	1-3-2012	Repeal	2-1-2012
161-520-0020	1-1-2012	Adopt(T)	2-1-2012	170-061-0015	1-26-2012	Amend(T)	3-1-2012
161-520-0030	1-1-2012	Adopt(T)	2-1-2012	177-052-0000	12-1-2011	Adopt	1-1-2012
161-520-0040	1-1-2012	Adopt(T)	2-1-2012	177-052-0000(T)	12-1-2011	Repeal	1-1-2012
161-530-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0010	12-1-2011	Adopt	1-1-2012
161-530-0020	1-1-2012	Adopt(T)	2-1-2012	177-052-0010(T)	12-1-2011	Repeal	1-1-2012
161-530-0030	1-1-2012	Adopt(T)	2-1-2012	177-052-0020	12-1-2011	Adopt	1-1-2012
161-530-0040	1-1-2012	Adopt(T)	2-1-2012	177-052-0020(T)	12-1-2011	Repeal	1-1-2012
161-540-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0030	12-1-2011	Adopt	1-1-2012
161-550-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0030(T)	12-1-2011	Repeal	1-1-2012
161-560-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0040	12-1-2011	Adopt	1-1-2012
161-560-0020	1-1-2012	Adopt(T)	2-1-2012	177-052-0040(T)	12-1-2011	Repeal	1-1-2012
161-570-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0050	12-1-2011	Adopt	1-1-2012
162-040-0001	4-1-2012	Amend	3-1-2012	177-052-0050(T)	12-1-2011	Repeal	1-1-2012
162-040-0002	4-1-2012	Amend	3-1-2012	177-052-0060	12-1-2011	Adopt	1-1-2012
162-040-0005	4-1-2012	Amend	3-1-2012	177-052-0060(T)	12-1-2011	Repeal	1-1-2012
162-040-0010	4-1-2012	Amend	3-1-2012	177-052-0070	12-1-2011	Adopt	1-1-2012
162-040-0015	4-1-2012	Repeal	3-1-2012	177-052-0070(T)	12-1-2011	Repeal	1-1-2012
162-040-0020	4-1-2012	Amend	3-1-2012	177-085-0000	1-15-2012	Amend	2-1-2012
162-040-0050	4-1-2012	Amend	3-1-2012	177-085-0005	1-15-2012	Amend	2-1-2012
162-040-0054	4-1-2012	Amend	3-1-2012	177-085-0010	1-15-2012	Amend	2-1-2012
162-040-0055	4-1-2012	Amend	3-1-2012	177-085-0015	1-15-2012	Amend	2-1-2012
162-040-0060	4-1-2012	Amend	3-1-2012	177-085-0020	1-15-2012	Amend	2-1-2012
162-040-0065	4-1-2012	Amend	3-1-2012	177-085-0025	1-15-2012	Amend	2-1-2012
162-040-0070	4-1-2012	Amend	3-1-2012	177-085-0025	1-15-2012	Amend(T)	2-1-2012
162-040-0075	4-1-2012	Amend	3-1-2012	177-085-0030	1-15-2012	Amend	2-1-2012
162-040-0090	4-1-2012	Repeal	3-1-2012	177-085-0035	1-15-2012	Amend	2-1-2012
162-040-0095	4-1-2012	Amend	3-1-2012	177-085-0065	1-15-2012	Amend	2-1-2012
162-040-0096	4-1-2012	Adopt	3-1-2012	177-085-0065	1-15-2012	Amend(T)	2-1-2012
162-040-0110	4-1-2012	Repeal	3-1-2012	177-098-0110	1-9-2012	Amend(T)	2-1-2012
162-040-0115	4-1-2012	Repeal	3-1-2012	177-200-0020	12-1-2011	Amend	1-1-2012
162-040-0120	4-1-2012	Repeal	3-1-2012	177-200-0020(T)	12-1-2011	Repeal	1-1-2012

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177-200-0032(T)	12-1-2011	Repeal	1-1-2012	291-105-0021	12-7-2011	Amend	1-1-2012
213-003-0001	1-1-2012	Amend(T)	2-1-2012	291-105-0026	12-7-2011	Amend	1-1-2012
213-003-0001(T)	1-1-2012	Suspend	2-1-2012	291-105-0028	12-7-2011	Amend	1-1-2012
213-017-0006	1-1-2012	Amend(T)	2-1-2012	291-105-0031	12-7-2011	Amend	1-1-2012
213-017-0006(T)	1-1-2012	Suspend	2-1-2012	291-105-0036	12-7-2011	Amend	1-1-2012
213-017-0007	1-27-2012	Amend(T)	3-1-2012	291-105-0041	12-7-2011	Amend	1-1-2012
250-010-0440	12-22-2011	Amend(T)	2-1-2012	291-105-0046	12-7-2011	Amend	1-1-2012
250-010-0650	2-1-2012	Amend	2-1-2012	291-105-0066	12-7-2011	Amend	1-1-2012
250-010-0650	3-14-2012	Amend	4-1-2012	291-105-0069	12-7-2011	Amend	1-1-2012
250-010-0650(T)	2-1-2012	Repeal	2-1-2012	291-105-0081	12-7-2011	Amend	1-1-2012
250-010-0660	2-1-2012	Adopt	2-1-2012	291-105-0100	12-7-2011	Amend	1-1-2012
250-010-0660(T)	2-1-2012	Repeal	2-1-2012	291-180-0115	12-7-2011	Repeal	1-1-2012
250-017-0000	2-1-2012	Amend	2-1-2012	291-180-0125	12-7-2011	Repeal	1-1-2012
250-017-0010	2-1-2012	Amend	2-1-2012	291-180-0135	12-7-2011	Repeal	1-1-2012
250-017-0020	2-1-2012	Amend	2-1-2012	291-180-0145	12-7-2011	Repeal	1-1-2012
250-017-0030	2-1-2012	Amend	2-1-2012	291-180-0155	12-7-2011	Repeal	1-1-2012
250-017-0040	2-1-2012	Amend	2-1-2012	291-180-0165	12-7-2011	Repeal	1-1-2012
250-020-0221	4-2-2012	Amend(T)	5-1-2012	291-180-0175	12-7-2011	Repeal	1-1-2012
250-020-0280	12-1-2011	Amend(T)	1-1-2012	291-180-0185	12-7-2011	Repeal	1-1-2012
250-020-0280	1-1-2012	Amend(T)	2-1-2012	291-180-0195	12-7-2011	Repeal	1-1-2012
250-020-0280(T)	1-1-2012	Suspend	2-1-2012	291-180-0205	12-7-2011	Repeal	1-1-2012
255-032-0005	3-13-2012	Amend	4-1-2012	291-180-0215	12-7-2011	Repeal	1-1-2012
255-032-0011	3-13-2012	Repeal	4-1-2012	291-180-0225	12-7-2011	Repeal	1-1-2012
255-032-0035	11-30-2011	Amend	1-1-2012	291-180-0235	12-7-2011	Repeal	1-1-2012
255-032-0037	11-30-2011	Adopt	1-1-2012	291-180-0245	12-7-2011	Repeal	1-1-2012
255-032-0037	3-13-2012	Amend	4-1-2012	291-180-0252	12-7-2011	Adopt	1-1-2012
257-010-0060	12-15-2011	Adopt(T)	1-1-2012	291-180-0255	12-7-2011	Repeal	1-1-2012
259-001-0015	3-7-2012	Amend	4-1-2012	291-180-0262	12-7-2011	Adopt	1-1-2012
259-003-0015	3-7-2012	Amend	4-1-2012	291-180-0275	1-10-2012	Amend(T)	2-1-2012
259-005-0015	3-7-2012	Amend	4-1-2012	291-180-0285	12-7-2011	Repeal	1-1-2012
259-008-0005	3-27-2012	Amend	5-1-2012	291-180-0295	12-7-2011	Repeal	1-1-2012
259-008-0011	3-26-2012	Amend	5-1-2012	291-180-0305	12-7-2011	Repeal	1-1-2012
259-008-0060	12-23-2011	Amend	2-1-2012	291-180-0315	12-7-2011	Repeal	1-1-2012
259-008-0066	3-29-2012	Amend	5-1-2012	291-180-0325	12-7-2011	Repeal	1-1-2012
259-008-0069	11-28-2011	Amend(T)	1-1-2012	291-180-0335	12-7-2011	Repeal	1-1-2012
259-008-0069	2-29-2012	Adopt	4-1-2012	291-180-0345	12-7-2011	Repeal	1-1-2012
259-008-0069(T)	2-29-2012	Repeal	4-1-2012	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

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291-180-0555	12-7-2011	Repeal	1-1-2012	309-032-0321	11-22-2011	Adopt(T)	1-1-2012
291-180-0565	12-7-2011	Repeal	1-1-2012	309-032-0321	2-9-2012	Adopt	3-1-2012
291-180-0575	12-7-2011	Repeal	1-1-2012	309-032-0321(T)	2-9-2012	Repeal	3-1-2012
291-180-0585	12-7-2011	Repeal	1-1-2012	309-032-0331	11-22-2011	Adopt(T)	1-1-2012
291-180-0595	12-7-2011	Repeal	1-1-2012	309-032-0331	2-9-2012	Adopt	3-1-2012
291-180-0605	12-7-2011	Repeal	1-1-2012	309-032-0331(T)	2-9-2012	Repeal	3-1-2012
291-180-0615	12-7-2011	Repeal	1-1-2012	309-032-0341	11-22-2011	Adopt(T)	1-1-2012
291-180-0625	12-7-2011	Repeal	1-1-2012	309-032-0341	2-9-2012	Adopt	3-1-2012
291-180-0635	12-7-2011	Repeal	1-1-2012	309-032-0341(T)	2-9-2012	Repeal	3-1-2012
291-180-0645	12-7-2011	Repeal	1-1-2012	309-032-0351	11-22-2011	Adopt(T)	1-1-2012
291-180-0655	12-7-2011	Repeal	1-1-2012	309-032-0351	2-9-2012	Adopt	3-1-2012
291-180-0665	12-7-2011	Repeal	1-1-2012	309-032-0351(T)	2-9-2012	Repeal	3-1-2012
291-208-0010	1-27-2012	Adopt	3-1-2012	309-032-1500	1-1-2012	Amend(T)	2-1-2012
291-208-0020	1-27-2012	Adopt	3-1-2012	309-032-1505	1-1-2012	Amend(T)	2-1-2012
291-208-0030	1-27-2012	Adopt	3-1-2012	309-032-1510	1-1-2012	Amend(T)	2-1-2012
291-208-0040	1-27-2012	Adopt	3-1-2012	309-032-1515	1-1-2012	Amend(T)	2-1-2012
291-208-0050	1-27-2012	Adopt	3-1-2012	309-032-1520	1-1-2012	Amend(T)	2-1-2012
309-014-0300	2-23-2012	Adopt	4-1-2012	309-032-1525	1-1-2012	Amend(T)	2-1-2012
309-014-0300(T)	2-23-2012	Repeal	4-1-2012	309-032-1530	1-1-2012	Amend(T)	2-1-2012
309-014-0310	2-23-2012	Adopt	4-1-2012	309-032-1535	1-1-2012	Amend(T)	2-1-2012
309-014-0310(T)	2-23-2012	Repeal	4-1-2012	309-032-1540	1-1-2012	Amend(T)	2-1-2012
309-014-0320	2-23-2012	Adopt	4-1-2012	309-032-1545	1-1-2012	Amend(T)	2-1-2012
309-014-0320(T)	2-23-2012	Repeal	4-1-2012	309-032-1550	1-1-2012	Amend(T)	2-1-2012
309-014-0330	2-23-2012	Adopt	4-1-2012	309-032-1555	1-1-2012	Amend(T)	2-1-2012
309-014-0330(T)	2-23-2012	Repeal	4-1-2012	309-032-1560	1-1-2012	Amend(T)	2-1-2012
309-014-0340	2-23-2012	Adopt	4-1-2012	309-032-1565	1-1-2012	Amend(T)	2-1-2012
309-014-0340(T)	2-23-2012	Repeal	4-1-2012	309-035-0100	12-5-2011	Amend(T)	1-1-2012
309-016-0600	1-1-2012	Amend(T)	2-1-2012	309-035-0105	12-5-2011	Amend(T)	1-1-2012
309-016-0605	1-1-2012	Amend(T)	2-1-2012	309-035-0250	12-5-2011	Amend(T)	1-1-2012
309-016-0610	1-1-2012	Amend(T)	2-1-2012	309-035-0260	12-5-2011	Amend(T)	1-1-2012
309-016-0630	1-1-2012	Amend(T)	2-1-2012	309-040-0300	12-5-2011	Amend(T)	1-1-2012
309-016-0675	1-1-2012	Amend(T)	2-1-2012	309-040-0305	12-5-2011	Amend(T)	1-1-2012
309-016-0685	1-1-2012	Amend(T)	2-1-2012	309-090-0000	1-1-2012	Adopt(T)	2-1-2012
309-016-0745	1-1-2012	Amend(T)	2-1-2012	309-090-0005	1-1-2012	Adopt(T)	2-1-2012
309-016-0750	1-1-2012	Amend(T)	2-1-2012	309-090-0010	1-1-2012	Adopt(T)	2-1-2012
309-031-0200	1-1-2012	Suspend	2-1-2012	309-090-0015	1-1-2012	Adopt(T)	2-1-2012
309-031-0205	1-1-2012	Suspend	2-1-2012	309-090-0020	1-1-2012	Adopt(T)	2-1-2012
309-031-0210	1-1-2012	Suspend	2-1-2012	309-090-0025	1-1-2012	Adopt(T)	2-1-2012
309-031-0215	1-1-2012	Suspend	2-1-2012	309-090-0030	1-1-2012	Adopt(T)	2-1-2012
309-031-0220	1-1-2012	Suspend	2-1-2012	309-090-0035	1-1-2012	Adopt(T)	2-1-2012
309-031-0250	1-1-2012	Suspend	2-1-2012	309-090-0040	1-1-2012	Adopt(T)	2-1-2012
309-031-0255	1-1-2012	Suspend	2-1-2012	309-091-0000	1-1-2012	Adopt(T)	2-1-2012
309-032-0175	11-22-2011	Suspend	1-1-2012	309-091-0005	1-1-2012	Adopt(T)	2-1-2012
309-032-0180	11-22-2011	Suspend	1-1-2012	309-091-0010	1-1-2012	Adopt(T)	2-1-2012
309-032-0185	11-22-2011	Suspend	1-1-2012	309-091-0015	1-1-2012	Adopt(T)	2-1-2012
309-032-0190	11-22-2011	Suspend	1-1-2012	309-091-0020	1-1-2012	Adopt(T)	2-1-2012
309-032-0195	11-22-2011	Suspend	1-1-2012	309-091-0025	1-1-2012	Adopt(T)	2-1-2012
309-032-0200	11-22-2011	Suspend	1-1-2012	309-091-0030	1-1-2012	Adopt(T)	2-1-2012
309-032-0205	11-22-2011	Suspend	1-1-2012	309-091-0035	1-1-2012	Adopt(T)	2-1-2012
309-032-0210	11-22-2011	Suspend	1-1-2012	309-091-0040	1-1-2012	Adopt(T)	2-1-2012
309-032-0301	11-22-2011	Adopt(T)	1-1-2012	309-091-0045	1-1-2012	Adopt(T)	2-1-2012
309-032-0301	2-9-2012	Adopt	3-1-2012	309-091-0050	1-1-2012	Adopt(T)	2-1-2012
309-032-0301(T)	2-9-2012	Repeal	3-1-2012	309-092-0000	1-1-2012	Adopt(T)	2-1-2012
309-032-0311	11-22-2011	Adopt(T)	1-1-2012	309-092-0005	1-1-2012	Adopt(T)	2-1-2012
309-032-0311	2-9-2012	Adopt	3-1-2012	309-092-0010	1-1-2012	Adopt(T)	2-1-2012

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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	330-180-0010	11-22-2011	Adopt	1-1-2012
309-092-0150	1-1-2012	Adopt(T)	2-1-2012	330-180-0020	11-22-2011	Adopt	1-1-2012
309-092-0155	1-1-2012	Adopt(T)	2-1-2012	330-180-0030	11-22-2011	Adopt	1-1-2012
309-092-0160	1-1-2012	Adopt(T)	2-1-2012	330-180-0040	11-22-2011	Adopt	1-1-2012
309-092-0165	1-1-2012	Adopt(T)	2-1-2012	330-180-0050	11-22-2011	Adopt	1-1-2012
309-092-0170	1-1-2012	Adopt(T)	2-1-2012	330-180-0060	11-22-2011	Adopt	1-1-2012
309-092-0175	1-1-2012	Adopt(T)	2-1-2012	330-180-0070	11-22-2011	Adopt	1-1-2012
309-092-0180	1-1-2012	Adopt(T)	2-1-2012	330-200-0000	2-22-2012	Adopt(T)	4-1-2012
309-092-0185	1-1-2012	Adopt(T)	2-1-2012	330-200-0010	2-22-2012	Adopt(T)	4-1-2012
309-092-0190	1-1-2012	Adopt(T)	2-1-2012	330-200-0020	2-22-2012	Adopt(T)	4-1-2012
309-092-0195	1-1-2012	Adopt(T)	2-1-2012	330-200-0030	2-22-2012	Adopt(T)	4-1-2012
309-092-0200	1-1-2012	Adopt(T)	2-1-2012	330-200-0040	2-22-2012	Adopt(T)	4-1-2012
309-092-0205	1-1-2012	Adopt(T)	2-1-2012	330-200-0050	2-22-2012	Adopt(T)	4-1-2012
309-092-0210	1-1-2012	Adopt(T)	2-1-2012	330-200-0060	2-22-2012	Adopt(T)	4-1-2012
309-092-0215	1-1-2012	Adopt(T)	2-1-2012	330-200-0070	2-22-2012	Adopt(T)	4-1-2012
309-092-0220	1-1-2012	Adopt(T)	2-1-2012	330-200-0080	2-22-2012	Adopt(T)	4-1-2012
309-092-0225	1-1-2012	Adopt(T)	2-1-2012	330-200-0090	2-22-2012	Adopt(T)	4-1-2012
309-092-0230	1-1-2012	Adopt(T)	2-1-2012	330-200-0150	2-22-2012	Adopt(T)	4-1-2012
309-092-0235	1-1-2012	Adopt(T)	2-1-2012	330-210-0000	12-23-2011	Adopt(T)	2-1-2012
309-092-0240	1-1-2012	Adopt(T)	2-1-2012	330-210-0010	12-23-2011	Adopt(T)	2-1-2012
309-102-0100	2-9-2012	Adopt	3-1-2012	330-210-0020	12-23-2011	Adopt(T)	2-1-2012
309-102-0100(T)	2-9-2012	Repeal	3-1-2012	330-210-0030	12-23-2011	Adopt(T)	2-1-2012
309-102-0110	2-9-2012	Adopt	3-1-2012	330-210-0040	12-23-2011	Adopt(T)	2-1-2012
309-102-0110(T)	2-9-2012	Repeal	3-1-2012	330-210-0045	12-23-2011	Adopt(T)	2-1-2012
309-102-0120	2-9-2012	Adopt	3-1-2012	330-210-0050	12-23-2011	Adopt(T)	2-1-2012
309-102-0120(T)	2-9-2012	Repeal	3-1-2012	330-210-0060	12-23-2011	Adopt(T)	2-1-2012
309-102-0130	2-9-2012	Adopt	3-1-2012	330-210-0070	12-23-2011	Adopt(T)	2-1-2012
309-102-0130(T)	2-9-2012	Repeal	3-1-2012	330-210-0080	12-23-2011	Adopt(T)	2-1-2012
309-102-0140	2-9-2012	Adopt	3-1-2012	330-210-0090	12-23-2011	Adopt(T)	2-1-2012
309-102-0140(T)	2-9-2012	Repeal	3-1-2012	330-210-0100	12-23-2011	Adopt(T)	2-1-2012

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331-565-0060	1-1-2012	Repeal	2-1-2012	331-900-0010	3-1-2012	Amend(T)	4-1-2012
331-565-0080	1-1-2012	Repeal	2-1-2012	331-900-0015	1-1-2012	Adopt	2-1-2012
331-565-0085	1-1-2012	Repeal	2-1-2012	331-900-0015	3-1-2012	Amend(T)	4-1-2012
331-565-0090	1-1-2012	Repeal	2-1-2012	331-900-0020	1-1-2012	Adopt	2-1-2012
331-565-0095	1-1-2012	Repeal	2-1-2012	331-900-0020	3-1-2012	Amend(T)	4-1-2012
331-570-0000	1-1-2012	Repeal	2-1-2012	331-900-0025	1-1-2012	Adopt	2-1-2012
331-570-0020	1-1-2012	Repeal	2-1-2012	331-900-0030	1-1-2012	Adopt	2-1-2012
331-575-0000	1-1-2012	Repeal	2-1-2012	331-900-0030	3-1-2012	Amend(T)	4-1-2012
331-575-0010	1-1-2012	Repeal	2-1-2012	331-900-0035	1-1-2012	Adopt	2-1-2012
331-575-0020	1-1-2012	Repeal	2-1-2012	331-900-0040	1-1-2012	Adopt	2-1-2012
331-575-0030	1-1-2012	Repeal	2-1-2012	331-900-0040	3-1-2012	Amend(T)	4-1-2012
331-575-0040	1-1-2012	Repeal	2-1-2012	331-900-0045	1-1-2012	Adopt	2-1-2012
331-575-0050	1-1-2012	Repeal	2-1-2012	331-900-0050	1-1-2012	Adopt	2-1-2012
331-580-0000	1-1-2012	Repeal	2-1-2012	331-900-0055	1-1-2012	Adopt	2-1-2012
331-580-0010	1-1-2012	Repeal	2-1-2012	331-900-0060	1-1-2012	Adopt	2-1-2012
331-580-0020	1-1-2012	Repeal	2-1-2012	331-900-0065	1-1-2012	Adopt	2-1-2012
331-580-0030	1-1-2012	Repeal	2-1-2012	331-900-0070	1-1-2012	Adopt	2-1-2012
331-585-0000	1-1-2012	Repeal	2-1-2012	331-900-0070	3-1-2012	Amend(T)	4-1-2012
331-585-0010	1-1-2012	Repeal	2-1-2012	331-900-0075	1-1-2012	Adopt	2-1-2012
331-585-0020	1-1-2012	Repeal	2-1-2012	331-900-0080	1-1-2012	Adopt	2-1-2012
331-585-0030	1-1-2012	Repeal	2-1-2012	331-900-0085	1-1-2012	Adopt	2-1-2012
331-585-0040	1-1-2012	Repeal	2-1-2012	331-900-0085	3-1-2012	Amend(T)	4-1-2012
331-590-0000	1-1-2012	Repeal	2-1-2012	331-900-0090	1-1-2012	Adopt	2-1-2012
331-590-0020	1-1-2012	Repeal	2-1-2012	331-900-0090	3-1-2012	Amend(T)	4-1-2012
331-705-0050	1-1-2012	Amend	2-1-2012	331-900-0095	1-1-2012	Adopt	2-1-2012
331-705-0060	1-1-2012	Repeal	2-1-2012	331-900-0095	3-1-2012	Amend(T)	4-1-2012
331-705-0072	11-22-2011	Adopt(T)	1-1-2012	331-900-0100	1-1-2012	Adopt	2-1-2012
331-705-0072	1-1-2012	Adopt	2-1-2012	331-900-0100	3-1-2012	Amend(T)	4-1-2012
331-705-0072(T)	1-1-2012	Repeal	2-1-2012	331-900-0105	1-1-2012	Adopt	2-1-2012
331-705-0080	1-1-2012	Adopt	2-1-2012	331-900-0110	1-1-2012	Adopt	2-1-2012
331-710-0005	1-1-2012	Adopt	2-1-2012	331-905-0000	1-1-2012	Adopt(T)	2-1-2012
331-710-0010	1-1-2012	Amend	2-1-2012	331-905-0000	3-1-2012	Adopt(T)	4-1-2012
331-710-0015	1-1-2012	Adopt	2-1-2012	331-905-0000(T)	3-1-2012	Suspend	4-1-2012
331-710-0020	1-1-2012	Amend	2-1-2012	331-905-0003	3-1-2012	Adopt(T)	4-1-2012
331-710-0030	1-1-2012	Repeal	2-1-2012	331-905-0005	1-1-2012	Adopt(T)	2-1-2012
331-710-0040	1-1-2012	Adopt	2-1-2012	331-905-0005	3-1-2012	Adopt(T)	4-1-2012
331-710-0045	1-1-2012	Adopt	2-1-2012	331-905-0005(T)	3-1-2012	Suspend	4-1-2012
331-710-0050	1-1-2012	Adopt	2-1-2012	331-905-0010	1-1-2012	Adopt(T)	2-1-2012
331-712-0000	1-1-2012	Adopt	2-1-2012	331-905-0010	3-1-2012	Adopt(T)	4-1-2012
331-712-0010	1-1-2012	Adopt	2-1-2012	331-905-0010(T)	3-1-2012	Suspend	4-1-2012
331-712-0020	1-1-2012	Adopt	2-1-2012	331-905-0012	3-1-2012	Adopt(T)	4-1-2012
331-715-0010	1-1-2012	Amend	2-1-2012	331-905-0014	3-1-2012	Adopt(T)	4-1-2012
331-715-0030	1-1-2012	Repeal	2-1-2012	331-905-0015	1-1-2012	Adopt(T)	2-1-2012
331-715-0045	1-1-2012	Repeal	2-1-2012	331-905-0015	3-1-2012	Adopt(T)	4-1-2012
331-718-0000	1-1-2012	Adopt	2-1-2012	331-905-0015(T)	3-1-2012	Suspend	4-1-2012
331-718-0010	1-1-2012	Adopt	2-1-2012	331-905-0020	1-1-2012	Adopt(T)	2-1-2012
331-718-0020	1-1-2012	Adopt	2-1-2012	331-905-0020	3-1-2012	Adopt(T)	4-1-2012
331-720-0010	1-1-2012	Amend	2-1-2012	331-905-0020(T)	3-1-2012	Suspend	4-1-2012
331-720-0015	1-1-2012	Adopt	2-1-2012	331-905-0025	1-1-2012	Adopt(T)	2-1-2012
331-725-0020	1-1-2012	Repeal	2-1-2012	331-905-0025	3-1-2012	Adopt(T)	4-1-2012
331-740-0000	1-1-2012	Adopt	2-1-2012	331-905-0025(T)	3-1-2012	Suspend	4-1-2012
331-900-0000	1-1-2012	Adopt	2-1-2012	331-905-0030	1-1-2012	Adopt(T)	2-1-2012
331-900-0000	3-1-2012	Amend(T)	4-1-2012	331-905-0030	3-1-2012	Adopt(T)	4-1-2012
331-900-0005	1-1-2012	Adopt	2-1-2012	331-905-0030(T)	3-1-2012	Suspend	4-1-2012
331-900-0005	3-1-2012	Amend(T)	4-1-2012	331-905-0032	3-1-2012	Adopt(T)	4-1-2012
331-900-0010	1-1-2012	Adopt	2-1-2012	331-905-0034	3-1-2012	Adopt(T)	4-1-2012

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331-905-0035	1-1-2012	Adopt(T)	2-1-2012	331-915-0027	3-21-2012	Adopt(T)	5-1-2012
331-905-0035	3-1-2012	Adopt(T)	4-1-2012	331-915-0027	3-30-2012	Suspend	5-1-2012
331-905-0035(T)	3-1-2012	Suspend	4-1-2012	331-915-0029	3-21-2012	Adopt(T)	5-1-2012
331-905-0040	1-1-2012	Adopt(T)	2-1-2012	331-915-0029	3-30-2012	Suspend	5-1-2012
331-905-0040	3-1-2012	Adopt(T)	4-1-2012	331-915-0030	1-1-2012	Adopt	2-1-2012
331-905-0040(T)	3-1-2012	Suspend	4-1-2012	331-915-0035	1-1-2012	Adopt	2-1-2012
331-905-0045	1-1-2012	Adopt(T)	2-1-2012	331-915-0040	1-1-2012	Adopt	2-1-2012
331-905-0045	3-1-2012	Adopt(T)	4-1-2012	331-915-0040	3-1-2012	Amend(T)	4-1-2012
331-905-0045(T)	3-1-2012	Suspend	4-1-2012	331-915-0045	1-1-2012	Adopt	2-1-2012
331-905-0050	1-1-2012	Adopt(T)	2-1-2012	331-915-0045	3-1-2012	Amend(T)	4-1-2012
331-905-0050	3-1-2012	Adopt(T)	4-1-2012	331-915-0050	1-1-2012	Adopt	2-1-2012
331-905-0050(T)	3-1-2012	Suspend	4-1-2012	331-915-0055	1-1-2012	Adopt	2-1-2012
331-905-0053	3-1-2012	Adopt(T)	4-1-2012	331-915-0060	1-1-2012	Adopt	2-1-2012
331-905-0055	1-1-2012	Adopt(T)	2-1-2012	331-915-0065	1-1-2012	Adopt	2-1-2012
331-905-0055	3-1-2012	Adopt(T)	4-1-2012	331-920-0000	1-1-2012	Adopt	2-1-2012
331-905-0055(T)	3-1-2012	Suspend	4-1-2012	331-920-0005	1-1-2012	Adopt	2-1-2012
331-905-0060	1-1-2012	Adopt(T)	2-1-2012	331-925-0000	1-1-2012	Adopt	2-1-2012
331-905-0060	3-1-2012	Adopt(T)	4-1-2012	331-925-0000	3-1-2012	Amend(T)	4-1-2012
331-905-0060(T)	3-1-2012	Suspend	4-1-2012	331-925-0005	1-1-2012	Adopt	2-1-2012
331-905-0065	1-1-2012	Adopt(T)	2-1-2012	331-925-0005	3-1-2012	Amend(T)	4-1-2012
331-905-0065	3-1-2012	Adopt(T)	4-1-2012	331-925-0010	1-1-2012	Adopt	2-1-2012
331-910-0000	1-1-2012	Adopt	2-1-2012	331-925-0010	3-1-2012	Amend(T)	4-1-2012
331-910-0005	1-1-2012	Adopt	2-1-2012	331-925-0015	1-1-2012	Adopt	2-1-2012
331-910-0010	1-1-2012	Adopt	2-1-2012	331-925-0015	3-1-2012	Amend(T)	4-1-2012
331-910-0010	3-1-2012	Amend(T)	4-1-2012	331-925-0020	1-1-2012	Adopt	2-1-2012
331-910-0015	1-1-2012	Adopt	2-1-2012	331-925-0020	3-1-2012	Amend(T)	4-1-2012
331-910-0015	3-1-2012	Amend(T)	4-1-2012	331-925-0025	1-1-2012	Adopt	2-1-2012
331-910-0020	1-1-2012	Adopt	2-1-2012	331-925-0025	3-1-2012	Amend(T)	4-1-2012
331-910-0020	3-1-2012	Amend(T)	4-1-2012	331-925-0030	1-1-2012	Adopt	2-1-2012
331-910-0025	1-1-2012	Adopt	2-1-2012	331-925-0030	3-1-2012	Amend(T)	4-1-2012
331-910-0025	3-1-2012	Amend(T)	4-1-2012	331-925-0035	1-1-2012	Adopt	2-1-2012
331-910-0030	1-1-2012	Adopt	2-1-2012	331-925-0035	3-1-2012	Amend(T)	4-1-2012
331-910-0035	1-1-2012	Adopt	2-1-2012	331-925-0040	1-1-2012	Adopt	2-1-2012
331-910-0040	1-1-2012	Adopt	2-1-2012	331-925-0040	3-1-2012	Amend(T)	4-1-2012
331-910-0040	3-1-2012	Amend(T)	4-1-2012	331-925-0045	1-1-2012	Adopt	2-1-2012
331-910-0045	1-1-2012	Adopt	2-1-2012	331-925-0050	3-1-2012	Adopt(T)	4-1-2012
331-910-0045	3-1-2012	Amend(T)	4-1-2012	331-925-0055	3-1-2012	Adopt(T)	4-1-2012
331-910-0050	1-1-2012	Adopt	2-1-2012	331-930-0000	1-1-2012	Adopt	2-1-2012
331-910-0055	1-1-2012	Adopt	2-1-2012	331-930-0000	3-1-2012	Amend(T)	4-1-2012
331-910-0055	3-1-2012	Amend(T)	4-1-2012	331-930-0005	1-1-2012	Adopt	2-1-2012
331-910-0060	1-1-2012	Adopt	2-1-2012	331-930-0005	3-1-2012	Suspend	4-1-2012
331-910-0065	1-1-2012	Adopt	2-1-2012	331-930-0010	1-1-2012	Adopt	2-1-2012
331-910-0065	3-1-2012	Amend(T)	4-1-2012	331-930-0010	3-1-2012	Suspend	4-1-2012
331-910-0070	3-1-2012	Adopt(T)	4-1-2012	331-930-0015	1-1-2012	Adopt	2-1-2012
331-910-0075	3-1-2012	Adopt(T)	4-1-2012	331-930-0015	3-1-2012	Amend(T)	4-1-2012
331-910-0080	3-1-2012	Adopt(T)	4-1-2012	331-930-0020	1-1-2012	Adopt	2-1-2012
331-910-0085	3-1-2012	Adopt(T)	4-1-2012	331-930-0020	3-1-2012	Amend(T)	4-1-2012
331-915-0000	1-1-2012	Adopt	2-1-2012	331-930-0025	1-1-2012	Adopt	2-1-2012
331-915-0005	1-1-2012	Adopt	2-1-2012	331-930-0025	3-1-2012	Amend(T)	4-1-2012
331-915-0010	1-1-2012	Adopt	2-1-2012	331-930-0030	1-1-2012	Adopt	2-1-2012
331-915-0010	3-1-2012	Amend(T)	4-1-2012	331-930-0030	3-1-2012	Amend(T)	4-1-2012
331-915-0015	1-1-2012	Adopt	2-1-2012	331-940-0000	1-1-2012	Adopt	2-1-2012
331-915-0015	3-1-2012	Amend(T)	4-1-2012	331-940-0000	3-5-2012	Amend(T)	4-1-2012
331-915-0020	1-1-2012	Adopt	2-1-2012	331-950-0010	1-1-2012	Adopt	2-1-2012
331-915-0020	3-1-2012	Amend(T)	4-1-2012	331-950-0020	1-1-2012	Adopt	2-1-2012
331-915-0025	1-1-2012	Adopt	2-1-2012	331-950-0030	1-1-2012	Adopt	2-1-2012

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331-950-0040	1-1-2012	Adopt	2-1-2012	333-019-0042	12-14-2011	Adopt	1-1-2012
331-950-0050	1-1-2012	Adopt	2-1-2012	333-027-0000	4-1-2012	Amend	5-1-2012
331-950-0060	1-1-2012	Adopt	2-1-2012	333-027-0005	4-1-2012	Amend	5-1-2012
331-950-0070	1-1-2012	Adopt	2-1-2012	333-027-0010	4-1-2012	Amend	5-1-2012
332-025-0120	4-12-2012	Amend(T)	4-1-2012	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
333-015-0045	2-1-2012	Amend	3-1-2012	333-076-0185	4-1-2012	Amend	5-1-2012
333-015-0064	2-1-2012	Amend	3-1-2012	333-157-0073	3-1-2012	Adopt	4-1-2012
333-015-0066	2-1-2012	Amend	3-1-2012	333-157-0077	3-1-2012	Adopt	4-1-2012
333-015-0068	2-1-2012	Amend	3-1-2012	333-265-0000	1-1-2012	Amend	2-1-2012
333-015-0069	2-1-2012	Amend	3-1-2012	333-265-0010	1-1-2012	Amend	2-1-2012
333-015-0070	2-1-2012	Amend	3-1-2012	333-265-0012	1-1-2012	Amend	2-1-2012
333-015-0075	2-1-2012	Amend	3-1-2012	333-265-0014	1-1-2012	Amend	2-1-2012
333-015-0080	2-1-2012	Amend	3-1-2012	333-265-0015	1-1-2012	Amend	2-1-2012
333-015-0082	2-1-2012	Amend	3-1-2012	333-265-0016	1-1-2012	Amend	2-1-2012
333-015-0085	2-1-2012	Amend	3-1-2012	333-265-0018	1-1-2012	Amend	2-1-2012
333-015-0090	2-1-2012	Repeal	3-1-2012	333-265-0020	1-1-2012	Amend	2-1-2012
333-019-0041	12-14-2011	Amend	1-1-2012	333-265-0022	1-1-2012	Amend	2-1-2012

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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	340-045-0100	11-18-2011	Amend	1-1-2012
333-700-0053	4-1-2012	Adopt	5-1-2012	340-200-0040	12-21-2011	Amend	2-1-2012
333-700-0055	4-1-2012	Repeal	5-1-2012	340-204-0010	12-21-2011	Amend	2-1-2012
333-700-0057	4-1-2012	Adopt	5-1-2012	340-204-0030	12-21-2011	Amend	2-1-2012
333-700-0060	4-1-2012	Amend	5-1-2012	340-204-0040	12-21-2011	Amend	2-1-2012
333-700-0061	4-1-2012	Adopt	5-1-2012	407-007-0200	2-27-2012	Amend(T)	4-1-2012
333-700-0062	4-1-2012	Adopt	5-1-2012	407-007-0210	2-27-2012	Amend(T)	4-1-2012
333-700-0063	4-1-2012	Adopt	5-1-2012	407-007-0215	2-27-2012	Adopt(T)	4-1-2012
333-700-0064	4-1-2012	Adopt	5-1-2012	407-007-0220	2-27-2012	Amend(T)	4-1-2012
333-700-0065	4-1-2012	Amend	5-1-2012	407-007-0220	4-13-2012	Amend(T)	5-1-2012
333-700-0070	4-1-2012	Repeal	5-1-2012	407-007-0220(T)	4-13-2012	Suspend	5-1-2012
333-700-0072	4-1-2012	Adopt	5-1-2012	407-007-0230	2-27-2012	Amend(T)	4-1-2012
333-700-0073	4-1-2012	Adopt	5-1-2012	407-007-0240	2-27-2012	Amend(T)	4-1-2012
333-700-0075	4-1-2012	Amend	5-1-2012	407-007-0250	2-27-2012	Amend(T)	4-1-2012
333-700-0080	4-1-2012	Amend	5-1-2012	407-007-0275	2-27-2012	Amend(T)	4-1-2012
333-700-0085	4-1-2012	Amend	5-1-2012	407-007-0275	4-13-2012	Amend(T)	5-1-2012
333-700-0090	4-1-2012	Amend	5-1-2012	407-007-0275(T)	4-13-2012	Suspend	5-1-2012
333-700-0095	4-1-2012	Amend	5-1-2012	407-007-0277	4-13-2012	Adopt(T)	5-1-2012
333-700-0100	4-1-2012	Amend	5-1-2012	407-007-0280	2-27-2012	Amend(T)	4-1-2012
333-700-0105	4-1-2012	Amend	5-1-2012	407-007-0290	2-27-2012	Amend(T)	4-1-2012
333-700-0110	4-1-2012	Amend	5-1-2012	407-007-0300	2-27-2012	Amend(T)	4-1-2012
333-700-0115	4-1-2012	Amend	5-1-2012	407-007-0315	2-27-2012	Amend(T)	4-1-2012
333-700-0120	4-1-2012	Amend	5-1-2012	407-007-0320	2-27-2012	Amend(T)	4-1-2012

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407-007-0330	2-27-2012	Amend(T)	4-1-2012	407-120-0114	12-27-2011	Amend	2-1-2012
407-007-0335	2-27-2012	Amend(T)	4-1-2012	407-120-0114(T)	12-27-2011	Repeal	2-1-2012
407-007-0340	2-27-2012	Amend(T)	4-1-2012	407-120-0150	12-27-2011	Amend	2-1-2012
407-007-0350	2-27-2012	Amend(T)	4-1-2012	407-120-0150(T)	12-27-2011	Repeal	2-1-2012
407-007-0370	2-27-2012	Amend(T)	4-1-2012	407-120-0200	12-27-2011	Amend	2-1-2012
407-014-0000	12-16-2011	Amend	2-1-2012	407-120-0200(T)	12-27-2011	Repeal	2-1-2012
407-014-0000(T)	12-16-2011	Repeal	2-1-2012	409-045-0000	1-11-2012	Adopt(T)	2-1-2012
407-014-0015	12-16-2011	Adopt	2-1-2012	409-050-0110	12-1-2011	Amend	1-1-2012
407-014-0015(T)	12-16-2011	Repeal	2-1-2012	409-050-0110(T)	12-1-2011	Repeal	1-1-2012
407-014-0020	12-16-2011	Amend	2-1-2012	409-050-0120	12-1-2011	Amend	1-1-2012
407-014-0020(T)	12-16-2011	Repeal	2-1-2012	409-050-0120(T)	12-1-2011	Repeal	1-1-2012
407-014-0030	12-16-2011	Amend	2-1-2012	409-050-0130	12-22-2011	Amend	2-1-2012
407-014-0030(T)	12-16-2011	Repeal	2-1-2012	409-050-0130(T)	12-22-2011	Repeal	2-1-2012
407-014-0040	12-16-2011	Amend	2-1-2012	409-055-0000	3-1-2012	Amend	4-1-2012
407-014-0040(T)	12-16-2011	Repeal	2-1-2012	409-055-0000(T)	3-1-2012	Repeal	4-1-2012
407-014-0050	12-16-2011	Amend	2-1-2012	409-055-0010	3-1-2012	Amend	4-1-2012
407-014-0050(T)	12-16-2011	Repeal	2-1-2012	409-055-0010(T)	3-1-2012	Repeal	4-1-2012
407-014-0060	12-16-2011	Amend	2-1-2012	409-055-0020	3-1-2012	Amend	4-1-2012
407-014-0060(T)	12-16-2011	Repeal	2-1-2012	409-055-0020(T)	3-1-2012	Repeal	4-1-2012
407-014-0070	12-16-2011	Amend	2-1-2012	409-055-0030	3-1-2012	Amend	4-1-2012
407-014-0070(T)	12-16-2011	Repeal	2-1-2012	409-055-0030(T)	3-1-2012	Repeal	4-1-2012
407-014-0300	2-1-2012	Amend	3-1-2012	409-055-0040	3-1-2012	Amend	4-1-2012
407-014-0300(T)	2-1-2012	Repeal	3-1-2012	409-055-0040(T)	3-1-2012	Repeal	4-1-2012
407-014-0305	2-1-2012	Amend	3-1-2012	409-055-0050	3-1-2012	Amend	4-1-2012
407-014-0305(T)	2-1-2012	Repeal	3-1-2012	409-055-0050(T)	3-1-2012	Repeal	4-1-2012
407-014-0310	2-1-2012	Amend	3-1-2012	409-055-0060	3-1-2012	Amend	4-1-2012
407-014-0310(T)	2-1-2012	Repeal	3-1-2012	409-055-0060(T)	3-1-2012	Repeal	4-1-2012
407-014-0315	2-1-2012	Amend	3-1-2012	409-055-0070	3-1-2012	Amend	4-1-2012
407-014-0315(T)	2-1-2012	Repeal	3-1-2012	409-055-0070(T)	3-1-2012	Repeal	4-1-2012
407-014-0320	2-1-2012	Amend	3-1-2012	409-055-0080	3-1-2012	Amend	4-1-2012
407-014-0320(T)	2-1-2012	Repeal	3-1-2012	409-055-0080(T)	3-1-2012	Repeal	4-1-2012
407-043-0020	12-27-2011	Adopt	2-1-2012	409-055-0090	3-1-2012	Adopt	4-1-2012
407-043-0020(T)	12-27-2011	Repeal	2-1-2012	410-050-0861	1-1-2012	Amend(T)	2-1-2012
407-045-0250	12-5-2011	Amend	1-1-2012	410-050-0861	3-1-2012	Amend	4-1-2012
407-045-0260	12-5-2011	Amend	1-1-2012	410-050-0861(T)	3-1-2012	Repeal	4-1-2012
407-045-0280	12-5-2011	Amend	1-1-2012	410-120-0000	1-1-2012	Amend	1-1-2012
407-045-0290	12-5-2011	Amend	1-1-2012	410-120-0000	3-16-2012	Amend(T)	5-1-2012
407-045-0320	12-5-2011	Amend	1-1-2012	410-120-0006	1-1-2012	Amend	1-1-2012
407-045-0400	12-1-2011	Amend	1-1-2012	410-120-0006	1-13-2012	Amend(T)	2-1-2012
407-045-0400(T)	12-1-2011	Repeal	1-1-2012	410-120-0006	1-26-2012	Amend(T)	3-1-2012
407-045-0410	12-1-2011	Repeal	1-1-2012	410-120-0006	1-31-2012	Amend(T)	3-1-2012
407-045-0420	12-1-2011	Repeal	1-1-2012	410-120-0006	2-1-2012	Amend(T)	3-1-2012
407-045-0430	12-1-2011	Repeal	1-1-2012	410-120-0006	3-1-2012	Amend(T)	4-1-2012
407-045-0440	12-1-2011	Repeal	1-1-2012	410-120-0006	4-1-2012	Amend(T)	5-1-2012
407-045-0450	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	1-1-2012	Repeal	1-1-2012
407-045-0460	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	1-26-2012	Suspend	3-1-2012
407-045-0470	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	3-1-2012	Suspend	4-1-2012
407-045-0480	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	4-1-2012	Suspend	5-1-2012
407-045-0490	12-1-2011	Repeal	1-1-2012	410-120-0030	4-1-2012	Amend	5-1-2012
407-045-0500	12-1-2011	Repeal	1-1-2012	410-120-1160	1-1-2012	Amend	1-1-2012
407-045-0510	12-1-2011	Repeal	1-1-2012	410-120-1200	1-1-2012	Amend	1-1-2012
407-045-0520	12-1-2011	Repeal	1-1-2012	410-120-1210	1-1-2012	Amend	1-1-2012
407-120-0100	12-27-2011	Amend	2-1-2012	410-120-1295	3-22-2012	Amend	5-1-2012
407-120-0100(T)	12-27-2011	Repeal	2-1-2012	410-120-1295(T)	3-22-2012	Repeal	5-1-2012
407-120-0112	12-27-2011	Amend	2-1-2012	410-120-1340	1-1-2012	Amend	1-1-2012

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410-120-1510	1-1-2012	Amend	1-1-2012	410-125-0220	1-1-2012	Amend	1-1-2012
410-120-1860	2-1-2012	Amend(T)	3-1-2012	410-125-0450	1-1-2012	Amend(T)	2-1-2012
410-120-1920	1-1-2012	Amend	1-1-2012	410-127-0060	1-1-2012	Amend	1-1-2012
410-120-1960	1-1-2012	Amend	1-1-2012	410-130-0000	1-1-2012	Amend	2-1-2012
410-121-0000	1-1-2012	Amend	2-1-2012	410-130-0200	1-1-2012	Amend	2-1-2012
410-121-0030	1-1-2012	Amend	2-1-2012	410-130-0220	1-1-2012	Amend	2-1-2012
410-121-0030	3-16-2012	Amend(T)	5-1-2012	410-130-0255	1-1-2012	Amend	2-1-2012
410-121-0030	4-9-2012	Amend	5-1-2012	410-130-0368	1-1-2012	Amend	2-1-2012
410-121-0030(T)	4-9-2012	Repeal	5-1-2012	410-130-0595	1-1-2012	Amend	2-1-2012
410-121-0032	1-1-2012	Amend	2-1-2012	410-130-0595(T)	1-1-2012	Repeal	2-1-2012
410-121-0033	3-16-2012	Amend(T)	5-1-2012	410-131-0040	1-1-2012	Amend	1-1-2012
410-121-0040	1-1-2012	Amend	2-1-2012	410-131-0060	1-1-2012	Repeal	1-1-2012
410-121-0040	3-16-2012	Amend(T)	5-1-2012	410-131-0080	1-1-2012	Amend	1-1-2012
410-121-0040	4-9-2012	Amend	5-1-2012	410-131-0100	1-1-2012	Amend	1-1-2012
410-121-0040(T)	4-9-2012	Repeal	5-1-2012	410-131-0120	1-1-2012	Amend	1-1-2012
410-121-0061	1-1-2012	Amend	2-1-2012	410-131-0140	1-1-2012	Repeal	1-1-2012
410-121-0100	3-16-2012	Amend(T)	5-1-2012	410-131-0160	1-1-2012	Amend	1-1-2012
410-121-0111	3-16-2012	Adopt(T)	5-1-2012	410-131-0180	1-1-2012	Repeal	1-1-2012
410-121-0146	1-1-2012	Amend	2-1-2012	410-131-0200	1-1-2012	Repeal	1-1-2012
410-121-0147	1-1-2012	Amend	2-1-2012	410-131-0270	1-1-2012	Repeal	1-1-2012
410-121-0160	1-1-2012	Amend	2-1-2012	410-131-0275	1-1-2012	Repeal	1-1-2012
410-121-0160(T)	1-1-2012	Repeal	2-1-2012	410-131-0280	1-1-2012	Repeal	1-1-2012
410-121-0185	1-1-2012	Amend	2-1-2012	410-140-0080	12-6-2011	Amend	1-1-2012
410-121-0190	1-1-2012	Amend	2-1-2012	410-140-0260	12-6-2011	Amend	1-1-2012
410-121-2000	3-13-2012	Amend	4-1-2012	410-140-0400	12-6-2011	Amend	1-1-2012
410-121-2005	3-13-2012	Amend	4-1-2012	410-141-0000	3-16-2012	Amend(T)	5-1-2012
410-121-2010	3-13-2012	Amend	4-1-2012	410-141-0070	11-21-2011	Amend(T)	1-1-2012
410-121-2020	3-13-2012	Amend	4-1-2012	410-141-0080	1-1-2012	Amend(T)	1-1-2012
410-121-2030	3-13-2012	Amend	4-1-2012	410-141-0264	2-7-2012	Amend(T)	3-1-2012
410-121-2050	3-13-2012	Amend	4-1-2012	410-141-0420	1-1-2012	Amend(T)	2-1-2012
410-121-2065	3-13-2012	Amend	4-1-2012	410-141-0520	12-23-2011	Amend	2-1-2012
410-122-0186	1-1-2012	Amend	2-1-2012	410-141-0520	1-1-2012	Amend(T)	2-1-2012
410-122-0186(T)	1-1-2012	Repeal	2-1-2012	410-141-0520	4-1-2012	Amend(T)	5-1-2012
410-122-0188	1-1-2012	Adopt	2-1-2012	410-141-0520(T)	12-23-2011	Repeal	2-1-2012
410-122-0340	4-1-2012	Amend	5-1-2012	410-141-0520(T)	4-1-2012	Suspend	5-1-2012
410-122-0520	1-1-2012	Amend	2-1-2012	410-141-0860	3-22-2012	Amend	5-1-2012
410-122-0540	4-1-2012	Amend	5-1-2012	410-141-0860(T)	3-22-2012	Repeal	5-1-2012
410-122-0630	1-1-2012	Amend	2-1-2012	410-141-3000	3-16-2012	Adopt(T)	5-1-2012
410-122-0630	4-1-2012	Amend	5-1-2012	410-141-3010	3-16-2012	Adopt(T)	5-1-2012
410-122-0630(T)	1-1-2012	Repeal	2-1-2012	410-141-3015	3-26-2012	Adopt(T)	5-1-2012
410-122-0660	4-1-2012	Amend	5-1-2012	410-141-3020	3-26-2012	Adopt(T)	5-1-2012
410-123-1000	1-1-2012	Amend	2-1-2012	410-141-3030	3-26-2012	Adopt(T)	5-1-2012
410-123-1060	1-1-2012	Amend	2-1-2012	410-141-3050	3-26-2012	Adopt(T)	5-1-2012
410-123-1060	1-1-2012	Amend	2-1-2012	410-141-3060	3-26-2012	Adopt(T)	5-1-2012
410-123-1220	1-1-2012	Amend	2-1-2012	410-141-3070	3-26-2012	Adopt(T)	5-1-2012
410-123-1220	1-1-2012	Amend	2-1-2012	410-141-3080	3-26-2012	Adopt(T)	5-1-2012
410-123-1260	1-1-2012	Amend	2-1-2012	410-141-3120	3-30-2012	Adopt(T)	5-1-2012
410-123-1260	1-1-2012	Amend	2-1-2012	410-141-3140	3-26-2012	Adopt(T)	5-1-2012
410-123-1490	1-1-2012	Amend	2-1-2012	410-141-3145	3-26-2012	Adopt(T)	5-1-2012
410-123-1490	1-1-2012	Amend	2-1-2012	410-141-3160	3-26-2012	Adopt(T)	5-1-2012
410-125-0045	1-1-2012	Amend	1-1-2012	410-141-3170	3-26-2012	Adopt(T)	5-1-2012
410-125-0047	1-1-2012	Amend	1-1-2012	410-141-3180	3-26-2012	Adopt(T)	5-1-2012
410-125-0080	1-1-2012	Amend	1-1-2012	410-141-3200	3-26-2012	Adopt(T)	5-1-2012
410-125-0085	1-1-2012	Amend	1-1-2012	410-141-3220	3-26-2012	Adopt(T)	5-1-2012
410-125-0140	1-1-2012	Amend	1-1-2012	410-141-3260	3-26-2012	Adopt(T)	5-1-2012

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410-141-3262	3-26-2012	Adopt(T)	5-1-2012	411-323-0040	1-6-2012	Amend	2-1-2012
410-141-3263	3-26-2012	Adopt(T)	5-1-2012	411-323-0040(T)	1-6-2012	Repeal	2-1-2012
410-141-3264	3-26-2012	Adopt(T)	5-1-2012	411-323-0050	1-6-2012	Amend	2-1-2012
410-141-3265	3-26-2012	Adopt(T)	5-1-2012	411-323-0050(T)	1-6-2012	Repeal	2-1-2012
410-141-3266	3-26-2012	Adopt(T)	5-1-2012	411-323-0060	1-6-2012	Amend	2-1-2012
410-141-3268	3-26-2012	Adopt(T)	5-1-2012	411-323-0060(T)	1-6-2012	Repeal	2-1-2012
410-141-3270	3-26-2012	Adopt(T)	5-1-2012	411-323-0070	1-6-2012	Amend	2-1-2012
410-141-3280	3-26-2012	Adopt(T)	5-1-2012	411-323-0070(T)	1-6-2012	Repeal	2-1-2012
410-141-3300	3-26-2012	Adopt(T)	5-1-2012	411-325-0020	1-6-2012	Amend	2-1-2012
410-141-3320	3-26-2012	Adopt(T)	5-1-2012	411-325-0020(T)	1-6-2012	Repeal	2-1-2012
410-141-3340	3-20-2012	Adopt(T)	5-1-2012	411-325-0025	1-6-2012	Adopt	2-1-2012
410-141-3345	3-20-2012	Adopt(T)	5-1-2012	411-325-0025(T)	1-6-2012	Repeal	2-1-2012
410-141-3350	3-20-2012	Adopt(T)	5-1-2012	411-325-0060	1-6-2012	Amend	2-1-2012
410-141-3355	3-20-2012	Adopt(T)	5-1-2012	411-325-0060(T)	1-6-2012	Repeal	2-1-2012
410-141-3360	3-20-2012	Adopt(T)	5-1-2012	411-325-0080	1-6-2012	Repeal	2-1-2012
410-141-3365	3-20-2012	Adopt(T)	5-1-2012	411-325-0100	1-6-2012	Repeal	2-1-2012
410-141-3370	3-20-2012	Adopt(T)	5-1-2012	411-325-0110	1-6-2012	Amend	2-1-2012
410-141-3375	3-20-2012	Adopt(T)	5-1-2012	411-325-0150	1-6-2012	Amend	2-1-2012
410-141-3380	3-20-2012	Adopt(T)	5-1-2012	411-325-0160	1-6-2012	Repeal	2-1-2012
410-141-3385	3-20-2012	Adopt(T)	5-1-2012	411-325-0210	1-6-2012	Repeal	2-1-2012
410-141-3390	3-20-2012	Adopt(T)	5-1-2012	411-325-0310	1-6-2012	Repeal	2-1-2012
410-141-3395	3-20-2012	Adopt(T)	5-1-2012	411-325-0320	1-6-2012	Amend	2-1-2012
410-141-3420	3-26-2012	Adopt(T)	5-1-2012	411-325-0320(T)	1-6-2012	Repeal	2-1-2012
410-142-0020	1-1-2012	Amend	1-1-2012	411-325-0430	1-6-2012	Amend	2-1-2012
410-142-0040	1-1-2012	Amend	1-1-2012	411-325-0450	1-6-2012	Repeal	2-1-2012
410-146-0020	3-22-2012	Amend	5-1-2012	411-325-0460	1-6-2012	Amend	2-1-2012
410-146-0020(T)	3-22-2012	Repeal	5-1-2012	411-325-0460(T)	1-6-2012	Repeal	2-1-2012
410-147-0362	3-22-2012	Amend	5-1-2012	411-328-0560	1-6-2012	Amend	2-1-2012
410-147-0362(T)	3-22-2012	Repeal	5-1-2012	411-328-0560(T)	1-6-2012	Repeal	2-1-2012
410-148-0060	1-1-2012	Amend	1-1-2012	411-328-0570	1-6-2012	Amend	2-1-2012
410-500-0000	1-31-2012	Adopt(T)	3-1-2012	411-328-0570(T)	1-6-2012	Repeal	2-1-2012
410-500-0010	1-31-2012	Adopt(T)	3-1-2012	411-328-0580	1-6-2012	Repeal	2-1-2012
410-500-0020	1-31-2012	Adopt(T)	3-1-2012	411-328-0590	1-6-2012	Repeal	2-1-2012
410-500-0030	1-31-2012	Adopt(T)	3-1-2012	411-328-0600	1-6-2012	Repeal	2-1-2012
410-500-0040	1-31-2012	Adopt(T)	3-1-2012	411-328-0610	1-6-2012	Repeal	2-1-2012
410-500-0050	1-31-2012	Adopt(T)	3-1-2012	411-328-0620	1-6-2012	Amend	2-1-2012
410-500-0060	1-31-2012	Adopt(T)	3-1-2012	411-328-0630	1-6-2012	Amend	2-1-2012
411-040-0000	12-20-2011	Amend(T)	2-1-2012	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

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411-335-0080	1-6-2012	Repeal	2-1-2012	411-365-0260	3-1-2012	Amend	4-1-2012
411-335-0090	1-6-2012	Repeal	2-1-2012	411-365-0280	3-1-2012	Amend	4-1-2012
411-335-0100	1-6-2012	Repeal	2-1-2012	411-365-0300	3-1-2012	Amend	4-1-2012
411-335-0110	1-6-2012	Repeal	2-1-2012	411-365-0320	3-1-2012	Amend	4-1-2012
411-335-0120	1-6-2012	Amend	2-1-2012	413-010-0700	4-4-2012	Amend	5-1-2012
411-335-0140	1-6-2012	Repeal	2-1-2012	413-010-0705	4-4-2012	Amend	5-1-2012
411-335-0230	1-6-2012	Amend	2-1-2012	413-010-0710	4-4-2012	Amend	5-1-2012
411-335-0300	1-6-2012	Repeal	2-1-2012	413-010-0712	4-4-2012	Repeal	5-1-2012
411-335-0310	1-6-2012	Amend	2-1-2012	413-010-0714	4-4-2012	Amend	5-1-2012
411-335-0310(T)	1-6-2012	Repeal	2-1-2012	413-010-0715	4-4-2012	Amend	5-1-2012
411-335-0370	1-6-2012	Repeal	2-1-2012	413-010-0716	4-4-2012	Amend	5-1-2012
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

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413-100-0905	12-28-2011	Amend	2-1-2012	413-200-0383	12-28-2011	Amend	2-1-2012
413-100-0910	12-28-2011	Amend	2-1-2012	413-200-0386	12-28-2011	Amend	2-1-2012
413-100-0915	12-28-2011	Amend	2-1-2012	413-200-0388	12-28-2011	Amend	2-1-2012
413-100-0920	12-28-2011	Amend	2-1-2012	413-200-0390	12-28-2011	Amend	2-1-2012
413-100-0925	12-28-2011	Amend	2-1-2012	413-200-0393	12-28-2011	Amend	2-1-2012
413-100-0930	12-28-2011	Amend	2-1-2012	413-200-0394	12-28-2011	Amend	2-1-2012
413-100-0940	12-28-2011	Amend	2-1-2012	413-200-0395	12-28-2011	Amend	2-1-2012
413-120-0420	12-28-2011	Amend(T)	2-1-2012	413-200-0396	12-28-2011	Amend	2-1-2012
413-120-0460	12-28-2011	Amend(T)	2-1-2012	413-200-0404	1-3-2012	Amend	2-1-2012
413-120-0470	12-28-2011	Suspend	2-1-2012	413-200-0404(T)	1-3-2012	Repeal	2-1-2012
413-130-0000	12-28-2011	Amend	2-1-2012	413-200-0409	1-3-2012	Amend	2-1-2012
413-130-0010	12-28-2011	Amend	2-1-2012	413-200-0409(T)	1-3-2012	Repeal	2-1-2012
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

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416-115-0050	12-14-2011	Repeal	1-1-2012	436-009-0135	4-1-2012	Amend	4-1-2012
416-115-0060	12-14-2011	Repeal	1-1-2012	436-009-0140	4-1-2012	Amend	4-1-2012
416-115-0070	12-14-2011	Repeal	1-1-2012	436-009-0145	4-1-2012	Amend	4-1-2012
416-115-0080	12-14-2011	Repeal	1-1-2012	436-009-0150	4-1-2012	Repeal	4-1-2012
416-115-0090	12-14-2011	Repeal	1-1-2012	436-009-0155	4-1-2012	Amend	4-1-2012
416-115-0100	12-14-2011	Repeal	1-1-2012	436-009-0160	4-1-2012	Amend	4-1-2012
416-115-0110	12-14-2011	Repeal	1-1-2012	436-009-0165	4-1-2012	Amend	4-1-2012
416-115-0120	12-14-2011	Repeal	1-1-2012	436-009-0170	4-1-2012	Amend	4-1-2012
416-115-0130	12-14-2011	Repeal	1-1-2012	436-009-0175	4-1-2012	Amend	4-1-2012
416-115-0140	12-14-2011	Repeal	1-1-2012	436-009-0177	4-1-2012	Adopt	4-1-2012
416-115-0150	12-14-2011	Repeal	1-1-2012	436-009-0180	4-1-2012	Amend	4-1-2012
416-115-0160	12-14-2011	Repeal	1-1-2012	436-009-0185	4-1-2012	Amend	4-1-2012
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	437-002-0005	12-8-2011	Amend	1-1-2012
436-009-0130	4-1-2012	Amend	4-1-2012	437-002-0080	4-10-2012	Amend	5-1-2012

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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
437-003-0875	4-10-2012	Amend	5-1-2012	442-010-0085	12-22-2011	Amend	2-1-2012
437-003-1101	7-1-2012	Adopt	1-1-2012	442-010-0090	12-22-2011	Amend	2-1-2012
437-003-1127	7-1-2012	Adopt	1-1-2012	442-010-0100	12-22-2011	Amend	2-1-2012
437-003-3060	7-1-2012	Adopt	1-1-2012	442-010-0110	12-22-2011	Amend	2-1-2012
437-004-1110	12-8-2011	Amend	1-1-2012	442-010-0120	12-22-2011	Amend	2-1-2012
437-005-0001	12-8-2011	Amend	1-1-2012	442-010-0160	12-22-2011	Amend	2-1-2012

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442-010-0180	12-22-2011	Amend	2-1-2012	461-120-0120	4-1-2012	Repeal	5-1-2012
442-010-0190	12-22-2011	Amend	2-1-2012	461-120-0125	4-1-2012	Amend	5-1-2012
442-010-0200	12-22-2011	Repeal	2-1-2012	461-120-0130	4-1-2012	Amend	5-1-2012
442-010-0210	12-22-2011	Amend	2-1-2012	461-120-0210	4-1-2012	Amend	5-1-2012
442-010-0215	12-22-2011	Amend	2-1-2012	461-120-0315	4-1-2012	Amend	5-1-2012
442-010-0220	12-22-2011	Amend	2-1-2012	461-120-0330	4-1-2012	Amend	5-1-2012
442-010-0230	12-22-2011	Amend	2-1-2012	461-120-0340	4-1-2012	Amend	5-1-2012
442-010-0240	12-22-2011	Amend	2-1-2012	461-120-0340(T)	4-1-2012	Repeal	5-1-2012
442-010-0250	12-22-2011	Repeal	2-1-2012	461-120-0350	4-1-2012	Amend	5-1-2012
442-010-0260	12-22-2011	Amend	2-1-2012	461-120-0510	4-1-2012	Amend	5-1-2012
443-002-0070	2-6-2012	Amend	3-1-2012	461-120-0530	4-1-2012	Repeal	5-1-2012
443-002-0190	2-6-2012	Amend	3-1-2012	461-120-0630	4-1-2012	Amend	5-1-2012
459-001-0025	3-28-2012	Amend	5-1-2012	461-130-0327	12-29-2011	Amend	2-1-2012
459-005-0001	2-1-2012	Amend	3-1-2012	461-130-0330	1-1-2012	Amend	2-1-2012
459-005-0525	2-1-2012	Amend	3-1-2012	461-130-0330(T)	1-1-2012	Repeal	2-1-2012
459-005-0545	2-1-2012	Amend	3-1-2012	461-130-0335	1-1-2012	Amend	2-1-2012
459-005-0615	3-28-2012	Adopt	5-1-2012	461-130-0335(T)	1-1-2012	Repeal	2-1-2012
459-005-0620	11-22-2011	Adopt(T)	1-1-2012	461-135-0010	1-13-2012	Amend(T)	2-1-2012
459-005-0620	2-1-2012	Adopt	3-1-2012	461-135-0075	4-1-2012	Amend	5-1-2012
459-007-0090	3-28-2012	Amend	5-1-2012	461-135-0075(T)	4-1-2012	Repeal	5-1-2012
459-007-0270	3-28-2012	Amend	5-1-2012	461-135-0089	1-1-2012	Amend	2-1-2012
459-010-0005	11-23-2011	Repeal	1-1-2012	461-135-0089(T)	1-1-2012	Repeal	2-1-2012
459-013-0310	3-28-2012	Adopt	5-1-2012	461-135-0475	12-29-2011	Amend	2-1-2012
459-013-0320	3-28-2012	Adopt	5-1-2012	461-135-0485	1-1-2012	Adopt	2-1-2012
459-014-0030	2-1-2012	Amend	3-1-2012	461-135-0485(T)	1-1-2012	Repeal	2-1-2012
459-014-0040	2-1-2012	Adopt	3-1-2012	461-135-0780	1-1-2012	Amend	2-1-2012
459-014-0050	2-1-2012	Adopt	3-1-2012	461-135-0832	1-1-2012	Amend	2-1-2012
459-015-0005	11-23-2011	Amend	1-1-2012	461-135-0845	1-1-2012	Amend	2-1-2012
459-017-0060	3-28-2012	Amend	5-1-2012	461-135-0950	1-1-2012	Amend	2-1-2012
459-060-0020	11-23-2011	Amend	1-1-2012	461-135-0950(T)	1-1-2012	Repeal	2-1-2012
459-075-0060	2-1-2012	Amend	3-1-2012	461-135-0960	1-1-2012	Repeal	2-1-2012
459-076-0005	11-23-2011	Amend	1-1-2012	461-135-0990	1-1-2012	Amend	2-1-2012
459-080-0010	2-1-2012	Amend	3-1-2012	461-135-1100	1-1-2012	Amend(T)	2-1-2012
459-080-0500	3-28-2012	Amend	5-1-2012	461-135-1100	4-1-2012	Amend	5-1-2012
461-001-0025	12-29-2011	Amend	2-1-2012	461-135-1100(T)	4-1-2012	Repeal	5-1-2012
461-025-0300	1-31-2012	Amend(T)	3-1-2012	461-135-1110	1-1-2012	Suspend	2-1-2012
461-025-0310	1-31-2012	Amend(T)	3-1-2012	461-135-1110	4-1-2012	Repeal	5-1-2012
461-101-0010	4-1-2012	Amend	5-1-2012	461-135-1195	1-1-2012	Amend	2-1-2012
461-115-0016	1-1-2012	Adopt	2-1-2012	461-135-1195(T)	1-1-2012	Repeal	2-1-2012
461-115-0016(T)	1-1-2012	Repeal	2-1-2012	461-135-1210	4-1-2012	Repeal	5-1-2012
461-115-0030	1-1-2012	Amend	2-1-2012	461-135-1250	4-12-2012	Amend(T)	5-1-2012
461-115-0030(T)	1-1-2012	Repeal	2-1-2012	461-135-1250	4-13-2012	Amend(T)	5-1-2012
461-115-0050	1-1-2012	Amend	2-1-2012	461-135-1250(T)	4-13-2012	Suspend	5-1-2012
461-115-0050(T)	1-1-2012	Repeal	2-1-2012	461-135-1260	3-30-2012	Adopt	5-1-2012
461-115-0230	1-1-2012	Amend	2-1-2012	461-145-0080	4-1-2012	Amend	5-1-2012
461-115-0230	2-29-2012	Amend(T)	4-1-2012	461-145-0080(T)	4-1-2012	Repeal	5-1-2012
461-115-0230(T)	1-1-2012	Repeal	2-1-2012	461-145-0130	1-1-2012	Amend	2-1-2012
461-115-0690	1-1-2012	Amend	2-1-2012	461-145-0220	1-1-2012	Amend	2-1-2012
461-115-0690(T)	1-1-2012	Repeal	2-1-2012	461-145-0410	1-1-2012	Amend	2-1-2012
461-115-0705	1-1-2012	Amend(T)	2-1-2012	461-145-0410	1-1-2012	Amend(T)	2-1-2012
461-115-0705	4-1-2012	Amend	5-1-2012	461-145-0410	4-1-2012	Amend	5-1-2012
461-115-0705(T)	4-1-2012	Repeal	5-1-2012	461-145-0410(T)	1-1-2012	Repeal	2-1-2012
461-120-0010	4-1-2012	Amend	5-1-2012	461-145-0410(T)	4-1-2012	Repeal	5-1-2012
461-120-0030	4-1-2012	Amend	5-1-2012	461-155-0030	1-26-2012	Amend(T)	3-1-2012
461-120-0050	4-1-2012	Amend	5-1-2012	461-155-0030	4-1-2012	Amend	5-1-2012

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461-155-0150	4-10-2012	Amend(T)	5-1-2012	576-040-0010	12-27-2011	Amend	2-1-2012
461-155-0180	1-25-2012	Amend	3-1-2012	576-040-0012	12-27-2011	Amend	2-1-2012
461-155-0235	1-25-2012	Amend	3-1-2012	576-040-0015	12-27-2011	Amend	2-1-2012
461-155-0250	1-1-2012	Amend	2-1-2012	576-040-0025	12-27-2011	Repeal	2-1-2012
461-155-0250	2-1-2012	Amend(T)	3-1-2012	576-040-0030	12-27-2011	Repeal	2-1-2012
461-155-0270	1-1-2012	Amend	2-1-2012	576-040-0035	12-27-2011	Repeal	2-1-2012
461-155-0290	3-1-2012	Amend	4-1-2012	576-065-0000	3-30-2012	Amend(T)	5-1-2012
461-155-0291	3-1-2012	Amend	4-1-2012	576-065-0010	3-30-2012	Amend(T)	5-1-2012
461-155-0295	3-1-2012	Amend	4-1-2012	577-031-0135	3-12-2012	Amend(T)	4-1-2012
461-155-0300	1-1-2012	Amend	2-1-2012	579-020-0006	12-1-2011	Amend(T)	1-1-2012
461-155-0320	1-1-2012	Amend	2-1-2012	580-020-0005	1-12-2012	Amend	2-1-2012
461-155-0320(T)	1-1-2012	Repeal	2-1-2012	580-022-0045	3-16-2012	Amend(T)	5-1-2012
461-155-0360	1-1-2012	Amend	2-1-2012	580-040-0030	3-16-2012	Amend(T)	5-1-2012
461-155-0500	4-1-2012	Amend	5-1-2012	580-040-0035	1-12-2012	Amend	2-1-2012
461-155-0528	1-1-2012	Repeal	2-1-2012	581-001-0000	4-2-2012	Amend	5-1-2012
461-155-0575	12-1-2011	Amend(T)	1-1-2012	581-001-0005	4-2-2012	Amend	5-1-2012
461-155-0575(T)	12-1-2011	Suspend	1-1-2012	581-015-2000	4-2-2012	Amend	5-1-2012
461-155-0693	1-1-2012	Repeal	2-1-2012	581-015-2005	2-17-2012	Amend	4-1-2012
461-160-0015	1-1-2012	Amend	2-1-2012	581-015-2010	2-17-2012	Amend	4-1-2012
461-160-0015(T)	1-1-2012	Repeal	2-1-2012	581-015-2040	2-17-2012	Amend	4-1-2012
461-160-0580	1-1-2012	Amend	2-1-2012	581-015-2075	2-17-2012	Amend	4-1-2012
461-160-0620	1-1-2012	Amend	2-1-2012	581-015-2080	2-17-2012	Amend	4-1-2012
461-165-0035	2-27-2012	Amend(T)	4-1-2012	581-015-2080	4-2-2012	Amend	5-1-2012
461-170-0011	3-30-2012	Amend	5-1-2012	581-015-2300	4-2-2012	Amend(T)	5-1-2012
461-175-0210	1-1-2012	Amend(T)	2-1-2012	581-015-2570	12-15-2011	Amend	1-1-2012
461-175-0290	1-1-2012	Amend	2-1-2012	581-015-2571	12-15-2011	Amend	1-1-2012
461-180-0050	1-1-2012	Amend	2-1-2012	581-015-2572	12-15-2011	Amend	1-1-2012
461-180-0050(T)	1-1-2012	Repeal	2-1-2012	581-015-2573	12-15-2011	Amend	1-1-2012
461-180-0070	1-1-2012	Amend	2-1-2012	581-015-2574	12-15-2011	Amend	1-1-2012
461-180-0070(T)	1-1-2012	Repeal	2-1-2012	581-015-2700	4-2-2012	Amend	5-1-2012
461-180-0085	1-1-2012	Amend	2-1-2012	581-015-2712	4-2-2012	Adopt	5-1-2012
461-180-0130	12-27-2011	Amend	2-1-2012	581-015-2713	4-2-2012	Adopt	5-1-2012
461-180-0130	12-27-2011	Amend(T)	2-1-2012	581-015-2730	4-2-2012	Amend	5-1-2012
461-180-0130	4-1-2012	Amend	5-1-2012	581-015-2770	4-2-2012	Amend(T)	5-1-2012
461-180-0130(T)	4-1-2012	Repeal	5-1-2012	581-015-2774	4-2-2012	Adopt	5-1-2012
461-190-0211	4-6-2012	Amend	5-1-2012	581-015-2775	4-2-2012	Amend	5-1-2012
461-190-0211	4-6-2012	Amend(T)	5-1-2012	581-015-2780	4-2-2012	Amend	5-1-2012
461-190-0211(T)	4-6-2012	Repeal	5-1-2012	581-015-2790	4-2-2012	Amend	5-1-2012
471-030-0053	12-5-2011	Amend	1-1-2012	581-015-2805	4-2-2012	Amend	5-1-2012
471-030-0053(T)	12-5-2011	Repeal	1-1-2012	581-015-2810	4-2-2012	Amend	5-1-2012
471-030-0080	3-5-2012	Amend	4-1-2012	581-015-2815	4-2-2012	Amend	5-1-2012
471-030-0080(T)	3-5-2012	Repeal	4-1-2012	581-015-2825	4-2-2012	Amend	5-1-2012
471-030-0230	1-1-2012	Adopt(T)	2-1-2012	581-015-2830	4-2-2012	Amend	5-1-2012
471-030-0230	2-29-2012	Adopt(T)	4-1-2012	581-015-2835	4-2-2012	Amend	5-1-2012
471-030-0230(T)	2-29-2012	Suspend	4-1-2012	581-015-2840	4-2-2012	Amend	5-1-2012
471-040-0010	2-10-2012	Amend	3-1-2012	581-015-2863	4-2-2012	Adopt	5-1-2012
471-040-0010(T)	2-10-2012	Repeal	3-1-2012	581-015-2870	4-2-2012	Amend	5-1-2012
471-040-0040	2-10-2012	Amend	3-1-2012	581-015-2885	4-2-2012	Amend	5-1-2012
471-040-0040(T)	2-10-2012	Repeal	3-1-2012	581-015-2890	4-2-2012	Amend	5-1-2012
471-040-0041	2-10-2012	Amend	3-1-2012	581-020-0334	12-15-2011	Amend	1-1-2012
471-040-0041(T)	2-10-2012	Repeal	3-1-2012	581-020-0336	1-1-2012	Amend	1-1-2012
574-050-0005	1-27-2012	Amend	3-1-2012	581-020-0339	12-15-2011	Repeal	1-1-2012
576-001-0060	12-27-2011	Adopt	2-1-2012	581-020-0342	12-15-2011	Adopt	1-1-2012
576-010-0000	12-27-2011	Amend	2-1-2012	581-020-0342(T)	12-15-2011	Repeal	1-1-2012
576-015-0020	3-30-2012	Amend(T)	5-1-2012	581-020-0343	12-15-2011	Adopt	1-1-2012

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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
581-023-0112	1-1-2012	Amend	1-1-2012	581-070-0200	12-15-2011	Repeal	1-1-2012
581-040-0000	12-15-2011	Repeal	1-1-2012	581-070-0210	12-15-2011	Repeal	1-1-2012
581-044-0080	12-15-2011	Repeal	1-1-2012	581-070-0220	12-15-2011	Repeal	1-1-2012
581-044-0090	12-15-2011	Repeal	1-1-2012	581-070-0230	12-15-2011	Repeal	1-1-2012
581-044-0100	12-15-2011	Repeal	1-1-2012	581-070-0240	12-15-2011	Repeal	1-1-2012
581-044-0110	12-15-2011	Repeal	1-1-2012	581-070-0250	12-15-2011	Repeal	1-1-2012
581-044-0120	12-15-2011	Repeal	1-1-2012	581-070-0380	12-15-2011	Repeal	1-1-2012
581-044-0130	12-15-2011	Repeal	1-1-2012	581-070-0390	12-15-2011	Repeal	1-1-2012
581-044-0140	12-15-2011	Repeal	1-1-2012	581-070-0400	12-15-2011	Repeal	1-1-2012
581-044-0200	12-15-2011	Repeal	1-1-2012	581-070-0410	12-15-2011	Repeal	1-1-2012
581-044-0210	4-2-2012	Adopt	5-1-2012	581-070-0420	12-15-2011	Repeal	1-1-2012
581-044-0220	4-2-2012	Adopt	5-1-2012	581-070-0500	12-15-2011	Repeal	1-1-2012
581-044-0230	4-2-2012	Adopt	5-1-2012	581-070-0510	12-15-2011	Repeal	1-1-2012
581-044-0240	4-2-2012	Adopt	5-1-2012	581-071-0005	12-15-2011	Repeal	1-1-2012
581-044-0250	4-2-2012	Adopt	5-1-2012	581-071-0010	12-15-2011	Repeal	1-1-2012
581-044-0260	4-2-2012	Adopt	5-1-2012	584-010-0001	3-9-2012	Amend	4-1-2012
581-045-0500	2-3-2012	Repeal	3-1-2012	584-010-0010	3-9-2012	Amend	4-1-2012
581-045-0505	2-3-2012	Repeal	3-1-2012	584-010-0015	3-9-2012	Amend	4-1-2012
581-045-0510	2-3-2012	Repeal	3-1-2012	584-010-0020	3-9-2012	Amend	4-1-2012
581-045-0515	2-3-2012	Repeal	3-1-2012	584-010-0022	3-9-2012	Adopt	4-1-2012
581-045-0520	2-3-2012	Repeal	3-1-2012	584-010-0025	3-9-2012	Amend	4-1-2012
581-045-0522	2-3-2012	Repeal	3-1-2012	584-010-0030	3-9-2012	Amend	4-1-2012
581-045-0525	2-3-2012	Repeal	3-1-2012	584-010-0035	3-9-2012	Amend	4-1-2012
581-045-0530	2-3-2012	Repeal	3-1-2012	584-010-0045	3-9-2012	Amend	4-1-2012
581-045-0535	2-3-2012	Repeal	3-1-2012	584-010-0050	3-9-2012	Amend	4-1-2012

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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	603-024-0592	7-1-2012	Amend	5-1-2012
584-017-1032	3-9-2012	Adopt	4-1-2012	603-027-0410	12-14-2011	Amend	1-1-2012
584-017-1035	3-9-2012	Adopt	4-1-2012	603-027-0420	12-14-2011	Amend	1-1-2012
584-017-1038	3-9-2012	Adopt	4-1-2012	603-027-0430	12-14-2011	Amend	1-1-2012
584-017-1040	3-9-2012	Adopt	4-1-2012	603-027-0440	12-14-2011	Amend	1-1-2012
584-017-1042	3-9-2012	Adopt	4-1-2012	603-027-0490	12-14-2011	Amend	1-1-2012
584-017-1045	3-9-2012	Adopt	4-1-2012	603-051-0365	2-9-2012	Amend	3-1-2012
584-017-1048	3-9-2012	Adopt	4-1-2012	603-051-0366	2-9-2012	Adopt	3-1-2012
584-017-1050	3-9-2012	Adopt	4-1-2012	603-051-0370	2-9-2012	Amend	3-1-2012
584-017-1052	3-9-2012	Adopt	4-1-2012	603-051-0375	2-9-2012	Amend	3-1-2012
584-017-1055	3-9-2012	Adopt	4-1-2012	603-051-0380	2-9-2012	Repeal	3-1-2012
584-018-0100	3-9-2012	Adopt	4-1-2012	603-051-0385	2-9-2012	Repeal	3-1-2012
584-018-0105	3-9-2012	Adopt	4-1-2012	603-051-0390	2-9-2012	Amend	3-1-2012
584-018-0110	3-9-2012	Adopt	4-1-2012	603-051-0395	2-9-2012	Amend	3-1-2012
584-018-0115	3-9-2012	Adopt	4-1-2012	603-051-0775	2-1-2012	Adopt	3-1-2012
584-018-0120	3-9-2012	Adopt	4-1-2012	603-051-0777	2-1-2012	Adopt	3-1-2012
584-018-0125	3-9-2012	Adopt	4-1-2012	603-051-0779	2-1-2012	Adopt	3-1-2012
584-018-0130	3-9-2012	Adopt	4-1-2012	603-051-0780	2-1-2012	Adopt	3-1-2012
584-018-0135	3-9-2012	Adopt	4-1-2012	603-051-0785	2-1-2012	Adopt	3-1-2012
584-018-0140	3-9-2012	Adopt	4-1-2012	603-052-0115	3-26-2012	Amend	5-1-2012
584-018-0205	3-9-2012	Adopt	4-1-2012	603-052-0116	3-26-2012	Amend	5-1-2012
584-018-0315	3-9-2012	Adopt	4-1-2012	603-052-0117	3-22-2012	Repeal	5-1-2012
584-018-0405	3-9-2012	Adopt	4-1-2012	603-052-0118	3-26-2012	Amend	5-1-2012
584-018-0410	3-9-2012	Adopt	4-1-2012	603-052-0126	3-26-2012	Amend	5-1-2012
584-018-0415	3-9-2012	Adopt	4-1-2012	603-052-0150	3-26-2012	Amend	5-1-2012
584-018-0505	3-9-2012	Adopt	4-1-2012	603-052-0201	3-22-2012	Repeal	5-1-2012
584-018-0510	3-9-2012	Adopt	4-1-2012	603-052-0206	3-22-2012	Repeal	5-1-2012
584-018-0515	3-9-2012	Adopt	4-1-2012	603-052-0207	3-22-2012	Repeal	5-1-2012
584-036-0055	2-15-2012	Amend	3-1-2012	603-052-0208	3-22-2012	Repeal	5-1-2012
584-042-0008	2-15-2012	Amend	3-1-2012	603-052-0209	3-22-2012	Repeal	5-1-2012
584-042-0012	2-15-2012	Amend	3-1-2012	603-052-0334	3-22-2012	Repeal	5-1-2012
584-042-0021	2-15-2012	Amend	3-1-2012	603-052-0800	3-22-2012	Repeal	5-1-2012
584-042-0031	2-15-2012	Amend	3-1-2012	603-052-1025	3-26-2012	Amend	5-1-2012
584-042-0036	2-15-2012	Amend	3-1-2012	603-052-1230	3-22-2012	Amend	5-1-2012
584-042-0044	2-15-2012	Amend	3-1-2012	603-057-0001	1-1-2013	Amend	2-1-2012
584-042-0051	2-15-2012	Amend	3-1-2012	603-057-0100	1-1-2013	Amend	2-1-2012
584-042-0081	2-15-2012	Amend	3-1-2012	603-057-0127	1-1-2013	Amend	2-1-2012
584-060-0051	2-15-2012	Amend(T)	3-1-2012	603-076-0052	12-8-2011	Amend(T)	1-1-2012
584-060-0250	1-15-2012	Adopt	1-1-2012	603-095-0200	1-12-2012	Repeal	2-1-2012
589-007-0700	12-9-2011	Amend	1-1-2012	603-095-0220	1-12-2012	Repeal	2-1-2012
589-007-0800	12-9-2011	Adopt	1-1-2012	603-095-0240	1-12-2012	Repeal	2-1-2012
603-018-0001	12-28-2011	Adopt(T)	2-1-2012	603-095-0260	1-12-2012	Repeal	2-1-2012

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603-095-0280	1-12-2012	Repeal	2-1-2012	635-019-0080	1-1-2012	Amend	2-1-2012
603-095-1400	1-12-2012	Amend	2-1-2012	635-019-0090	1-1-2012	Amend	2-1-2012
603-095-1420	1-12-2012	Amend	2-1-2012	635-021-0080	1-1-2012	Amend	2-1-2012
603-095-1440	1-12-2012	Amend	2-1-2012	635-021-0090	1-1-2012	Amend	2-1-2012
603-095-1460	1-12-2012	Adopt	2-1-2012	635-023-0080	1-1-2012	Amend	2-1-2012
629-035-0105	1-1-2012	Amend	1-1-2012	635-023-0090	1-1-2012	Amend	2-1-2012
632-001-0020	12-14-2011	Adopt	1-1-2012	635-023-0095	1-1-2012	Amend	2-1-2012
635-004-0018	1-1-2012	Amend	2-1-2012	635-023-0095	1-5-2012	Amend(T)	2-1-2012
635-004-0019	1-1-2012	Amend	2-1-2012	635-023-0095	2-7-2012	Amend	3-1-2012
635-004-0027	1-9-2012	Amend(T)	2-1-2012	635-023-0095	2-18-2012	Amend(T)	3-1-2012
635-004-0033	1-1-2012	Amend	2-1-2012	635-023-0095(T)	2-7-2012	Repeal	3-1-2012
635-005-0045	12-1-2011	Amend(T)	1-1-2012	635-023-0125	1-1-2012	Amend	2-1-2012
635-005-0045	12-15-2011	Amend(T)	1-1-2012	635-023-0125	2-15-2012	Amend(T)	3-1-2012
635-005-0045(T)	12-15-2011	Suspend	1-1-2012	635-023-0125	4-6-2012	Amend(T)	5-1-2012
635-005-0055	12-1-2011	Amend(T)	1-1-2012	635-023-0125	4-14-2012	Amend(T)	5-1-2012
635-006-0210	1-1-2012	Amend	2-1-2012	635-023-0125(T)	4-6-2012	Suspend	5-1-2012
635-006-0211	1-1-2012	Amend	2-1-2012	635-023-0125(T)	4-14-2012	Suspend	5-1-2012
635-006-0215	1-1-2012	Amend	2-1-2012	635-023-0128	1-1-2012	Amend	2-1-2012
635-006-0232	1-1-2012	Amend(T)	2-1-2012	635-023-0130	1-1-2012	Amend	2-1-2012
635-006-0232	2-7-2012	Amend	3-1-2012	635-023-0134	1-1-2012	Amend	2-1-2012
635-006-0232(T)	2-7-2012	Repeal	3-1-2012	635-039-0080	1-1-2012	Amend	2-1-2012
635-006-1010	12-1-2011	Amend(T)	1-1-2012	635-039-0090	12-1-2011	Amend(T)	1-1-2012
635-006-1015	12-1-2011	Amend(T)	1-1-2012	635-039-0090	12-15-2011	Amend(T)	1-1-2012
635-006-1065	12-1-2011	Amend(T)	1-1-2012	635-039-0090	1-1-2012	Amend	2-1-2012
635-008-0123	1-1-2012	Amend	1-1-2012	635-039-0090(T)	12-1-2011	Suspend	1-1-2012
635-008-0135	1-1-2012	Amend	1-1-2012	635-039-0090(T)	12-15-2011	Suspend	1-1-2012
635-008-0151	2-6-2012	Amend(T)	3-1-2012	635-041-0045	2-1-2012	Amend(T)	3-1-2012
635-008-0155	1-1-2012	Amend	1-1-2012	635-041-0045	2-29-2012	Amend(T)	4-1-2012
635-010-0170	2-6-2012	Amend(T)	3-1-2012	635-041-0045(T)	2-29-2012	Suspend	4-1-2012
635-011-0100	1-1-2012	Amend	2-1-2012	635-041-0065	2-1-2012	Amend(T)	3-1-2012
635-012-0020	12-25-2011	Amend(T)	1-1-2012	635-041-0065	2-29-2012	Amend(T)	4-1-2012
635-012-0020(T)	12-25-2011	Suspend	1-1-2012	635-041-0065	3-5-2012	Amend(T)	4-1-2012
635-012-0030	12-25-2011	Suspend	1-1-2012	635-041-0065	3-5-2012	Amend(T)	4-1-2012
635-012-0040	12-25-2011	Suspend	1-1-2012	635-041-0065(T)	2-29-2012	Suspend	4-1-2012
635-012-0050	12-25-2011	Suspend	1-1-2012	635-041-0065(T)	3-5-2012	Suspend	4-1-2012
635-012-0060	12-25-2011	Suspend	1-1-2012	635-041-0065(T)	3-5-2012	Suspend	4-1-2012
635-013-0003	1-1-2012	Amend	2-1-2012	635-042-0022	4-3-2012	Amend(T)	5-1-2012
635-013-0004	1-1-2012	Amend	2-1-2012	635-042-0022	4-10-2012	Amend(T)	5-1-2012
635-014-0080	1-1-2012	Amend	2-1-2012	635-042-0022(T)	4-10-2012	Suspend	5-1-2012
635-014-0090	1-1-2012	Amend	2-1-2012	635-042-0135	1-30-2012	Amend(T)	3-1-2012
635-016-0080	1-1-2012	Amend	2-1-2012	635-042-0145	2-12-2012	Amend(T)	3-1-2012
635-016-0090	1-1-2012	Amend	2-1-2012	635-042-0145	3-18-2012	Amend(T)	4-1-2012
635-017-0080	1-1-2012	Amend	2-1-2012	635-042-0145	3-21-2012	Amend(T)	5-1-2012
635-017-0090	1-1-2012	Amend	2-1-2012	635-042-0145	3-29-2012	Amend(T)	5-1-2012
635-017-0090	1-1-2012	Amend(T)	1-1-2012	635-042-0145	4-1-2012	Amend(T)	5-1-2012
635-017-0090	3-12-2012	Amend	4-1-2012	635-042-0145	4-5-2012	Amend(T)	5-1-2012
635-017-0095	1-1-2012	Amend	2-1-2012	635-042-0145(T)	3-18-2012	Suspend	4-1-2012
635-017-0095	2-17-2012	Amend(T)	3-1-2012	635-042-0145(T)	3-21-2012	Suspend	5-1-2012
635-017-0095	2-23-2012	Amend(T)	4-1-2012	635-042-0145(T)	3-29-2012	Suspend	5-1-2012
635-017-0095(T)	2-23-2012	Suspend	4-1-2012	635-042-0145(T)	4-1-2012	Suspend	5-1-2012
635-018-0080	1-1-2012	Amend	2-1-2012	635-042-0145(T)	4-5-2012	Suspend	5-1-2012
635-018-0090	1-1-2012	Amend	2-1-2012	635-042-0160	2-12-2012	Amend(T)	3-1-2012
635-018-0090	1-1-2012	Amend(T)	2-1-2012	635-042-0180	2-12-2012	Amend(T)	3-1-2012
635-018-0090	3-12-2012	Amend	4-1-2012	635-043-0051	12-30-2011	Amend(T)	2-1-2012
635-018-0090	4-15-2012	Amend(T)	5-1-2012	635-053-0035	12-21-2011	Amend(T)	2-1-2012
635-018-0090(T)	4-15-2012	Suspend	5-1-2012	635-060-0023	4-1-2012	Amend	4-1-2012

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635-060-0046	2-10-2012	Amend(T)	3-1-2012	660-008-0010	2-14-2012	Amend	3-1-2012
635-065-0001	1-1-2012	Amend	1-1-2012	660-008-0015	2-14-2012	Amend	3-1-2012
635-065-0015	1-1-2012	Amend	1-1-2012	660-008-0020	2-14-2012	Amend	3-1-2012
635-065-0090	1-1-2012	Amend	1-1-2012	660-008-0025	2-14-2012	Amend	3-1-2012
635-065-0401	1-1-2012	Amend	1-1-2012	660-008-0030	2-14-2012	Amend	3-1-2012
635-065-0625	1-1-2012	Amend	1-1-2012	660-008-0035	2-14-2012	Amend	3-1-2012
635-065-0635	1-1-2012	Amend	1-1-2012	660-008-0040	2-14-2012	Amend	3-1-2012
635-065-0733	1-1-2012	Amend	1-1-2012	660-012-0005	1-1-2012	Amend	2-1-2012
635-065-0740	1-1-2012	Amend	1-1-2012	660-012-0060	1-1-2012	Amend	2-1-2012
635-065-0760	1-1-2012	Amend	1-1-2012	660-018-0005	2-14-2012	Amend	3-1-2012
635-066-0000	1-1-2012	Amend	1-1-2012	660-018-0010	2-14-2012	Amend	3-1-2012
635-066-0010	1-1-2012	Amend	1-1-2012	660-018-0020	1-1-2012	Amend(T)	2-1-2012
635-067-0000	1-1-2012	Amend	1-1-2012	660-018-0020	2-14-2012	Amend	3-1-2012
635-067-0004	1-1-2012	Amend	1-1-2012	660-018-0020(T)	2-14-2012	Repeal	3-1-2012
635-067-0030	1-1-2012	Amend	1-1-2012	660-018-0021	1-1-2012	Amend(T)	2-1-2012
635-067-0040	1-1-2012	Amend	1-1-2012	660-018-0021	2-14-2012	Amend	3-1-2012
635-068-0000	3-1-2012	Amend	3-1-2012	660-018-0021(T)	2-14-2012	Repeal	3-1-2012
635-069-0000	2-1-2012	Amend	2-1-2012	660-018-0022	1-1-2012	Amend(T)	2-1-2012
635-070-0000	4-1-2012	Amend	4-1-2012	660-018-0022	2-14-2012	Amend	3-1-2012
635-071-0000	4-1-2012	Amend	4-1-2012	660-018-0022(T)	2-14-2012	Repeal	3-1-2012
635-072-0000	1-1-2012	Amend	1-1-2012	660-018-0025	2-14-2012	Amend	3-1-2012
635-073-0000	2-1-2012	Amend	2-1-2012	660-018-0030	2-14-2012	Repeal	3-1-2012
635-073-0065	2-1-2012	Amend	2-1-2012	660-018-0035	2-14-2012	Amend	3-1-2012
635-073-0070	2-1-2012	Amend	2-1-2012	660-018-0040	1-1-2012	Amend(T)	2-1-2012
635-078-0011	4-1-2012	Amend	4-1-2012	660-018-0040	2-14-2012	Amend	3-1-2012
635-095-0100	2-10-2012	Adopt	3-1-2012	660-018-0040(T)	2-14-2012	Repeal	3-1-2012
635-095-0105	2-10-2012	Adopt	3-1-2012	660-018-0045	2-14-2012	Amend	3-1-2012
635-095-0111	2-10-2012	Adopt	3-1-2012	660-018-0050	2-14-2012	Amend	3-1-2012
635-095-0125	2-10-2012	Adopt	3-1-2012	660-018-0055	2-14-2012	Amend	3-1-2012
635-100-0125	3-14-2012	Amend	4-1-2012	660-018-0060	2-14-2012	Amend	3-1-2012
635-435-0000	3-16-2012	Amend	5-1-2012	660-018-0085	2-14-2012	Amend	3-1-2012
635-435-0005	3-16-2012	Amend	5-1-2012	660-018-0140	2-14-2012	Repeal	3-1-2012
635-435-0010	3-16-2012	Amend	5-1-2012	660-018-0150	2-14-2012	Amend	3-1-2012
635-435-0015	3-16-2012	Amend	5-1-2012	660-025-0010	2-14-2012	Amend	3-1-2012
635-435-0025	3-16-2012	Amend	5-1-2012	660-025-0020	2-14-2012	Amend	3-1-2012
635-435-0030	3-16-2012	Amend	5-1-2012	660-025-0030	2-14-2012	Amend	3-1-2012
635-435-0035	3-16-2012	Amend	5-1-2012	660-025-0035	2-14-2012	Amend	3-1-2012
635-435-0040	3-16-2012	Amend	5-1-2012	660-025-0040	2-14-2012	Amend	3-1-2012
635-435-0060	3-16-2012	Amend	5-1-2012	660-025-0050	2-14-2012	Amend	3-1-2012
656-010-0000	11-30-2011	Amend	1-1-2012	660-025-0060	2-14-2012	Amend	3-1-2012
656-010-0010	11-30-2011	Amend	1-1-2012	660-025-0070	2-14-2012	Amend	3-1-2012
660-007-0000	2-14-2012	Amend	3-1-2012	660-025-0080	2-14-2012	Amend	3-1-2012
660-007-0005	2-14-2012	Amend	3-1-2012	660-025-0085	2-14-2012	Amend	3-1-2012
660-007-0015	2-14-2012	Amend	3-1-2012	660-025-0090	2-14-2012	Amend	3-1-2012
660-007-0018	2-14-2012	Amend	3-1-2012	660-025-0100	2-14-2012	Amend	3-1-2012
660-007-0020	2-14-2012	Amend	3-1-2012	660-025-0110	2-14-2012	Amend	3-1-2012
660-007-0022	2-14-2012	Amend	3-1-2012	660-025-0130	2-14-2012	Amend	3-1-2012
660-007-0030	2-14-2012	Amend	3-1-2012	660-025-0140	2-14-2012	Amend	3-1-2012
660-007-0033	2-14-2012	Amend	3-1-2012	660-025-0150	2-14-2012	Amend	3-1-2012
660-007-0035	2-14-2012	Amend	3-1-2012	660-025-0160	2-14-2012	Amend	3-1-2012
660-007-0037	2-14-2012	Amend	3-1-2012	660-025-0170	2-14-2012	Amend	3-1-2012
660-007-0045	2-14-2012	Amend	3-1-2012	660-025-0175	2-14-2012	Amend	3-1-2012
660-007-0050	2-14-2012	Amend	3-1-2012	660-025-0180	2-14-2012	Amend	3-1-2012
660-007-0060	2-14-2012	Amend	3-1-2012	660-025-0210	2-14-2012	Amend	3-1-2012
660-008-0000	2-14-2012	Amend	3-1-2012	660-025-0220	2-14-2012	Amend	3-1-2012
660-008-0005	2-14-2012	Amend	3-1-2012	660-025-0230	2-14-2012	Amend	3-1-2012

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660-027-0070	2-14-2012	Amend	3-1-2012	705-010-0015	3-29-2012	Adopt(T)	5-1-2012
660-028-0010	2-14-2012	Amend	3-1-2012	705-010-0020	3-29-2012	Adopt(T)	5-1-2012
660-028-0020	2-14-2012	Amend	3-1-2012	705-010-0025	3-29-2012	Adopt(T)	5-1-2012
660-028-0030	2-14-2012	Amend	3-1-2012	705-010-0030	3-29-2012	Adopt(T)	5-1-2012
660-033-0030	12-20-2011	Amend	2-1-2012	705-010-0035	3-29-2012	Adopt(T)	5-1-2012
660-033-0030	2-14-2012	Amend	3-1-2012	705-010-0040	3-29-2012	Adopt(T)	5-1-2012
660-033-0045	2-14-2012	Adopt	3-1-2012	705-010-0045	3-29-2012	Adopt(T)	5-1-2012
660-033-0100	2-14-2012	Amend	3-1-2012	705-010-0050	3-29-2012	Adopt(T)	5-1-2012
660-033-0120	11-23-2011	Amend	1-1-2012	705-010-0055	3-29-2012	Adopt(T)	5-1-2012
660-033-0120	2-14-2012	Amend	3-1-2012	705-010-0060	3-29-2012	Adopt(T)	5-1-2012
660-033-0130	11-23-2011	Amend	1-1-2012	731-001-0005	2-21-2012	Amend(T)	4-1-2012
660-033-0130	2-14-2012	Amend	3-1-2012	731-003-0005	3-21-2012	Adopt	5-1-2012
660-033-0135	2-14-2012	Amend	3-1-2012	731-003-0005(T)	3-21-2012	Repeal	5-1-2012
668-010-0015	4-12-2012	Amend	5-1-2012	731-035-0020	12-22-2011	Amend	2-1-2012
668-030-0020	4-12-2012	Amend	5-1-2012	731-035-0040	12-22-2011	Amend	2-1-2012
690-013-0100	2-1-2012	Amend	3-1-2012	731-035-0050	12-22-2011	Amend	2-1-2012
690-013-0310	2-1-2012	Amend	3-1-2012	731-035-0060	12-22-2011	Amend	2-1-2012
690-018-0050	2-1-2012	Amend	3-1-2012	731-035-0070	12-22-2011	Amend	2-1-2012
690-019-0080	2-1-2012	Amend	3-1-2012	731-035-0080	12-22-2011	Amend	2-1-2012
690-053-0015	2-1-2012	Amend	3-1-2012	731-146-0010	1-1-2012	Amend	2-1-2012
690-053-0030	2-1-2012	Amend	3-1-2012	731-146-0015	1-1-2012	Amend	2-1-2012
690-053-0035	2-1-2012	Amend	3-1-2012	731-146-0020	1-1-2012	Amend	2-1-2012
690-077-0029	2-1-2012	Amend	3-1-2012	731-146-0025	1-1-2012	Amend	2-1-2012
690-077-0031	2-1-2012	Amend	3-1-2012	731-146-0030	1-1-2012	Amend	2-1-2012
690-077-0039	2-1-2012	Amend	3-1-2012	731-146-0050	1-1-2012	Amend	2-1-2012
690-077-0077	2-1-2012	Amend	3-1-2012	731-146-0060	1-1-2012	Amend	2-1-2012
690-240-0010	2-2-2012	Amend	3-1-2012	731-147-0010	1-1-2012	Amend	2-1-2012
690-240-0035	2-2-2012	Amend	3-1-2012	731-147-0040	1-1-2012	Amend	2-1-2012
690-240-0040	2-2-2012	Adopt	3-1-2012	731-147-0060	1-1-2012	Repeal	2-1-2012
690-240-0043	2-2-2012	Adopt	3-1-2012	731-148-0010	1-1-2012	Amend	2-1-2012
690-240-0046	2-2-2012	Adopt	3-1-2012	731-148-0020	1-1-2012	Repeal	2-1-2012
690-240-0049	2-2-2012	Adopt	3-1-2012	731-149-0010	1-1-2012	Amend	2-1-2012
690-300-0010	2-1-2012	Amend	3-1-2012	734-005-0005	1-1-2012	Adopt	2-1-2012
690-310-0020	2-1-2012	Amend	3-1-2012	734-005-0010	1-1-2012	Adopt	2-1-2012
690-310-0050	2-1-2012	Amend	3-1-2012	734-005-0015	1-1-2012	Adopt	2-1-2012
690-310-0080	2-1-2012	Amend	3-1-2012	734-020-0005	12-22-2011	Amend	2-1-2012
690-310-0090	2-1-2012	Amend	3-1-2012	734-020-0018	1-27-2012	Adopt	3-1-2012
690-310-0100	2-1-2012	Amend	3-1-2012	734-020-0019	1-27-2012	Adopt	3-1-2012
690-310-0150	2-1-2012	Amend	3-1-2012	734-020-0020	3-26-2012	Amend	5-1-2012
690-315-0050	2-1-2012	Amend	3-1-2012	734-020-0025	3-26-2012	Repeal	5-1-2012
690-330-0010	2-1-2012	Amend	3-1-2012	734-020-0032	3-26-2012	Repeal	5-1-2012
690-380-2260	2-1-2012	Amend	3-1-2012	734-020-0034	3-26-2012	Repeal	5-1-2012
690-380-3100	2-1-2012	Amend	3-1-2012	734-020-0055	12-22-2011	Repeal	2-1-2012
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

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734-020-0500	3-26-2012	Amend	5-1-2012	734-051-2020	1-1-2012	Adopt(T)	2-1-2012
734-026-0010	1-1-2012	Adopt	2-1-2012	734-051-2030	1-1-2012	Adopt(T)	2-1-2012
734-026-0020	1-1-2012	Adopt	2-1-2012	734-051-3010	1-1-2012	Adopt(T)	2-1-2012
734-026-0030	1-1-2012	Adopt	2-1-2012	734-051-3020	1-1-2012	Adopt(T)	2-1-2012
734-026-0040	1-1-2012	Adopt	2-1-2012	734-051-3030	1-1-2012	Adopt(T)	2-1-2012
734-026-0045	1-1-2012	Adopt	2-1-2012	734-051-3040	1-1-2012	Adopt(T)	2-1-2012
734-035-0010	2-24-2012	Amend	4-1-2012	734-051-3050	1-1-2012	Adopt(T)	2-1-2012
734-035-0040	2-24-2012	Amend	4-1-2012	734-051-3060	1-1-2012	Adopt(T)	2-1-2012
734-051-0010	1-1-2012	Suspend	2-1-2012	734-051-3070	1-1-2012	Adopt(T)	2-1-2012
734-051-0020	1-1-2012	Suspend	2-1-2012	734-051-3080	1-1-2012	Adopt(T)	2-1-2012
734-051-0035	1-1-2012	Suspend	2-1-2012	734-051-3090	1-1-2012	Adopt(T)	2-1-2012
734-051-0040	1-1-2012	Suspend	2-1-2012	734-051-3100	1-1-2012	Adopt(T)	2-1-2012
734-051-0045	1-1-2012	Suspend	2-1-2012	734-051-3110	1-1-2012	Adopt(T)	2-1-2012
734-051-0070	1-1-2012	Suspend	2-1-2012	734-051-4010	1-1-2012	Adopt(T)	2-1-2012
734-051-0080	1-1-2012	Suspend	2-1-2012	734-051-4020	1-1-2012	Adopt(T)	2-1-2012
734-051-0085	1-1-2012	Suspend	2-1-2012	734-051-4030	1-1-2012	Adopt(T)	2-1-2012
734-051-0095	1-1-2012	Suspend	2-1-2012	734-051-4040	1-1-2012	Adopt(T)	2-1-2012
734-051-0105	1-1-2012	Suspend	2-1-2012	734-051-4050	1-1-2012	Adopt(T)	2-1-2012
734-051-0115	1-1-2012	Suspend	2-1-2012	734-051-5010	1-1-2012	Adopt(T)	2-1-2012
734-051-0125	1-1-2012	Suspend	2-1-2012	734-051-5020	1-1-2012	Adopt(T)	2-1-2012
734-051-0135	1-1-2012	Suspend	2-1-2012	734-051-5030	1-1-2012	Adopt(T)	2-1-2012
734-051-0145	1-1-2012	Suspend	2-1-2012	734-051-5040	1-1-2012	Adopt(T)	2-1-2012
734-051-0155	1-1-2012	Suspend	2-1-2012	734-051-5050	1-1-2012	Adopt(T)	2-1-2012
734-051-0165	1-1-2012	Suspend	2-1-2012	734-051-5060	1-1-2012	Adopt(T)	2-1-2012
734-051-0175	1-1-2012	Suspend	2-1-2012	734-051-5070	1-1-2012	Adopt(T)	2-1-2012
734-051-0185	1-1-2012	Suspend	2-1-2012	734-051-5080	1-1-2012	Adopt(T)	2-1-2012
734-051-0195	1-1-2012	Suspend	2-1-2012	734-051-5090	1-1-2012	Adopt(T)	2-1-2012
734-051-0205	1-1-2012	Suspend	2-1-2012	734-051-5100	1-1-2012	Adopt(T)	2-1-2012
734-051-0215	1-1-2012	Suspend	2-1-2012	734-051-5110	1-1-2012	Adopt(T)	2-1-2012
734-051-0225	1-1-2012	Suspend	2-1-2012	734-051-5120	1-1-2012	Adopt(T)	2-1-2012
734-051-0245	1-1-2012	Suspend	2-1-2012	734-051-6010	1-1-2012	Adopt(T)	2-1-2012
734-051-0255	1-1-2012	Suspend	2-1-2012	734-051-6020	1-1-2012	Adopt(T)	2-1-2012
734-051-0265	1-1-2012	Suspend	2-1-2012	734-051-6030	1-1-2012	Adopt(T)	2-1-2012
734-051-0275	1-1-2012	Suspend	2-1-2012	734-051-6040	1-1-2012	Adopt(T)	2-1-2012
734-051-0285	1-1-2012	Suspend	2-1-2012	734-051-6050	1-1-2012	Adopt(T)	2-1-2012
734-051-0295	1-1-2012	Suspend	2-1-2012	734-051-6060	1-1-2012	Adopt(T)	2-1-2012
734-051-0305	1-1-2012	Suspend	2-1-2012	734-051-6070	1-1-2012	Adopt(T)	2-1-2012
734-051-0315	1-1-2012	Suspend	2-1-2012	734-051-7010	1-1-2012	Adopt(T)	2-1-2012
734-051-0325	1-1-2012	Suspend	2-1-2012	734-060-0000	3-26-2012	Amend	5-1-2012
734-051-0335	1-1-2012	Suspend	2-1-2012	734-060-0000(T)	3-26-2012	Repeal	5-1-2012
734-051-0345	1-1-2012	Suspend	2-1-2012	734-060-0007	3-26-2012	Adopt	5-1-2012
734-051-0355	1-1-2012	Suspend	2-1-2012	734-060-0007(T)	3-26-2012	Repeal	5-1-2012
734-051-0500	1-1-2012	Suspend	2-1-2012	734-060-0010	3-26-2012	Amend	5-1-2012
734-051-0510	1-1-2012	Suspend	2-1-2012	734-065-0015	3-26-2012	Amend	5-1-2012
734-051-0520	1-1-2012	Suspend	2-1-2012	734-065-0020	3-26-2012	Amend	5-1-2012
734-051-0530	1-1-2012	Suspend	2-1-2012	734-065-0025	3-26-2012	Amend	5-1-2012
734-051-0540	1-1-2012	Suspend	2-1-2012	734-070-0010	1-27-2012	Amend	3-1-2012
734-051-0550	1-1-2012	Suspend	2-1-2012	734-075-0005	1-27-2012	Amend	3-1-2012
734-051-0560	1-1-2012	Suspend	2-1-2012	734-075-0008	1-27-2012	Amend	3-1-2012
734-051-1010	1-1-2012	Adopt(T)	2-1-2012	734-075-0010	1-27-2012	Amend	3-1-2012
734-051-1020	1-1-2012	Adopt(T)	2-1-2012	734-075-0011	1-27-2012	Amend	3-1-2012
734-051-1030	1-1-2012	Adopt(T)	2-1-2012	734-075-0015	1-27-2012	Amend	3-1-2012
734-051-1050	1-1-2012	Adopt(T)	2-1-2012	734-075-0020	1-27-2012	Amend	3-1-2012
734-051-1060	1-1-2012	Adopt(T)	2-1-2012	734-075-0022	1-27-2012	Amend	3-1-2012
734-051-1070	1-1-2012	Adopt(T)	2-1-2012	734-075-0025	1-27-2012	Amend	3-1-2012
734-051-2010	1-1-2012	Adopt(T)	2-1-2012	734-075-0035	1-27-2012	Amend	3-1-2012

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734-075-0037	1-27-2012	Amend	3-1-2012	735-152-0000	1-1-2012	Amend	2-1-2012
734-075-0040	1-27-2012	Amend	3-1-2012	735-152-0005	1-1-2012	Amend	2-1-2012
734-075-0041	1-27-2012	Amend	3-1-2012	735-152-0020	1-1-2012	Amend	2-1-2012
734-075-0045	1-27-2012	Amend	3-1-2012	735-152-0040	1-1-2012	Amend	2-1-2012
734-075-0055	1-27-2012	Amend	3-1-2012	735-152-0050	1-1-2012	Amend	2-1-2012
734-075-0085	1-27-2012	Amend	3-1-2012	735-152-0060	1-1-2012	Amend	2-1-2012
734-076-0065	1-27-2012	Amend	3-1-2012	736-004-0005	2-15-2012	Amend	3-1-2012
734-076-0075	1-27-2012	Amend	3-1-2012	736-004-0010	2-15-2012	Amend	3-1-2012
734-076-0105	1-27-2012	Amend	3-1-2012	736-004-0015	2-15-2012	Amend	3-1-2012
734-076-0115	1-27-2012	Amend	3-1-2012	736-004-0020	2-15-2012	Amend	3-1-2012
734-076-0135	1-27-2012	Amend	3-1-2012	736-004-0025	2-15-2012	Amend	3-1-2012
734-076-0145	1-27-2012	Amend	3-1-2012	736-004-0030	2-15-2012	Amend	3-1-2012
734-076-0155	1-27-2012	Amend	3-1-2012	736-004-0045	2-15-2012	Amend	3-1-2012
734-076-0165	1-27-2012	Amend	3-1-2012	736-004-0060	2-15-2012	Amend	3-1-2012
734-076-0175	1-27-2012	Amend	3-1-2012	736-004-0062	2-15-2012	Amend	3-1-2012
734-082-0021	1-27-2012	Amend	3-1-2012	736-004-0085	2-15-2012	Amend	3-1-2012
735-001-0030	12-22-2011	Repeal	2-1-2012	736-004-0090	2-15-2012	Amend	3-1-2012
735-001-0050	1-30-2012	Amend	3-1-2012	736-004-0095	2-15-2012	Amend	3-1-2012
735-010-0030	1-30-2012	Amend	3-1-2012	736-004-0100	2-15-2012	Amend	3-1-2012
735-016-0080	12-22-2011	Repeal	2-1-2012	736-004-0105	2-15-2012	Amend	3-1-2012
735-020-0010	2-21-2012	Amend	4-1-2012	736-004-0115	2-15-2012	Amend	3-1-2012
735-020-0012	2-21-2012	Amend	4-1-2012	736-004-0120	2-15-2012	Amend	3-1-2012
735-030-0330	1-1-2012	Amend	2-1-2012	736-004-0125	2-15-2012	Amend	3-1-2012
735-032-0010	4-1-2012	Amend	5-1-2012	736-004-0130	2-15-2012	Adopt	3-1-2012
735-040-0030	1-1-2012	Amend	2-1-2012	736-015-0010	11-28-2011	Amend	1-1-2012
735-050-0090	12-22-2011	Repeal	2-1-2012	736-015-0020	11-28-2011	Amend	1-1-2012
735-062-0002	1-30-2012	Amend	3-1-2012	736-015-0026	11-28-2011	Amend	1-1-2012
735-062-0005	1-1-2012	Amend	2-1-2012	736-015-0030	11-28-2011	Amend	1-1-2012
735-062-0007	1-30-2012	Amend	3-1-2012	736-015-0025	2-28-2012	Amend(T)	4-1-2012
735-062-0010	1-1-2012	Amend	2-1-2012	738-010-0025	12-22-2011	Amend	2-1-2012
735-062-0015	1-1-2012	Amend	2-1-2012	740-055-0010	11-23-2011	Amend	1-1-2012
735-062-0016	11-23-2011	Amend	1-1-2012	740-055-0100	11-23-2011	Amend	1-1-2012
735-062-0032	1-1-2012	Amend	2-1-2012	740-100-0010	4-1-2012	Amend	4-1-2012
735-062-0033	1-1-2012	Amend	2-1-2012	740-100-0065	4-1-2012	Amend	4-1-2012
735-062-0033	1-1-2012	Amend	2-1-2012	740-100-0070	4-1-2012	Amend	4-1-2012
735-062-0080	1-30-2012	Amend	3-1-2012	740-100-0080	4-1-2012	Amend	4-1-2012
735-062-0085	1-30-2012	Amend	3-1-2012	740-100-0085	4-1-2012	Amend	4-1-2012
735-062-0090	1-30-2012	Amend	3-1-2012	740-100-0090	4-1-2012	Amend	4-1-2012
735-062-0110	1-30-2012	Amend	3-1-2012	740-100-0100	4-1-2012	Amend	2-1-2012
735-062-0120	1-1-2012	Amend	2-1-2012	740-100-0100	1-1-2012	Amend	2-1-2012
735-062-0125	1-1-2012	Amend	2-1-2012	740-110-0010	4-1-2012	Amend	4-1-2012
735-062-0135	1-1-2012	Amend	2-1-2012	740-200-0020	2-21-2012	Amend	4-1-2012
735-062-0135	1-1-2012	Amend	2-1-2012	740-200-0040	2-21-2012	Amend	4-1-2012
735-062-0200	1-30-2012	Amend	3-1-2012	740-300-0010	11-23-2011	Amend	1-1-2012
735-063-0000	1-30-2012	Amend	3-1-2012	740-300-0060	3-26-2012	Amend	5-1-2012
735-063-0050	1-30-2012	Amend	3-1-2012	741-040-0010	1-27-2012	Adopt	3-1-2012
735-063-0060	1-30-2012	Amend	3-1-2012	741-040-0020	1-27-2012	Adopt	3-1-2012
735-063-0065	1-30-2012	Amend	3-1-2012	741-040-0030	1-27-2012	Adopt	3-1-2012
735-063-0067	1-30-2012	Adopt	3-1-2012	741-040-0040	1-27-2012	Adopt	3-1-2012
735-064-0085	12-22-2011	Repeal	2-1-2012	741-040-0040	1-27-2012	Adopt	3-1-2012
735-064-0220	1-1-2012	Amend	2-1-2012	741-040-0050	1-27-2012	Adopt	3-1-2012
735-070-0004	11-23-2011	Amend	1-1-2012	741-040-0060	1-27-2012	Adopt	3-1-2012
735-070-0010	1-1-2012	Amend	2-1-2012	741-040-0070	1-27-2012	Adopt	3-1-2012
735-070-0054	11-23-2011	Amend	1-1-2012	800-010-0015	2-1-2012	Amend	3-1-2012
735-070-0085	3-26-2012	Amend(T)	5-1-2012	800-010-0040	2-1-2012	Amend	3-1-2012
735-072-0035	1-1-2012	Amend	2-1-2012	800-015-0005	2-1-2012	Amend	3-1-2012
735-074-0140	1-1-2012	Amend	2-1-2012	800-015-0010	2-1-2012	Amend	3-1-2012
				800-015-0015	2-1-2012	Amend	3-1-2012

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800-015-0030	2-1-2012	Amend	3-1-2012	812-002-0260	1-1-2012	Amend	1-1-2012
800-020-0015	2-1-2012	Amend	3-1-2012	812-002-0443	3-2-2012	Amend	4-1-2012
800-020-0022	2-1-2012	Amend	3-1-2012	812-005-0140	3-2-2012	Amend	4-1-2012
800-020-0025	2-1-2012	Amend	3-1-2012	812-005-0140(T)	3-2-2012	Repeal	4-1-2012
800-025-0020	2-1-2012	Amend	3-1-2012	812-005-0250	3-2-2012	Amend	4-1-2012
800-025-0027	2-1-2012	Amend	3-1-2012	812-005-0800	1-1-2012	Amend	1-1-2012
801-001-0035	1-1-2012	Amend	2-1-2012	812-005-0800	3-2-2012	Amend	4-1-2012
801-001-0045	1-1-2012	Adopt	2-1-2012	812-007-0020	3-2-2012	Amend	4-1-2012
801-005-0010	1-1-2012	Amend	2-1-2012	812-007-0302	3-2-2012	Amend	4-1-2012
801-005-0300	1-1-2012	Amend	2-1-2012	812-007-0350	3-2-2012	Amend	4-1-2012
801-010-0010	1-1-2012	Amend	2-1-2012	812-008-0000	1-1-2012	Amend	1-1-2012
801-010-0040	1-1-2012	Amend	2-1-2012	812-008-0020	1-1-2012	Amend	1-1-2012
801-010-0050	1-1-2012	Amend	2-1-2012	812-008-0030	1-1-2012	Amend	1-1-2012
801-010-0065	1-1-2012	Amend	2-1-2012	812-021-0005	1-13-2012	Amend(T)	2-1-2012
801-010-0073	1-1-2012	Amend	2-1-2012	812-021-0015	11-18-2011	Amend(T)	1-1-2012
801-010-0075	1-1-2012	Amend	2-1-2012	812-021-0015	3-2-2012	Amend	4-1-2012
801-010-0079	1-1-2012	Amend	2-1-2012	812-021-0015(T)	3-2-2012	Repeal	4-1-2012
801-010-0080	1-1-2012	Amend	2-1-2012	812-021-0019	3-2-2012	Amend	4-1-2012
801-010-0085	1-1-2012	Amend	2-1-2012	812-021-0025	2-9-2012	Amend(T)	3-1-2012
801-010-0110	1-1-2012	Amend	2-1-2012	812-021-0025	3-2-2012	Amend	4-1-2012
801-010-0115	1-1-2012	Amend	2-1-2012	812-021-0025(T)	3-2-2012	Repeal	4-1-2012
801-010-0120	1-1-2012	Amend	2-1-2012	812-021-0030	2-9-2012	Amend(T)	3-1-2012
801-010-0125	1-1-2012	Amend	2-1-2012	812-021-0031	2-9-2012	Amend(T)	3-1-2012
801-010-0130	1-1-2012	Amend	2-1-2012	812-021-0040	3-2-2012	Amend	4-1-2012
801-010-0190	1-1-2012	Am. & Ren.	2-1-2012	813-006-0025	4-2-2012	Amend(T)	5-1-2012
801-010-0340	1-1-2012	Amend	2-1-2012	813-020-0005	3-27-2012	Amend	5-1-2012
801-010-0345	1-1-2012	Amend	2-1-2012	813-020-0005(T)	3-27-2012	Repeal	5-1-2012
801-040-0010	1-1-2012	Amend	2-1-2012	813-020-0010	3-27-2012	Repeal	5-1-2012
801-040-0020	1-1-2012	Amend	2-1-2012	813-020-0015	3-27-2012	Repeal	5-1-2012
801-040-0090	1-1-2012	Amend	2-1-2012	813-020-0016	3-27-2012	Repeal	5-1-2012
801-040-0100	1-1-2012	Amend	2-1-2012	813-020-0017	3-27-2012	Repeal	5-1-2012
801-040-0160	1-1-2012	Amend	2-1-2012	813-020-0020	3-27-2012	Repeal	5-1-2012
801-050-0010	1-1-2012	Amend	2-1-2012	813-020-0020(T)	3-27-2012	Repeal	5-1-2012
801-050-0020	1-1-2012	Amend	2-1-2012	813-020-0024	3-27-2012	Repeal	5-1-2012
801-050-0040	1-1-2012	Amend	2-1-2012	813-020-0025	3-27-2012	Repeal	5-1-2012
806-010-0045	1-4-2012	Amend	2-1-2012	813-020-0025(T)	3-27-2012	Repeal	5-1-2012
808-002-0020	1-1-2012	Amend	2-1-2012	813-020-0030	3-27-2012	Repeal	5-1-2012
808-002-0390	1-1-2012	Adopt	2-1-2012	813-020-0032	3-27-2012	Repeal	5-1-2012
808-002-0625	1-1-2012	Amend	2-1-2012	813-020-0033	3-27-2012	Repeal	5-1-2012
808-003-0015	1-1-2012	Amend	2-1-2012	813-020-0035	3-27-2012	Amend	5-1-2012
808-003-0025	1-1-2012	Amend	2-1-2012	813-020-0035(T)	3-27-2012	Repeal	5-1-2012
808-003-0030	1-1-2012	Amend	2-1-2012	813-020-0040	3-27-2012	Repeal	5-1-2012
808-003-0040	1-1-2012	Amend	2-1-2012	813-020-0041	3-27-2012	Repeal	5-1-2012
808-003-0065	1-1-2012	Amend	2-1-2012	813-020-0042	3-27-2012	Repeal	5-1-2012
808-003-0090	1-1-2012	Amend	2-1-2012	813-020-0045	3-27-2012	Amend	5-1-2012
808-003-0126	1-1-2012	Adopt	2-1-2012	813-020-0045(T)	3-27-2012	Repeal	5-1-2012
808-003-0130	1-1-2012	Amend	2-1-2012	813-020-0050	3-27-2012	Repeal	5-1-2012
808-003-0620	1-1-2012	Adopt	2-1-2012	813-020-0051	3-27-2012	Repeal	5-1-2012
808-004-0320	1-1-2012	Amend	2-1-2012	813-020-0060	3-27-2012	Amend	5-1-2012
808-005-0020	1-1-2012	Amend	2-1-2012	813-020-0060(T)	3-27-2012	Repeal	5-1-2012
808-040-0020	1-1-2012	Amend	2-1-2012	813-020-0070	3-27-2012	Amend	5-1-2012
808-040-0020	4-1-2012	Amend	5-1-2012	813-020-0070(T)	3-27-2012	Repeal	5-1-2012
808-040-0025	4-1-2012	Amend	5-1-2012	813-044-0000	3-27-2012	Amend	5-1-2012
808-040-0050	4-1-2012	Amend(T)	5-1-2012	813-044-0000(T)	3-27-2012	Repeal	5-1-2012
808-040-0080	1-1-2012	Amend	2-1-2012	813-044-0010	3-27-2012	Repeal	5-1-2012

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813-044-0030	3-27-2012	Amend	5-1-2012	836-053-0415	12-19-2011	Adopt	2-1-2012
813-044-0030(T)	3-27-2012	Repeal	5-1-2012	836-053-0825	12-19-2011	Adopt	2-1-2012
813-044-0040	3-27-2012	Amend	5-1-2012	836-053-0830	12-19-2011	Adopt	2-1-2012
813-044-0040(T)	3-27-2012	Repeal	5-1-2012	836-053-0851	12-19-2011	Amend	2-1-2012
813-044-0050	3-27-2012	Amend	5-1-2012	836-053-0856	12-19-2011	Repeal	2-1-2012
813-044-0050(T)	3-27-2012	Repeal	5-1-2012	836-053-0857	12-19-2011	Adopt	2-1-2012
813-044-0055	3-27-2012	Adopt	5-1-2012	836-053-0861	12-19-2011	Repeal	2-1-2012
813-044-0055(T)	3-27-2012	Repeal	5-1-2012	836-053-0862	12-19-2011	Adopt	2-1-2012
813-044-0060	3-27-2012	Repeal	5-1-2012	836-053-0862	4-15-2012	Suspend	5-1-2012
813-140-0096	4-11-2012	Amend	5-1-2012	836-053-0863	4-15-2012	Adopt(T)	5-1-2012
817-090-0025	3-12-2012	Amend(T)	4-1-2012	836-053-0866	12-19-2011	Repeal	2-1-2012
817-090-0035	3-12-2012	Amend(T)	4-1-2012	836-053-1000	12-19-2011	Amend	2-1-2012
817-090-0045	3-12-2012	Amend(T)	4-1-2012	836-053-1030	12-19-2011	Amend	2-1-2012
817-090-0105	3-12-2012	Amend(T)	4-1-2012	836-053-1033	12-19-2011	Adopt	2-1-2012
817-120-0005	3-12-2012	Amend(T)	4-1-2012	836-053-1035	12-19-2011	Adopt	2-1-2012
818-001-0087	1-27-2012	Amend	3-1-2012	836-053-1060	12-19-2011	Amend	2-1-2012
820-010-0305	3-16-2012	Amend(T)	5-1-2012	836-053-1070	12-19-2011	Amend	2-1-2012
820-010-0505	3-16-2012	Amend(T)	5-1-2012	836-053-1080	12-19-2011	Amend	2-1-2012
830-011-0000	4-1-2012	Amend	5-1-2012	836-053-1100	12-19-2011	Amend	2-1-2012
830-011-0020	4-1-2012	Amend	5-1-2012	836-053-1110	12-19-2011	Amend	2-1-2012
830-011-0070	4-1-2012	Amend	5-1-2012	836-053-1140	12-19-2011	Amend	2-1-2012
830-020-0030	4-1-2012	Amend	5-1-2012	836-053-1310	12-19-2011	Amend	2-1-2012
830-020-0040	4-1-2012	Amend	5-1-2012	836-053-1340	12-19-2011	Amend	2-1-2012
830-020-0050	4-1-2012	Amend	5-1-2012	836-053-1342	12-19-2011	Amend	2-1-2012
830-030-0000	4-1-2012	Amend	5-1-2012	836-053-1350	12-19-2011	Amend	2-1-2012
830-030-0008	4-1-2012	Amend	5-1-2012	836-071-0500	1-1-2012	Amend	2-1-2012
830-030-0010	4-1-2012	Amend	5-1-2012	836-071-0501	1-1-2012	Adopt	2-1-2012
830-030-0030	4-1-2012	Amend	5-1-2012	836-071-0550	1-1-2012	Adopt	2-1-2012
830-030-0040	4-1-2012	Amend	5-1-2012	836-071-0560	1-1-2012	Adopt	2-1-2012
830-030-0050	4-1-2012	Amend	5-1-2012	836-071-0565	1-1-2012	Adopt	2-1-2012
830-030-0090	4-1-2012	Amend	5-1-2012	836-071-0570	1-1-2012	Adopt	2-1-2012
830-030-0100	4-1-2012	Amend	5-1-2012	836-200-0250	1-1-2012	Adopt	1-1-2012
830-040-0000	4-1-2012	Amend	5-1-2012	836-200-0255	1-1-2012	Adopt	1-1-2012
830-040-0010	4-1-2012	Amend	5-1-2012	836-200-0300	1-1-2012	Adopt	1-1-2012
830-040-0020	4-1-2012	Amend	5-1-2012	836-200-0305	1-1-2012	Adopt	1-1-2012
830-040-0040	4-1-2012	Amend	5-1-2012	836-200-0310	1-1-2012	Adopt	1-1-2012
830-040-0050	4-1-2012	Amend	5-1-2012	836-200-0315	1-1-2012	Adopt	1-1-2012
833-120-0011	12-15-2011	Amend	1-1-2012	837-012-0515	2-6-2012	Amend(T)	3-1-2012
833-120-0021	12-15-2011	Amend	1-1-2012	837-020-0080	1-24-2012	Amend	3-1-2012
833-120-0031	12-15-2011	Amend	1-1-2012	837-020-0085	1-24-2012	Amend	3-1-2012
833-120-0041	12-15-2011	Amend	1-1-2012	837-020-0115	1-24-2012	Amend	3-1-2012
834-040-0000	3-28-2012	Adopt	5-1-2012	837-035-0000	1-24-2012	Amend	3-1-2012
836-005-0107	3-27-2012	Amend	5-1-2012	837-035-0060	1-24-2012	Amend	3-1-2012
836-010-0000	1-1-2012	Amend	2-1-2012	837-035-0080	1-24-2012	Amend	3-1-2012
836-010-0011	1-1-2012	Amend	2-1-2012	837-035-0100	1-24-2012	Amend	3-1-2012
836-010-0012	1-1-2012	Repeal	2-1-2012	837-035-0160	1-24-2012	Amend	3-1-2012
836-011-0000	2-7-2012	Amend	3-1-2012	837-035-0200	1-24-2012	Amend	3-1-2012
836-011-0600	2-16-2012	Adopt	4-1-2012	837-035-0220	1-24-2012	Amend	3-1-2012
836-052-0138	1-1-2013	Amend	4-1-2012	837-035-0240	1-24-2012	Amend	3-1-2012
836-052-0143	1-1-2013	Adopt	4-1-2012	837-040-0020	2-10-2012	Amend(T)	3-1-2012
836-052-0508	2-14-2012	Amend	3-1-2012	837-040-0020	3-1-2012	Amend	3-1-2012
836-052-0768	2-14-2012	Adopt	3-1-2012	839-001-0300	1-1-2012	Adopt	2-1-2012
836-052-0770	2-14-2012	Adopt	3-1-2012	839-001-0560	1-1-2012	Amend	2-1-2012
836-052-0900	1-13-2012	Suspend	2-1-2012	839-002-0001	1-1-2012	Amend	2-1-2012
836-052-1000	4-5-2012	Amend	5-1-2012	839-002-0002	1-1-2012	Amend	2-1-2012

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839-002-0015	1-1-2012	Amend	2-1-2012	839-011-0070	1-3-2012	Amend	2-1-2012
839-002-0020	1-1-2012	Amend	2-1-2012	839-011-0072	1-3-2012	Amend	2-1-2012
839-002-0025	1-1-2012	Amend	2-1-2012	839-011-0074	1-3-2012	Amend	2-1-2012
839-002-0030	1-1-2012	Amend	2-1-2012	839-011-0082	1-3-2012	Amend	2-1-2012
839-002-0035	1-1-2012	Amend	2-1-2012	839-011-0084	1-3-2012	Amend	2-1-2012
839-002-0040	1-1-2012	Amend	2-1-2012	839-011-0088	1-3-2012	Amend	2-1-2012
839-002-0045	1-1-2012	Amend	2-1-2012	839-011-0090	1-3-2012	Amend	2-1-2012
839-002-0050	1-1-2012	Amend	2-1-2012	839-011-0140	1-3-2012	Amend	2-1-2012
839-002-0055	1-1-2012	Amend	2-1-2012	839-011-0141	1-3-2012	Amend	2-1-2012
839-002-0060	1-1-2012	Amend	2-1-2012	839-011-0142	1-3-2012	Amend	2-1-2012
839-002-0065	1-1-2012	Amend	2-1-2012	839-011-0143	1-3-2012	Amend	2-1-2012
839-002-0070	1-1-2012	Amend	2-1-2012	839-011-0145	1-3-2012	Amend	2-1-2012
839-002-0075	1-1-2012	Amend	2-1-2012	839-011-0162	1-3-2012	Amend	2-1-2012
839-002-0080	1-1-2012	Amend	2-1-2012	839-011-0175	1-3-2012	Amend	2-1-2012
839-005-0033	1-1-2012	Renumber	2-1-2012	839-011-0265	1-3-2012	Amend	2-1-2012
839-005-0033	2-8-2012	Am. & Ren.	3-1-2012	839-011-0270	1-3-2012	Amend	2-1-2012
839-005-0075	1-1-2012	Adopt	2-1-2012	839-011-0290	1-3-2012	Amend	2-1-2012
839-005-0075	2-8-2012	Adopt	3-1-2012	839-011-0310	1-3-2012	Amend	2-1-2012
839-005-0130	1-1-2012	Adopt	2-1-2012	839-011-0320	1-3-2012	Amend	2-1-2012
839-005-0130	2-8-2012	Adopt	3-1-2012	839-011-0334	1-3-2012	Amend	2-1-2012
839-005-0135	1-1-2012	Adopt	2-1-2012	839-025-0700	1-1-2012	Amend	2-1-2012
839-005-0135	2-8-2012	Adopt	3-1-2012	839-025-0700	3-29-2012	Amend	5-1-2012
839-005-0160	1-1-2012	Amend	2-1-2012	839-050-0040	1-1-2012	Amend	2-1-2012
839-005-0160	2-8-2012	Amend	3-1-2012	839-050-0310	1-1-2012	Amend	2-1-2012
839-005-0170	1-1-2012	Amend	2-1-2012	839-050-0340	1-1-2012	Amend	2-1-2012
839-005-0170	2-8-2012	Amend	3-1-2012	845-005-0413	4-5-2012	Amend(T)	5-1-2012
839-006-0440	1-1-2012	Amend	2-1-2012	845-005-0425	1-1-2012	Amend	1-1-2012
839-006-0440	2-8-2012	Amend	3-1-2012	845-006-0335	5-1-2012	Amend	5-1-2012
839-006-0450	1-1-2012	Amend	2-1-2012	845-006-0392	5-1-2012	Amend	5-1-2012
839-006-0450	2-8-2012	Amend	3-1-2012	845-006-0396	5-1-2012	Amend	5-1-2012
839-006-0455	1-1-2012	Amend	2-1-2012	845-009-0135	1-1-2012	Amend	1-1-2012
839-006-0455	2-8-2012	Amend	3-1-2012	845-015-0101	1-1-2012	Amend	1-1-2012
839-006-0470	1-1-2012	Amend	2-1-2012	845-015-0101	4-1-2012	Amend	5-1-2012
839-006-0470	2-8-2012	Amend	3-1-2012	845-015-0105	4-1-2012	Amend	5-1-2012
839-006-0480	1-1-2012	Amend	2-1-2012	845-015-0115	4-1-2012	Amend	5-1-2012
839-006-0480	2-8-2012	Amend	3-1-2012	845-015-0118	4-1-2012	Amend	5-1-2012
839-009-0325	1-1-2012	Amend	2-1-2012	845-015-0120	1-1-2012	Amend	1-1-2012
839-009-0325	2-8-2012	Amend	3-1-2012	845-015-0185	1-1-2012	Amend	1-1-2012
839-009-0330	1-1-2012	Amend	2-1-2012	845-015-0190	1-1-2012	Amend	1-1-2012
839-009-0330	2-8-2012	Amend	3-1-2012	845-015-0196	1-1-2012	Amend	1-1-2012
839-009-0340	1-1-2012	Amend	2-1-2012	845-015-0210	1-1-2012	Adopt	1-1-2012
839-009-0340	2-8-2012	Amend	3-1-2012	847-001-0000	2-7-2012	Amend(T)	3-1-2012
839-009-0345	1-1-2012	Amend	2-1-2012	847-001-0005	2-7-2012	Amend(T)	3-1-2012
839-009-0345	2-8-2012	Amend	3-1-2012	847-001-0007	2-10-2012	Adopt	3-1-2012
839-009-0355	1-1-2012	Amend	2-1-2012	847-001-0010	2-7-2012	Amend(T)	3-1-2012
839-009-0355	2-8-2012	Amend	3-1-2012	847-001-0015	2-7-2012	Amend(T)	3-1-2012
839-009-0360	1-1-2012	Amend	2-1-2012	847-001-0020	2-7-2012	Amend(T)	3-1-2012
839-009-0360	2-8-2012	Amend	3-1-2012	847-001-0022	2-7-2012	Amend(T)	3-1-2012
839-009-0362	1-1-2012	Amend	2-1-2012	847-001-0025	2-7-2012	Amend(T)	3-1-2012
839-009-0362	2-8-2012	Amend	3-1-2012	847-001-0030	2-7-2012	Amend(T)	3-1-2012
839-009-0365	1-1-2012	Amend	2-1-2012	847-005-0005	1-1-2012	Amend(T)	2-1-2012
839-009-0365	2-8-2012	Amend	3-1-2012	847-005-0005	2-10-2012	Amend	3-1-2012
839-011-0020	1-3-2012	Amend	2-1-2012	847-005-0005	3-2-2012	Amend(T)	4-1-2012
839-011-0050	1-3-2012	Amend	2-1-2012	847-005-0005(T)	2-10-2012	Repeal	3-1-2012
839-011-0051	1-3-2012	Amend	2-1-2012	847-008-0040	1-1-2012	Amend(T)	1-1-2012

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847-008-0040(T)	2-10-2012	Repeal	3-1-2012	847-050-0046(T)	2-10-2012	Repeal	3-1-2012
847-020-0155	2-10-2012	Amend	3-1-2012	847-050-0050	1-1-2012	Amend(T)	1-1-2012
847-020-0155	3-2-2012	Amend(T)	4-1-2012	847-050-0050	2-10-2012	Amend	3-1-2012
847-020-0155(T)	2-10-2012	Repeal	3-1-2012	847-050-0050(T)	2-10-2012	Repeal	3-1-2012
847-035-0020	2-10-2012	Amend	3-1-2012	847-050-0055	1-1-2012	Amend(T)	1-1-2012
847-050-0005	1-1-2012	Amend(T)	1-1-2012	847-050-0055	2-10-2012	Amend	3-1-2012
847-050-0005	2-10-2012	Amend	3-1-2012	847-050-0055(T)	2-10-2012	Repeal	3-1-2012
847-050-0005(T)	2-10-2012	Repeal	3-1-2012	847-050-0060	1-1-2012	Amend(T)	1-1-2012
847-050-0010	1-1-2012	Amend(T)	1-1-2012	847-050-0060	2-10-2012	Amend	3-1-2012
847-050-0010	2-10-2012	Amend	3-1-2012	847-050-0060(T)	2-10-2012	Repeal	3-1-2012
847-050-0010(T)	2-10-2012	Repeal	3-1-2012	847-050-0063	1-1-2012	Amend(T)	1-1-2012
847-050-0015	1-1-2012	Amend(T)	1-1-2012	847-050-0063	2-10-2012	Amend	3-1-2012
847-050-0015	2-10-2012	Amend	3-1-2012	847-050-0063(T)	2-10-2012	Repeal	3-1-2012
847-050-0015(T)	2-10-2012	Repeal	3-1-2012	847-050-0065	1-1-2012	Amend(T)	1-1-2012
847-050-0020	1-1-2012	Amend(T)	1-1-2012	847-050-0065	2-10-2012	Amend	3-1-2012
847-050-0020	2-10-2012	Amend	3-1-2012	847-050-0065(T)	2-10-2012	Repeal	3-1-2012
847-050-0020(T)	2-10-2012	Repeal	3-1-2012	847-070-0045	2-10-2012	Amend	3-1-2012
847-050-0023	1-1-2012	Amend(T)	1-1-2012	848-010-0015	3-1-2012	Amend	3-1-2012
847-050-0023	2-10-2012	Amend	3-1-2012	848-010-0020	3-1-2012	Amend	3-1-2012
847-050-0023(T)	2-10-2012	Repeal	3-1-2012	848-010-0026	3-1-2012	Amend	3-1-2012
847-050-0025	1-1-2012	Amend(T)	1-1-2012	848-010-0035	3-1-2012	Amend	3-1-2012
847-050-0025	2-10-2012	Amend	3-1-2012	848-035-0030	3-1-2012	Amend	3-1-2012
847-050-0025(T)	2-10-2012	Repeal	3-1-2012	848-035-0040	3-1-2012	Amend	3-1-2012
847-050-0026	1-1-2012	Amend(T)	1-1-2012	848-040-0125	3-1-2012	Amend	3-1-2012
847-050-0026	2-10-2012	Amend	3-1-2012	848-045-0010	3-1-2012	Amend	3-1-2012
847-050-0026(T)	2-10-2012	Repeal	3-1-2012	850-030-0010	4-12-2012	Amend(T)	5-1-2012
847-050-0027	1-1-2012	Amend(T)	1-1-2012	850-030-0030	4-12-2012	Amend(T)	5-1-2012
847-050-0027	2-10-2012	Amend	3-1-2012	850-030-0031	4-12-2012	Adopt(T)	5-1-2012
847-050-0027	3-2-2012	Amend(T)	4-1-2012	850-030-0070	4-12-2012	Amend(T)	5-1-2012
847-050-0027(T)	2-10-2012	Repeal	3-1-2012	850-050-0120	12-23-2011	Amend	1-1-2012
847-050-0029	1-1-2012	Amend(T)	1-1-2012	850-060-0215	12-23-2011	Amend	1-1-2012
847-050-0029	2-10-2012	Amend	3-1-2012	851-002-0000	11-22-2011	Amend	1-1-2012
847-050-0029(T)	2-10-2012	Repeal	3-1-2012	851-062-0090	4-1-2012	Amend	4-1-2012
847-050-0035	1-1-2012	Amend(T)	1-1-2012	851-062-0110	4-1-2012	Amend	4-1-2012
847-050-0035	2-10-2012	Amend	3-1-2012	853-001-0000	1-1-2012	Repeal	1-1-2012
847-050-0035(T)	2-10-2012	Repeal	3-1-2012	853-001-0005	1-1-2012	Repeal	1-1-2012
847-050-0037	1-1-2012	Amend(T)	1-1-2012	853-001-0020	1-1-2012	Repeal	1-1-2012
847-050-0037	2-10-2012	Amend	3-1-2012	853-001-0025	1-1-2012	Repeal	1-1-2012
847-050-0037(T)	2-10-2012	Repeal	3-1-2012	853-001-0030	1-1-2012	Repeal	1-1-2012
847-050-0038	1-1-2012	Amend(T)	1-1-2012	853-010-0010	1-1-2012	Repeal	1-1-2012
847-050-0038	2-10-2012	Amend	3-1-2012	853-010-0015	1-1-2012	Repeal	1-1-2012
847-050-0038(T)	2-10-2012	Repeal	3-1-2012	853-010-0017	1-1-2012	Repeal	1-1-2012
847-050-0040	1-1-2012	Amend(T)	1-1-2012	853-010-0020	1-1-2012	Repeal	1-1-2012
847-050-0040	2-10-2012	Amend	3-1-2012	853-010-0025	1-1-2012	Repeal	1-1-2012
847-050-0040(T)	2-10-2012	Repeal	3-1-2012	853-010-0035	1-1-2012	Repeal	1-1-2012
847-050-0041	1-1-2012	Amend(T)	1-1-2012	853-010-0040	1-1-2012	Repeal	1-1-2012
847-050-0041	2-10-2012	Amend	3-1-2012	853-010-0045	1-1-2012	Repeal	1-1-2012
847-050-0041(T)	2-10-2012	Repeal	3-1-2012	853-010-0050	1-1-2012	Repeal	1-1-2012
847-050-0042	1-1-2012	Amend(T)	1-1-2012	853-010-0055	1-1-2012	Repeal	1-1-2012
847-050-0042	2-10-2012	Amend	3-1-2012	853-010-0060	1-1-2012	Repeal	1-1-2012
847-050-0042(T)	2-10-2012	Repeal	3-1-2012	853-010-0065	1-1-2012	Repeal	1-1-2012
847-050-0043	1-1-2012	Amend(T)	1-1-2012	853-010-0070	1-1-2012	Repeal	1-1-2012
847-050-0043	2-10-2012	Amend	3-1-2012	853-010-0074	1-1-2012	Repeal	1-1-2012
847-050-0043(T)	2-10-2012	Repeal	3-1-2012	853-010-0075	1-1-2012	Repeal	1-1-2012
847-050-0046	1-1-2012	Amend(T)	1-1-2012	853-010-0076	1-1-2012	Repeal	1-1-2012

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853-010-0077	1-1-2012	Repeal	1-1-2012	860-024-0010	3-9-2012	Amend	4-1-2012
853-010-0078	1-1-2012	Repeal	1-1-2012	860-036-0001	1-1-2012	Amend	2-1-2012
853-010-0079	1-1-2012	Repeal	1-1-2012	860-036-0010	1-1-2012	Amend	2-1-2012
853-010-0080	1-1-2012	Repeal	1-1-2012	860-036-0015	1-1-2012	Amend	2-1-2012
853-020-0000	1-1-2012	Adopt	1-1-2012	860-036-0030	1-1-2012	Amend	2-1-2012
853-030-0000	1-1-2012	Adopt	1-1-2012	860-036-0040	1-1-2012	Amend	2-1-2012
853-030-0010	1-1-2012	Adopt	1-1-2012	860-036-0050	1-1-2012	Amend	2-1-2012
853-030-0020	1-1-2012	Adopt	1-1-2012	860-036-0060	1-1-2012	Amend	2-1-2012
853-030-0030	1-1-2012	Adopt	1-1-2012	860-036-0065	1-1-2012	Amend	2-1-2012
853-030-0040	1-1-2012	Adopt	1-1-2012	860-036-0097	1-1-2012	Amend	2-1-2012
853-030-0050	1-1-2012	Adopt	1-1-2012	860-036-0130	1-1-2012	Amend	2-1-2012
853-030-0060	1-1-2012	Adopt	1-1-2012	860-036-0405	1-1-2012	Amend	2-1-2012
853-030-0070	1-1-2012	Adopt	1-1-2012	860-036-0407	1-1-2012	Repeal	2-1-2012
853-040-0000	1-1-2012	Adopt	1-1-2012	860-036-0425	1-1-2012	Adopt	2-1-2012
853-050-0000	1-1-2012	Adopt	1-1-2012	860-036-0505	1-1-2012	Amend	2-1-2012
853-050-0010	1-1-2012	Adopt	1-1-2012	860-036-0605	1-1-2012	Amend	2-1-2012
853-060-0000	1-1-2012	Adopt	1-1-2012	860-036-0610	1-1-2012	Amend	2-1-2012
853-060-0010	1-1-2012	Adopt	1-1-2012	860-036-0615	1-1-2012	Amend	2-1-2012
855-019-0260	1-1-2012	Amend	2-1-2012	860-036-0625	1-1-2012	Am. & Ren.	2-1-2012
855-019-0280	1-1-2012	Amend	2-1-2012	860-036-0640	1-1-2012	Amend	2-1-2012
855-019-0290	1-1-2012	Amend	2-1-2012	860-036-0705	1-1-2012	Amend	2-1-2012
855-031-0010	1-1-2012	Amend	2-1-2012	860-036-0708	1-1-2012	Adopt	2-1-2012
855-031-0020	1-1-2012	Amend	2-1-2012	860-036-0710	1-1-2012	Amend	2-1-2012
855-031-0026	1-1-2012	Adopt	2-1-2012	860-036-0715	1-1-2012	Amend	2-1-2012
855-031-0045	1-1-2012	Amend	2-1-2012	860-036-0737	1-1-2012	Amend	2-1-2012
855-041-0095	1-1-2012	Amend	2-1-2012	860-036-0739	1-1-2012	Amend	2-1-2012
855-060-0004	1-1-2012	Adopt	2-1-2012	860-036-0740	1-1-2012	Amend	2-1-2012
855-080-0100	12-15-2011	Amend(T)	1-1-2012	860-036-0745	1-1-2012	Amend	2-1-2012
855-080-0100(T)	12-15-2011	Suspend	1-1-2012	860-036-0750	1-1-2012	Amend	2-1-2012
855-080-0103(T)	12-15-2011	Suspend	1-1-2012	860-036-0756	1-1-2012	Amend	2-1-2012
855-110-0005	12-15-2011	Amend	1-1-2012	860-036-0757	1-1-2012	Amend	2-1-2012
855-110-0007	12-15-2011	Amend	1-1-2012	860-036-0815	1-1-2012	Amend	2-1-2012
855-110-0010	12-15-2011	Amend	1-1-2012	860-036-0816	1-1-2012	Adopt	2-1-2012
856-010-0015	12-30-2011	Amend	2-1-2012	860-038-0480	3-15-2012	Amend	4-1-2012
856-010-0027	12-30-2011	Adopt	2-1-2012	860-038-0480(T)	3-15-2012	Repeal	4-1-2012
858-010-0010	2-15-2012	Amend(T)	3-1-2012	860-039-0005	2-22-2012	Amend	4-1-2012
858-010-0011	2-15-2012	Amend(T)	3-1-2012	875-005-0005	12-12-2011	Amend(T)	1-1-2012
858-010-0012	2-15-2012	Amend(T)	3-1-2012	875-040-0005	12-12-2011	Adopt(T)	1-1-2012
858-010-0013	2-15-2012	Amend(T)	3-1-2012	877-001-0020	12-29-2011	Amend	2-1-2012
858-010-0016	2-15-2012	Amend(T)	3-1-2012	877-010-0015	12-29-2011	Amend	2-1-2012
858-010-0017	2-15-2012	Amend(T)	3-1-2012	877-010-0020	12-29-2011	Amend	2-1-2012
859-030-0005	2-3-2012	Amend(T)	3-1-2012	877-015-0105	12-29-2011	Amend	2-1-2012
859-030-0010	2-3-2012	Amend(T)	3-1-2012	877-015-0108	12-29-2011	Amend	2-1-2012
859-070-0040	2-3-2012	Adopt(T)	3-1-2012	877-015-0136	12-29-2011	Amend	2-1-2012
859-200-0001	12-22-2011	Adopt(T)	2-1-2012	877-020-0005	12-29-2011	Amend	2-1-2012
859-300-0050	12-13-2011	Amend	1-1-2012	877-020-0008	12-29-2011	Amend	2-1-2012
859-300-0050(T)	12-13-2011	Repeal	1-1-2012	877-020-0010	12-29-2011	Amend	2-1-2012
860-023-0080	1-1-2012	Repeal	1-1-2012	877-020-0016	12-29-2011	Amend	2-1-2012
860-023-0090	1-1-2012	Repeal	1-1-2012	877-020-0036	12-29-2011	Amend	2-1-2012
860-023-0100	1-1-2012	Repeal	1-1-2012	877-025-0006	12-29-2011	Amend	2-1-2012
860-023-0110	1-1-2012	Repeal	1-1-2012	877-025-0011	12-29-2011	Amend	2-1-2012
860-023-0120	1-1-2012	Repeal	1-1-2012	877-040-0050	12-29-2011	Amend	2-1-2012
860-023-0130	1-1-2012	Repeal	1-1-2012	918-098-01530	3-1-2012	Amend(T)	4-1-2012
860-023-0140	1-1-2012	Repeal	1-1-2012	918-098-1000	1-1-2012	Amend	2-1-2012
860-023-0150	1-1-2012	Repeal	1-1-2012	918-098-1510	3-1-2012	Amend(T)	4-1-2012
860-023-0160	1-1-2012	Repeal	1-1-2012	918-098-1590	3-1-2012	Adopt(T)	4-1-2012

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918-225-0240	1-1-2012	Amend	2-1-2012	943-045-0350(T)	12-5-2011	Repeal	1-1-2012
918-225-0430	1-1-2012	Amend	2-1-2012	943-045-0360	12-5-2011	Adopt	1-1-2012
918-225-0435	1-1-2012	Amend	2-1-2012	943-045-0360(T)	12-5-2011	Repeal	1-1-2012
918-225-0570	1-1-2012	Amend	2-1-2012	943-045-0370	12-5-2011	Adopt	1-1-2012
918-225-0600	1-1-2012	Amend	2-1-2012	943-045-0370(T)	12-5-2011	Repeal	1-1-2012
918-225-0600	1-1-2012	Amend	2-1-2012	943-045-0400	12-23-2011	Adopt	2-1-2012
918-225-0606	1-1-2012	Adopt	2-1-2012	943-045-0400(T)	12-23-2011	Repeal	2-1-2012
918-225-0609	1-1-2012	Adopt	2-1-2012	943-045-0410	12-23-2011	Adopt	2-1-2012
918-225-0612	1-1-2012	Adopt	2-1-2012	943-045-0410(T)	12-23-2011	Repeal	2-1-2012
918-225-0615	1-1-2012	Adopt	2-1-2012	943-045-0420	12-23-2011	Adopt	2-1-2012
918-225-0618	1-1-2012	Adopt	2-1-2012	943-045-0420(T)	12-23-2011	Repeal	2-1-2012
918-225-0620	1-1-2012	Amend	2-1-2012	943-045-0430	12-23-2011	Adopt	2-1-2012
918-400-0455	1-1-2012	Amend	2-1-2012	943-045-0430(T)	12-23-2011	Repeal	2-1-2012
918-400-0458	1-1-2012	Amend	2-1-2012	943-045-0440	12-23-2011	Adopt	2-1-2012
918-440-0012	1-1-2012	Amend	2-1-2012	943-045-0440(T)	12-23-2011	Repeal	2-1-2012
918-460-0015	1-1-2012	Amend	2-1-2012	943-045-0450	12-23-2011	Adopt	2-1-2012
918-460-0015	2-1-2012	Amend	3-1-2012	943-045-0450(T)	12-23-2011	Repeal	2-1-2012
918-460-0510	1-1-2012	Amend	2-1-2012	943-045-0460	12-23-2011	Adopt	2-1-2012
918-525-0042	4-9-2012	Amend(T)	5-1-2012	943-045-0460(T)	12-23-2011	Repeal	2-1-2012
943-014-0300	12-1-2011	Adopt	1-1-2012	943-045-0470	12-23-2011	Adopt	2-1-2012
943-014-0300(T)	12-1-2011	Repeal	1-1-2012	943-045-0470(T)	12-23-2011	Repeal	2-1-2012
943-014-0305	12-1-2011	Adopt	1-1-2012	943-045-0480	12-23-2011	Adopt	2-1-2012
943-014-0305(T)	12-1-2011	Repeal	1-1-2012	943-045-0480(T)	12-23-2011	Repeal	2-1-2012
943-014-0310	12-1-2011	Adopt	1-1-2012	943-045-0490	12-23-2011	Adopt	2-1-2012
943-014-0310(T)	12-1-2011	Repeal	1-1-2012	943-045-0490(T)	12-23-2011	Repeal	2-1-2012
943-014-0315	12-1-2011	Adopt	1-1-2012	943-045-0500	12-23-2011	Adopt	2-1-2012
943-014-0315(T)	12-1-2011	Repeal	1-1-2012	943-045-0500(T)	12-23-2011	Repeal	2-1-2012
943-014-0320	12-1-2011	Adopt	1-1-2012	943-045-0510	12-23-2011	Adopt	2-1-2012
943-014-0320(T)	12-1-2011	Repeal	1-1-2012	943-045-0510(T)	12-23-2011	Repeal	2-1-2012
943-045-0000	12-4-2011	Adopt	1-1-2012	943-045-0520	12-23-2011	Adopt	2-1-2012
943-045-0000(T)	12-4-2011	Repeal	1-1-2012	943-045-0520(T)	12-23-2011	Repeal	2-1-2012
943-045-0250	12-5-2011	Adopt	1-1-2012	943-060-0050	2-17-2012	Adopt(T)	4-1-2012
943-045-0250(T)	12-5-2011	Repeal	1-1-2012	945-001-0001	3-6-2012	Adopt	4-1-2012
943-045-0260	12-5-2011	Adopt	1-1-2012	945-001-0006	3-6-2012	Adopt	4-1-2012
943-045-0260(T)	12-5-2011	Repeal	1-1-2012	945-001-0011	3-6-2012	Adopt	4-1-2012
943-045-0280	12-5-2011	Adopt	1-1-2012	945-010-0001	3-6-2012	Adopt	4-1-2012
943-045-0280(T)	12-5-2011	Repeal	1-1-2012	945-010-0006	3-6-2012	Adopt	4-1-2012
943-045-0290	12-5-2011	Adopt	1-1-2012	945-010-0011	3-6-2012	Adopt	4-1-2012
943-045-0290(T)	12-5-2011	Repeal	1-1-2012	945-010-0021	3-6-2012	Adopt	4-1-2012
943-045-0300	12-5-2011	Adopt	1-1-2012	945-010-0031	3-6-2012	Adopt	4-1-2012
943-045-0300(T)	12-5-2011	Repeal	1-1-2012	945-010-0041	3-6-2012	Adopt	4-1-2012
943-045-0310	12-5-2011	Adopt	1-1-2012	945-010-0051	3-6-2012	Adopt	4-1-2012
943-045-0310(T)	12-5-2011	Repeal	1-1-2012	945-010-0061	3-6-2012	Adopt	4-1-2012
943-045-0320	12-5-2011	Adopt	1-1-2012	945-010-0071	3-6-2012	Adopt	4-1-2012
943-045-0320(T)	12-5-2011	Repeal	1-1-2012	945-010-0081	3-6-2012	Adopt	4-1-2012
943-045-0330	12-5-2011	Adopt	1-1-2012	945-010-0091	3-6-2012	Adopt	4-1-2012
943-045-0330(T)	12-5-2011	Repeal	1-1-2012	945-010-0101	3-6-2012	Adopt	4-1-2012
943-045-0340	12-5-2011	Adopt	1-1-2012	951-004-0003	1-1-2012	Amend	1-1-2012
943-045-0340(T)	12-5-2011	Repeal	1-1-2012	951-004-0004	1-1-2012	Amend	1-1-2012