

# OREGON BULLETIN

Supplements the 2012 *Oregon Administrative Rules Compilation*

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

## General Information

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

## Background on Oregon Administrative Rules

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

## How to Cite

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

## Understanding an Administrative Rule’s “History”

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

## Locating the Most Recent Version of an Administrative Rule

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

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

## Locating Administrative Rules Unit Publications

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

## 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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## OTHER NOTICES

### REQUEST FOR COMMENTS PROPOSED RECORD OF DECISION FOR FARMERS COOPERATIVE SUPPLY

**COMMENTS DUE:** 5 p.m., April 30, 2012

**PROJECT LOCATION:** 514 SW 4th Ave., Ontario

**PROPOSAL:** The Oregon Department of Environmental Quality is providing notice for a public opportunity to review and comment on a draft Record of Decision for the Farmers Cooperative Supply site. The draft Record of Decision details the analysis and selection of remedial options to address petroleum contamination at the site located at 514 SW 4th Ave. in Ontario.

**HIGHLIGHTS:** The site has been an active petroleum service station since at least 1949. The recommended remedial action addresses gasoline and diesel contaminants and underlying constituents in contaminated soil and groundwater at and near the site. The proposed remedial option consists of continued nutrient injections combined with continued operation of the existing multi-phase extraction and groundwater recirculation systems and groundwater monitoring.

**HOW TO COMMENT:** Send comments by 5 p.m., April 30, 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, the draft Record of Decision and other documents in DEQ's leaking underground storage tank database, go to <http://www.deq.state.or.us/lq/tanks/lust/LustPublicLookup.asp>, enter LUST Number 23 98 0057, select "lookup," click on 23-98-0057 link, and scroll down to "Site Document" section and select the document you wish to view. 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 finalizing the Record of Decision for the Farmers Supply Cooperative site. DEQ will provide written responses to all public comments received.

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

### REQUEST FOR COMMENTS PROPOSED CONDITIONAL NO FURTHER ACTION FOR THE FORMER CHEVRON BULK PLANT NO. 100-1916 & FORMER CHEVRON PIPELINE TERMINAL SITE

**COMMENTS DUE:** 5 p.m., April 30, 2012

**PROJECT LOCATION:** 3370 17th St., Baker

**PROPOSAL:** The Oregon Department of Environmental Quality's Voluntary Cleanup Program proposes to issue a conditional no further action determination for the former Chevron Bulk Plant No. 100-1916 and the former unmanned Chevron Pipeline Terminal site located at 3370 17th St. in Baker City. DEQ issues a conditional no further action determination when a cleanup has met regulatory standards.

**HIGHLIGHTS:** The Site consisted of two distinct former operations; a petroleum bulk plant and an unmanned petroleum pipeline terminal. Remedial actions performed to date have addressed the presence of petroleum contaminants and underlying constituents in contaminated soil and groundwater at and near the site, and include the recordation of institutional controls on the two site properties and seven off-site properties. The site will remain listed on the DEQ's Confirmed Release List and Inventory of Hazardous Substances.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to [www.deq.state.or.us/lq/ECSI/ecsi.htm](http://www.deq.state.or.us/lq/ECSI/ecsi.htm), select "Search complete ECSI database" link, enter 0664 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 0664 in the Site ID/Info column. To review the project file, contact the project manager above for a file review appointment.

**HOW TO COMMENT:** Send comments by 5 p.m., April 30, 2012, to DEQ Project Manager Katie Robertson by phone at 541-278-4620,

by mail at 700 SE Emigrant, Suite 330, Pendleton, OR 97801, by e-mail at [robertson.katie@deq.state.or.us](mailto:robertson.katie@deq.state.or.us) or by fax at 541-278-0168. **THE NEXT STEP:** DEQ will consider all public comments received before making a final decision on the proposed conditional no further action determination. DEQ will provide written responses to all public comments received.

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

### REQUEST FOR COMMENTS PROPOSED CLEANUP PLAN FOR SOUTH WATERFRONT CENTRAL DISTRICT GREENWAY SITE IN PORTLAND

**COMMENTS DUE:** 5 p.m., April 30, 2012

**PROJECT LOCATION:** West Bank of the Willamette River between SW Gibbs and SW Lane Streets in Portland, Oregon 97239.

**PROPOSAL:** The Department of Environmental Quality is proposing a cleanup remedy for the South Waterfront Central District Greenway, referred to as the CD Greenway site (ECSI#5277). The proposed remedy includes removal and management of contaminated soil, the placement of protective cap and long term monitoring. The site encompasses the western riverbank of the Willamette River located immediately south of the Zidell Waterfront Property Cleanup site (ECSI # 689).

The proposed cleanup actions meet the cleanup standards specified in Oregon Revised Statute (ORS) 465.315 and Oregon Administrative Rule (OAR) 340-122-0040. Public notice is being performed as required by ORS 465.320.

**HIGHLIGHTS:** The city of Portland purchased the CD Greenway property in 2011 for development of a greenway park. The city's site redevelopment plans include extensive reworking of the riverbank, including regrading, construction of a shallow water beach for fish and wildlife habitat, and construction of walking and cycling trails in the uplands. DEQ's proposed cleanup plan is designed to ensure this planned redevelopment addresses all potential risks from remaining site contaminants upon completion of site work.

Previous historical uses of the property included ship building, steel and metal fabrication, electrical products manufacturing, gravel crushing, concrete production, paint and repair shops and general construction. Most recently a temporary greenway trail was installed in 2005 as part of adjacent developments.

Environmental investigations performed between 1991 and 2011 have identified the following contaminants in soil: petroleum, polycyclic aromatic hydrocarbons (PAHs), metals, and polychlorinated biphenyls (PCBs). Data collected from monitoring wells on and near the site show no impacts to groundwater. DEQ issued a no further action determination for groundwater on October 14, 2011. The proposed site remedy only addresses contamination in soil.

The city of Portland plans to remove approximately 8,000 cubic yards of soil from the upland and riverbank areas of the site, and install a protective cap over remaining soil to address any remaining contaminant risk. Work would be performed during redevelopment of the riverbank and greenway. DEQ's cleanup plan also calls for controls requiring regular inspection and maintenance of the protective cap. In conjunction with the city's planned redevelopment, specific proposed remedial actions include:

Removal of soil containing the highest concentrations of metals (hot spots) for wildlife, with off-site disposal of the material at a Subtitle D landfill. To address the remaining risk to wildlife, covering the northernmost 50 feet of the site with two feet of clean soils or paving with an underlying demarcation barrier.

The remainder of the uplands portion of the site would be covered with one foot of clean soils or paving as a protective cap. To monitor erosion, installation of numerous monitoring devices consisting of a vertical rod sheathed by a colored PVC pipe.

Safe management of approximately 6,000 cubic yards of riverbank soil that the city plans to excavate as part of riverbank redevelopment



## OTHER NOTICES

and regrading. To prevent the potential erosion of soil with PCBs to the Willamette River, the city would install a cap of various materials and thicknesses over the riverbank. For the uppermost riverbank, this includes placement of two feet of clean-fill soil and planting vegetation. The city would also install erosion monitoring devices, similar to those proposed for the uplands portion of the site.

For the lower riverbank, sheet pile walls, planter boxes, or two feet of rip rap would be installed as a protective cap. The rip rap would overlie six inches of filter blanket consisting of sandy gravel.

Installation of a reactive core mat in the planned beach area consisting of a thick layer of granular activated carbon and apatite between two layers of geotextile fabric. The reactive mat would restrict the movement of contaminants into the river, and overlie a six-inch layer of gravel. Two feet of rounded gravel and cobbles would be placed over the reactive mat to enhance shallow water habitat. Several datum rocks, consisting of large boulders with monitoring lines, would be installed to monitor for erosion and beach scour.

To ensure that the site cover is properly maintained, a monitoring plan would be developed and approved by DEQ, and an easement and equitable servitude recorded with the property deed outlining engineering and institutional controls. The proposed remedy assumes the site will continue to be used as a park.

No remedial action is planned below the ordinary low water level of the Willamette River or on the south end bank portion of the parcel (existing riparian vegetative bioswale).

**The proposed remedy is considered to be consistent with Oregon rule and statute and, if properly implemented, protective to human and ecological receptors.**

**HOW TO COMMENT:** Review the project file by appointment at DEQ's Northwest Regional Office at 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201-4987.

To access site summary information and the "Proposed Remedial Action Staff Report for the Central District Greenway Trail Site" in DEQ's ECSI database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 5277 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5277 in the Site ID/Info column. Send written comments by 5 p.m. Monday, April 30, 2012 to Rebecca Wells-Albers, Project Manager, at the address listed above. Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive verbal comments.

**THE NEXT STEP:** DEQ will review and consider all comments received during the comment period before making a final decision on the proposed cleanup action.

**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](mailto:deqinfo@deq.state.or.us)

People with hearing impairments may call 711.

### DEQ PROPOSES NO FURTHER ACTION AT FORMER HILLSIDE RESTAURANT PROPERTY COBURG, OREGON

**COMMENTS DUE:** April 30, 2012

**PROJECT LOCATION:** 32981 East Pearl Street, Coburg

**PROPOSAL:** DEQ proposes to approve the cleanup conducted at the former Hillside Restaurant property in Coburg. DEQ requests public comment on its recommendation that no further investigation or cleanup action is required for petroleum-contaminated soil on this property.

**BACKGROUND:** For detailed project information please see a copy of the final project report on DEQ's website at: <http://www.deq.state.or.us/wdr/?p=37660>

DEQ's proposed NFA determination applies to Tax Lot #103 within a city block bounded by I-5S Freeway off-ramp (east), East Pearl Street (south), Daray Street (west), and agricultural lands (north).

Several environmental site assessments previously documented environmental concerns including contamination of soil and shallow groundwater from petroleum hydrocarbons. The sources of these hydrocarbons were attributed to a former above-ground storage tank fueling system.

Representatives for the Hillside Restaurant chose to enroll in the Voluntary Cleanup Program in March 2010. Environmental assessment and removal of contaminated soil was completed in July 2010. The site cleanup included demolition and removal of a concrete slab and asphalt pavements and the removal of about 800 cubic yards of petroleum contaminated soil for disposal at a landfill. Less than 5 cubic yards of contaminated soil remains on the site adjacent to the southwest corner of the building. Soil and shallow groundwater was sampled at locations where contamination was identified in previous environmental investigations, and where it was observed in soils exposed during site cleanup.

Based on the available data, the site is considered safe for commercial or industrial uses. DEQ has concluded that there is no threat to human health and the environment for current and future site uses. **HOW TO COMMENT:** Written comments must be received by April 30, 2012. Comments should be submitted to DEQ's Eugene office, 165 East 7th Street, Eugene, OR 97401 or by e-mail at [aitken.greg@deq.state.or.us](mailto:aitken.greg@deq.state.or.us). Questions may also be directed to Greg Aitken at the Eugene address or by calling him at 1-800-844-8467 ext 7361.

**THE NEXT STEP:** DEQ will consider all public comments before taking final action on this matter. A public meeting will be held to receive verbal comments on the proposed cleanup action upon written request by ten or more persons, or by a group with ten or more members.

### DEQ PROPOSES NO FURTHER ACTION AT FORMER SOUTHERN OREGON TALLOW PROPERTY EAGLE POINT, OREGON

**COMMENTS DUE:** April 30, 2012

**PROJECT LOCATION:** 10175 Agate Road, Eagle Point, Oregon  
**PROPOSAL:** DEQ proposes to approve an environmental cleanup at the Former Southern Oregon Tallow Co, Inc. property near Eagle Point, Oregon. DEQ requests public comment on its recommendation that no further investigation or cleanup action is required for petroleum and lead-contaminated soil on this property.

**BACKGROUND:** For detailed project information please see a copy of the Former Southern Oregon Tallow Co, Inc. report, dated March 14, 2012, on DEQ's website at: <http://www.deq.state.or.us/wdr/?p=38257>

DEQ's proposed NFA determination applies to current Map and Tax Lot Number 361W06 T.L. 900, currently owned by Southern Oregon Terra, Inc.

Several environmental site assessments previously documented environmental concerns related to a drain field area near the former tallow plant, including lead and petroleum hydrocarbon contamination in subsurface soils.

Lead and petroleum contamination is likely from the former rendering plant where oil-fired boilers were used to heat the process cookers for the processing of butchered meat and bone scraps, used restaurant grease, and livestock carcasses to produce tallow, grease, meat and bone meal, and hides.

Demolition of the rendering plant was completed by the property owner in 2011. After demolition, soil was sampled at locations where contamination was suspected from historical layout of the plant and associated drain field, and subsequently the septic field. Contaminated soil was excavated (approximately 72 tons of lead impacted soil and 20 tons of petroleum-impacted soil) and disposed at the Dry Creek Landfill.

Based on the available data, the site is considered safe for residential, commercial, or industrial uses. DEQ has concluded that there is no threat to human health and the environment for current and future site uses. A deed restriction will be recorded for the southwestern corner of T.L. 900 within the property boundaries to avoid

## OTHER NOTICES

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future drilling of any potable water supply wells where there is a small risk of groundwater contamination from lead in site soils.

**HOW TO COMMENT:** Written comments must be received by April 30, 2010. Comments should be submitted to DEQ's Eugene office, 165 East 7th Street, Eugene, OR 97401 or by e-mail at [aitken.greg@deq.state.or.us](mailto:aitken.greg@deq.state.or.us). Questions may also be directed to Greg Aitken at the Eugene address or by calling him at 1-800-844-8467 ext 7361.

**THE NEXT STEP:** DEQ will consider all public comments before taking final action on this matter. A public meeting will be held to receive verbal comments on the proposed cleanup action upon written request by ten or more persons, or by a group with ten or more members.

# 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 Examiners for Engineering and Land Surveying Chapter 820

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

Date:	Time:	Location:
5-8-12	2 p.m.	670 Hawthorne Ave. SE Suite 220 Salem, OR 97301

**Hearing Officer:** Dan Linscheid

**Stat. Auth.:** ORS 672.255

**Other Auth.:** ORS 670.310

**Stats. Implemented:** ORS 672.002–672.325

**Proposed Adoptions:** 820-010-0730

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

**Last Date for Comment:** 5-08-2 Close of Hearing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Rules Coordinator:** Mari Lopez

**Address:** Board of Examiners for Engineering and Land Surveying, 670 Hawthorne Ave. SE, Suite 220, Salem, OR 97301

**Telephone:** (503) 362-2666, ext. 26

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### Board of Geologist Examiners Chapter 809

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

Date:	Time:	Location:
4-19-12	10 a.m.	Conference Rm. “A” Assoc. Center 707 13th St. SE Salem, OR 97301

**Hearing Officer:** Christine Valentine

**Stat. Auth.:** ORS 670.310, 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605 & 672.685

**Stats. Implemented:** ORS 672.505–672.705

**Proposed Adoptions:** 809-015-0020

**Proposed Amendments:** 809-003-0000, 809-030-0005, 809-030-0015, 809-030-0020, 809-050-0000, 809-050-0010

**Last Date for Comment:** 4-19-12

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

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

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

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

# NOTICES OF PROPOSED RULEMAKING

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

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

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

**Rules Coordinator:** Christine Valentine

**Address:** Board of Geologist Examiners, 707 13th St. SE, Salem, OR 97301

**Telephone:** (503) 566-2837

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**Board of Nursing**  
**Chapter 851**

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-19-12	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

**Hearing Officer:** Kay Carnegie, Board President

**Stat. Auth.:** ORS 678.150

**Stats. Implemented:** ORS 678.150

**Proposed Amendments:** 851-052-0040

**Last Date for Comment:** 4-17-12, 5 p.m.

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

**Rules Coordinator:** Peggy A. Lightfoot

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

**Telephone:** (971) 673-0638

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-19-12	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

**Hearing Officer:** Kay Carnegie, Board President

**Stat. Auth.:** ORS 678.150

**Stats. Implemented:** ORS 678.150

**Proposed Adoptions:** 851-054-0060

**Last Date for Comment:** 4-17-12, 5 p.m.

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

**Rules Coordinator:** Peggy A. Lightfoot

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

**Telephone:** (971) 673-0638

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-19-12	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

**Hearing Officer:** Kay Carnegie, Board President

**Stat. Auth.:** ORS 678.150 & 678.410

**Stats. Implemented:** ORS 678.410

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

**Last Date for Comment:** 4-17-12, 5 p.m.

**Summary:** The proposed rule changes will streamline the processing of late renewals and reduce OSBN operational and licensee costs of administering civil penalties for those practicing as a nurse without an active license for less than 60 days delinquent. Rather than pursue a civil penalty of \$50/day for up to 60 days for working without a license, the delinquent renewal fee for RN/LPN and Advanced Practice applications would increase in all cases from \$12.00 to \$100.00. The OSBN will pursue civil penalties for practicing as a nurse without a license, where a renewal or reactivation application is more than 60 days late or deemed necessary by Board order, at \$50/day up to \$5,000 maximum.

**Rules Coordinator:** Peggy A. Lightfoot

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

**Telephone:** (971) 673-0638

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-19-12	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

**Hearing Officer:** Kay Carnegie, Board President

**Stat. Auth.:** ORS 678.150

**Stats. Implemented:** ORS 678.150

**Proposed Amendments:** 851-045-0030, 851-045-0070, 851-045-0100

**Last Date for Comment:** 4-17-12, 5 p.m.

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

**Rules Coordinator:** Peggy A. Lightfoot

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

**Telephone:** (971) 673-0638

.....

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-19-12	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

**Hearing Officer:** Kay Carnegie, Board President

**Stat. Auth.:** ORS 678.150

**Stats. Implemented:** ORS 678.150

**Proposed Adoptions:** 851-050-0009

**Proposed Amendments:** 851-050-0004

**Last Date for Comment:** 4-17-12, 5 p.m.

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



# NOTICES OF PROPOSED RULEMAKING

for Nurse Practitioner students. Proposes civil penalty for preceptors violating state law.

**Rules Coordinator:** Peggy A. Lightfoot

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

**Telephone:** (971) 673-0638

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**Commission for the Blind  
Chapter 585**

**Rule Caption:** Financial Support for Funding Business Ventures.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-17-12	10 a.m.	535 SE 12th Ave. Portland, OR 97214

**Hearing Officer:** Dacia Johnson

**Stat. Auth.:** ORS 346.150

**Stats. Implemented:** ORS 183.341

**Proposed Amendments:** 585-010-0130

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

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

**Rules Coordinator:** Linda Mock

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

**Telephone:** (971) 673-1588

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**Rule Caption:** Financial Support for Funding Business Ventures.

**Stat. Auth.:** ORS 346.150

**Other Auth.:** ORS 183.341

**Stats. Implemented:**

**Proposed Amendments:** 585-010-0130

**Last Date for Comment:** 5-1-12

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

**Rules Coordinator:** Linda Mock

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

**Telephone:** (971) 673-1588

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**Construction Contractors Board  
Chapter 812**

**Rule Caption:** Amended to update cite references to 2011 statutes, add arbitration awards and determinations, and court judgments.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-17-12	11 a.m.	West Salem Roth's IGA Santiam Rm., 425 Glen Creek Rd., Salem, OR

**Hearing Officer:** Rob Yorke

**Stat. Auth.:** ORS 183.310 to 183.500, 670.310, 701.068, 701.085 (2005), 701.088, 701.133, 701.235, 701.515, 701.992 & 701.995

**Stats. Implemented:** ORS 87.057, 87.058, 87.093, 279C.460, 279.590, 646.605, 701, 701.005, 701.013, 701.021, 701.026, 701.042, 701.046, 701.068, 701.073, 701.081, 701.084, 701.085(2005), 701.088, 701.091, 701.094, 701.098, 701.102, 701.106, 701.109, 701.117, 701.131, 701.133, 701.139, 701.140, 701.143, 701.145, 701.146, 701.150, 701.180, 701.227, 701.235, 701.238, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995

**Proposed Amendments:** 812-002-0060, 812-002-0100, 812-002-0160, 812-002-0250, 812-002-0360, 812-002-0673, 812-002-0700, 812-002-0800, 812-004-1001, 812-004-1110, 812-004-1120, 812-004-1140, 812-004-1160, 812-004-1180, 812-004-1195, 812-004-1210, 812-004-1240, 812-004-1250, 812-004-1260, 812-004-1300, 812-004-1320, 812-004-1340, 812-004-1350, 812-004-1360, 812-004-1400, 812-004-1420, 812-004-1440, 812-004-1450, 812-004-1460, 812-004-1480, 812-004-1490, 812-004-1500, 812-004-1505, 812-004-1510, 812-004-1520, 812-004-1530, 812-004-1537, 812-004-1600, 812-005-0210, 812-005-0270, 812-005-0280, 812-005-0800

**Last Date for Comment:** 4-17-12, Close of Hearing

**Summary:** 812-002-0060; 812-002-0100; 812-002-0160; 812-002-0250; 812-002-0360; 812-002-0673; 812-002-0700; 812-002-0800; 812-004-1001; 812-004-1110; 812-004-1120; 812-004-1140; 812-004-1160; 812-004-1180; 812-004-1195; 812-004-1210; 812-004-1240; 812-004-1250; 812-004-1260; 812-004-1300; 812-004-1320; 812-004-1340; 812-004-1350; 812-004-1360; 812-004-1400; 812-004-1420; 812-004-1440; 812-004-1450; 812-004-1460; 812-004-1480; 812-004-1490; 812-004-1500; 812-004-1505; 812-004-1510; 812-004-1520; 812-004-1530; 812-004-1537; 812-004-1600; 812-005-0800 are amended to update statutory references to 2011 statutes.

812-005-0210 is amended to add a reference to arbitration awards, add determinations under the new dispute resolution mediation only program, update cite references, include unpaid judgments arising from construction activity, and larger bond requirements for both endorsements.

812-005-0270 is amended to delete reference to ORS 701.005.

812-005-0280 is amended to reference to arbitration awards, add determinations under the new dispute resolution mediation only program, update cite references, and adds failure to pay judgment or civil penalty as lack of responsibility.

**Rules Coordinator:** Catherine Dixon

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

**Telephone:** (503) 934-2185

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**Rule Caption:** Amend rules to Adopt AG Model Rules dated 1-31-12 and make some housekeeping amendments.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-17-12	11 a.m.	West Salem Roth's IGA Santiam Rm., 425 Glen Creek Rd., Salem, OR

**Hearing Officer:** Rob Yorke

**Stat. Auth.:** ORS 183.310–183.183.500, 183.415, 670.310, 701.235 & 701.992 & 1999 OL Ch. 849, Sec. 8

**Stats. Implemented:** ORS 183, 183.341, 183.413, 183.413 to 183.470, 183.415, 183.417, 183.425, 183.440, 183.445, 183.450, 183.460, 183.470, 701, 701.102, 701.117, 701.133, 701.145 & 701.149

**Proposed Adoptions:** 812-009-0185, 812-009-0350

**Proposed Amendments:** 812-001-0120, 812-001-0140, 812-004-0560, 812-005-0100, 812-005-0110, 812-009-0060, 812-009-0085, 812-009-0090, 812-009-0300

**Last Date for Comment:** 4-17-12, Close of Hearing

**Summary:** 812-001-0120 is amended to match the January 1, 2012 revision of the AG's Model Rules and to remove a reference to "Uniform Rules." All agencies are subject to Uniform Rules without further rulemaking; and to eliminate exemptions from: OAR 137-003-0015; OAR 137-005-0060; and OAR 137-005-0070.

812-001-0140 is amended to conform to the Oregon Attorney General's (AG's) 2012 Model Rules of Procedure under the Administrative Procedures Act (APA).

812-004-0560 is amended to include the term "OAR" which was inadvertently omitted in (2)(a); section (4)(b) is amended to reflect the changes to OAR 137-003-0528: The standard for a late hearing request changes from "beyond the reasonable control" to "good cause."

OAR 137-003-0528(1)(d) authorizes an agency to require an affidavit.

812-005-0100 is amended to authorizes CCB to require an answer to a notice, to apply in "cases the agency determines potentially complex, unique or otherwise significant."

812-005-0110 is amended to allow a party to amend an already filed answer so long as the amended answer is filed not less than 30 days before the first hearing date scheduled.

# NOTICES OF PROPOSED RULEMAKING

812-009-0060 is amended to delete the language “beyond the reasonable control” and substitute language “for good cause” and make the rule consistent with OAR 137-003-0525(2)(a).

812-009-0085 is amended to clarify that the rule applies to documents filed in a proceeding conducted by an ALJ and to be consistent with OAR 137-003-0520.

812-009-0090, section (1)(a) is amended because the new AG’s Model Rules repeal OAR 137-003-0570 and substitute four rules, OAR 137-003-0566, 137-003-0567, 137-003-0568 and 137-003-0569. The amendments remove the ability of the administrative law judge to authorize a deposition of agency staff or Board members. The AG’s rules, provide, in part, that, “An agency may, by rule, limit a party’s ability to obtain discovery from the agency when the agency is merely providing a forum for the parties and is not an active participant in the case.” OAR 137-003-0566(3).

812-009-0185 adopted a new rule exempting from the 90-day requirement all cases where exceptions are filed with the Board.

812-009-0300 is amended to be consistent with OAR 137-003-0505(1)(i) and that the agency may, if it chooses, enhance the proposed sanction up to and including the maximum amount. This gives the agency latitude to modify the sanction, for example, if facts at hearing disclose a more egregious offense than previously thought to have occurred.

812-009-0350 adopted a new rule exempting from the 90-day requirement all cases where exceptions are filed with the Board.

**Rules Coordinator:** Catherine Dixon

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

**Telephone:** (503) 934-2185

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**Rule Caption:** Amend definition of employee for residential continuing education and clarify that only CCB approved residential continuing education providers may offer or provide CE courses.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-17-12	11 a.m.	West Salem Roth’s IGA, Santiam Rm., 425 Glen Creek Rd., Salem, OR

**Hearing Officer:** Rob Yorke

**Stat. Auth.:** ORS 670.310, 701.126 & 701.235

**Stats. Implemented:** ORS 701.126

**Proposed Amendments:** 812-021-0005, 812-021-0025, 812-021-0030, 812-021-0031

**Proposed Repeals:** 812-021-0005(T), 812-021-0025(T), 812-021-0030(T), 812-021-0031(T)

**Last Date for Comment:** 4-17-12, Close of Hearing

**Summary:** • OAR 812-021-0005 is amended to clarify the definition of employee for the purposes of CCB Residential Continuing Education (RCE). The term “employee” does not mean a leased or temporary employee.

• OAR 812-021-0025, 812-021-0030, and 812-021-0031, are amended to clarify that only CCB-approved providers may offer or provide CE courses. Those providers may not use intermediaries, nor may they make payment conditional upon passing or failing the courses.

**Rules Coordinator:** Catherine Dixon

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

**Telephone:** (503) 934-2185

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**Rule Caption:** Housekeeping – update cite references, add reference to arbitration, determinations, and language new statutes.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-17-12	11 a.m.	West Salem Roth’s IGA, Santiam Rm., 425 Glen Creek Rd. Salem, OR

**Hearing Officer:** Rob Yorke

**Stat. Auth.:** ORS 670.310, 701.068, 701.085 (2005), 701.088 & 701.235

**Stats. Implemented:** ORS 701.068, 701.085 (2005) & 701.088

**Proposed Amendments:** 812-005-0200

**Last Date for Comment:** 4-17-12, Close of Hearing

**Summary:** 812-005-0200 is amended to add a reference to arbitration awards, add determinations under the new dispute resolution mediation only program, update cite references, references to out-of-date statutes are repealed, language is added for new statutes, and larger bond requirements for both endorsements.

**Rules Coordinator:** Catherine Dixon

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

**Telephone:** (503) 934-2185

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## Department of Agriculture Chapter 603

**Rule Caption:** Consolidates two Immediately Supervised trainee licenses into one and adds recordkeeping requirements, clarifies supervision.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-24-12	9 a.m.	635 Capitol St. NE Salem, OR 97301

**Hearing Officer:** Clark Cooney

**Stat. Auth.:** ORS 634

**Stats. Implemented:** ORS 634

**Proposed Amendments:** 603-057-0106

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

**Summary:** The rules consolidate the Commercial Immediately Supervised Pesticide Trainee License and the {Public Immediately Supervised Pesticide trainee License in to one license designated the Immediately Supervised Pesticide trainee License. This consolidation will eliminate the need to a person to pay the fees for two licenses to work in the commercial and public sectors when there is no difference in the requirements. This streamlining of licenses will benefit affected small businesses and individuals. The rules restrict pesticide immediately supervised trainees from applying pesticides by helicopter or fixed wing aircraft. Finally, the supervisor of an immediately supervised trainee must be named in each pesticide application record.

These changes are intended to allow flexibility for employers to hire, train, and supervise trainees. 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 and emphasizes the trainee’s responsibilities.

**Rules Coordinator:** Sue Gooch

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

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

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**Rule Caption:** Updates State Shellfish Rules and distribution regulations for non-interstate approved harvest areas.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
5-2-12	10 a.m.	Dept. of Agriculture 635 Capitol St. NE Salem, OR 97301

**Hearing Officer:** Eric Edmunds

**Stat. Auth.:** ORS 561.190 & 622.180

**Stats. Implemented:** ORS 622.180

**Proposed Adoptions:** 603-100-0050

**Proposed Amendments:** 603-100-0000, 603-100-0010

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

**Summary:** Currently OAR 603-100-0010 refers to the 2005 Revision of the National Shellfish Sanitation Program’s Guide for the Control of Molluscan Shellfish. It is being amended to refer to the 2009 Revision in order to keep Oregon’s Shellfish Program current. OAR 603-100-0000 supplies the definitions used in the State Shellfish Rules. It is being amended so the definitions will be consistent throughout the State Shellfish Rules, including the proposed OAR 603-100-0050. OAR 603-100-0050 will clarify regulations regarding non-interstate approved harvest areas. Dealers listed in the Inter-

## NOTICES OF PROPOSED RULEMAKING

state Certified Shellfish Shippers List (ICSSL) are not allowed to possess or sell shellstock harvested from non-interstate approved harvest areas. Also, the rule will require tags for shellstock harvested from non-interstate approved harvest to include the phrase, "OREGON DISTRIBUTION ONLY:"

**Rules Coordinator:** Sue Gooch

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

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

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**Rule Caption:** Inspection Fee Increase.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-24-12	1 p.m.	OR Dept. of Agriculture 635 Capitol St. NE Salem, OR

**Hearing Officer:** Tim Butler

**Stat. Auth.:** ORS 633

**Stats. Implemented:** ORS 633

**Proposed Amendments:** 603-059-0020

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

**Summary:** Increase inspection fees for each ton of fertilizer, agricultural mineral and agricultural amendment from thirty five cents (\$0.35) to forty five cents (\$0.45).

Increase inspection fees for each ton of gypsum from three cents (\$0.03) to five cents (\$0.05).

Correct reference to ORS 633.310 to ORS 633.311

**Rules Coordinator:** Sue Gooch

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

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

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**Rule Caption:** Increase fees related to audit and third-party certification services.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-30-12	1 p.m.	ODA Bldg. 635 Capitol St. NE Salem, OR

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 632.940

**Other Auth.:** USDA Agreement 12-25-A-4855

**Stats. Implemented:** ORS 632.940

**Proposed Amendments:** 603-053-0200

**Last Date for Comment:** 5-14-12, 5 p.m.

**Summary:** Federal-State Cooperative Agreement with USDA requires that fees charged for audit services conducted under that agreement follow the current federal rate, currently at \$92/hour. OAR-603-053 currently puts the Oregon Department of Agriculture out of compliance with this agreement. Increased revenue generated from this fee increase will help pay for administrative costs of the program, as well as yearly continuing education for auditors and accreditation and audit fees for certification programs.

The ODA proposes a revised fee schedule as follows: change the minimum hourly charge from \$75 to \$92, with a 4 hour minimum of service. Additionally, it proposes application fees for the National Organic Program certification program at \$250 for new organic applicants and \$100 yearly renewal application fee for returning customers to cover the administrative cost of accepting and reviewing organic applications before inspection and audit fees can be billed. Additionally, as the Department has begun to offer Global Food Safety Initiative benchmarked audits, a certification fee is proposed to be charged per certificate to cover technical review and administrative costs of this program.

**Rules Coordinator:** Sue Gooch

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

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

**Rule Caption:** Implementation of Oregon Laws 2011 Chapter 436 regarding cage space allotment for egg-laying hens.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-16-12	1 p.m.	OR Dept. of Agriculture 635 Capitol St. NE Salem, OR

**Hearing Officer:** Staff

**Stat. Auth.:** 2011 OL Ch. 436

**Stats. Implemented:** 2011 OL Ch. 436

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

**Last Date for Comment:** 4-18-12, 5 p.m.

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

**Rules Coordinator:** Sue Gooch

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

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

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### Department of Agriculture, Oregon Processed Vegetable Commission Chapter 647

**Rule Caption:** Amend rules related to assessment rates.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-26-12	7:30 p.m.	3415 Commercial St. SE Salem, OR

**Hearing Officer:** Gary Hull

**Stat. Auth.:** ORS 576.051-576.595

**Stats. Implemented:** ORS 576.051-576.595

**Proposed Amendments:** 647-010-0010

**Last Date for Comment:** 4-26-12, 7:30 p.m.

**Summary:** The proposed rule amendments set the assessment rates for the six processed vegetable crops governed by the Commission.

**Rules Coordinator:** John McCulley

**Address:** Department of Agriculture, Processed Vegetable Commission, PO Box 2042, Salem, OR 97308-2042

**Telephone:** (503) 370-7019

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

**Rule Caption:** Proposed changes to confined space rules in general industry and construction.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
5-2-12	9:30 a.m.	Labor & Industries Building Basement – Conference Rm. F 350 Winter St. NE, Salem, OR 97301

**Hearing Officer:** Sue Joye

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

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

**Proposed Adoptions:** OAR 437-002-0146

**Proposed Amendments:** OAR 437-002-0100, 437-002-0140, 437-002-0182, 437-002-0256, 437-002-0300, 437-002-0312, 437-003-0001

**Last Date for Comment:** 5-9-12, Close of Business

**Summary:** Oregon OSHA proposes to adopt new rule, OAR 437-002-0146 Confined Spaces, which replaces 1910.146 Permit-Required Confined Spaces, in Division 2/J General Environmental



# NOTICES OF PROPOSED RULEMAKING

Controls. This expands the scope of the new rule to include the construction industry.

During the 2011 proposal, several issues were discovered that needed to be resolved. We reconvened our stakeholder groups to resolve those issues and address any other areas for clarification. The identified issues include: revising and including several definitions, language for closing permits, ensuring employee access to written materials, ensuring all actions required by the permit are followed, and clarifying when alternate entry cannot be used.

Other areas amended for clarification include:

Permit Space Program.

- Changed the requirement to catalog all confined spaces to catalog all permit spaces.

- If the permit program needs to be revised, the language was changed that prohibiting entry into any space; to any space that is affected by that revision until the revision is complete.

Evacuation. Added language on what to do if entrants need to evacuate a permit space.

Decontamination. There was language requiring patient decontamination. The group consensus was to move this language to the appendix on rescue. In its place, language was added requiring MSDSs and providing them to the medical providers.

Rescue.

- For non-entry rescue modified the language to include a rescue person, as the rescue "team" may only consist of the attendant retrieving the entrant from the space.

- For entry rescue language change from ensuring the rescue team can proficiently perform rescues to ensuring rescue teams can efficiently perform rescues.

- Added language requiring that, if a third-party rescue service is used, that the agreement is in writing.

Alternate Entry.

- Changed the language in the exception for alternate entry.

- Added language to specify which parts of the rule don't apply when one uses alternate entry.

- Added a condition on when the space must be evacuated during alternate entry (new hazard or conditions change).

Training. Moved the awareness training piece to the bottom of the training section to avoid confusion and clarified that it is only for employees who work around permit spaces.

Records. Modified the record retention section to refer back to the rule that requires a review of the permit program.

The requirements of this standard are similar to the requirements of the existing general industry standard, but are written to clarify employer obligations and eliminate confusing requirements.

This rulemaking will amend Oregon-initiated rules OAR 437-002-0182, 437-002-0256, and 437-002-0312 to update the rule reference to the new Oregon rule 437-002-0146 Confined Spaces. Also amended to reflect the new Confined Spaces rules are 1910.120 Appendix E, and 1910.269 that currently refer the reader to 1910.146. We will also repeal 1926.21(b)(6) in Division 3/C, and place a note referring the reader to Division 2/J, 437-002-0146 Confined Spaces.

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

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

**Rules Coordinator:** Sue C. Joye

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

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

.....  
**Department of Energy**  
**Chapter 330**

**Rule Caption:** Repeal of duplicate Renewable Portfolio Standard rules.

**Date:**  
4-26-12

**Time:**  
9 a.m.

**Location:**  
OR Department of Energy  
625 Marion St. NE  
Salem, OR

**Hearing Officer:** Robert Underwood

**Stat. Auth.:** ORS 469A.130

**Stats. Implemented:** ORS 469A.130-469A.145

**Proposed Repeals:** 330-150-0005, 330-150-0015, 330-150-0020, 330-150-0025, 330-150-0030

**Last Date for Comment:** 4-26-12, Close of Business

**Summary:** The department did not complete the rulemaking process for the OAR 330-150 Renewable Portfolio Standard rules, causing the rules to be ineffective. The rules language was correctly filed under OAR 330-160, which provides the current department rules for the Renewable Portfolio Standard.

This rulemaking repeals all rules under OAR 330-150. This change has no impact on the operation of the program or the current rules under OAR 330-160.

**Rules Coordinator:** Kathy Stuttaford

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

**Telephone:** (503) 373-2127

.....  
**Department of Environmental Quality**  
**Chapter 340**

**Rule Caption:** E-Cycles registration fee change.

**Date:**  
4-16-12

**Time:**  
4 p.m.

**Location:**  
DEQ Headquarters, Rm. 3A  
811 SW 6th Ave.  
Portland, OR

**Hearing Officer:** DEQ Staff

**Stat. Auth.:** ORS 468.020, 468.065 & 459A.345

**Stats. Implemented:** ORS 459A.315

**Proposed Adoptions:** 340-098-0000, 340-098-0010, 340-098-0100, 340-098-0150, 340-098-0200

**Last Date for Comment:** 4-27-12, Close of Business

**Summary:** The proposed rules would revise the registration fees electronics manufacturers pay annually to DEQ to cover DEQ's costs for administering Oregon's electronics recycling program, Oregon E-Cycles. The proposed rules would establish (a) a target revenue to cover DEQ's projected administrative costs; (b) a process for reviewing and revising the target revenue; and (c) a six-tier fee structure that distributes the target revenue among registered manufacturers based on their market share.

**Rules Coordinator:** Maggie Vandehey

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

**Telephone:** (503) 229-6878

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

**Rule Caption:** Application for Initial Licensure and License Renewal for Residential Care and Assisted Living Facilities.

**Date:**  
4-18-12

**Time:**  
1:30 p.m.

**Location:**  
500 Summer St. NE, Rm. 137D  
Salem, OR 97301

**Hearing Officer:** Staff

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

**Stats. Implemented:** ORS 443.400 to 443.455 & 443.991

**Proposed Amendments:** 411-054-0005, 411-054-0013, 411-054-0016

**Last Date for Comment:** 4-23-12, 5 p.m.

**Summary:** The Department of Human Services (Department) is proposing to permanently amend rules in OAR chapter 411, division 054 to clarify the requirement that residential care (RCF) and assisted living facilities (ALF) disclose the name and financial interest of any person with an ownership interest of 10 percent or more and who is



## NOTICES OF PROPOSED RULEMAKING

the license applicant or facility operator. The existing language was determined by Legislative Counsel to exceed the intent and scope of the enabling statutes.

**Rules Coordinator:** Christina Hartman

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

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

.....  
**Department of Oregon State Police**  
**Chapter 257**

**Rule Caption:** Adopts rules allowing OSP to gather, access, maintain, and transmit mental health info to NICS.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-17-12	1:30 p.m.	Department of Public Safety Standards & Training 4190 Aumsville Hwy. SE Salem, OR 97317

**Hearing Officer:** Kathy Cea

**Stat. Auth.:** ORS 181.740, 2009 OL Ch. 826 (HB 2853) (See note 4 to ORS 166.274)

**Stats. Implemented:** ORS 181.740, 2009 OL Ch. 826 (HB 2853) (See note 4 to ORS 166.274)

**Proposed Adoptions:** 257-010-0060

**Proposed Repeals:** 257-010-0060(T)

**Last Date for Comment:** 4-13-12

**Summary:** The federal Brady Handgun Violence Prevention Act of 1993 (Brady Act), the United States Attorney General is required to establish the National Instant Criminal Background Check System (NICS), which allows federal firearm licensees to instantly contact the Federal Bureau of Investigation and determine whether a prospective firearm transfer would violate federal or state law. The federal NICS Improvement Amendment Act of 2007 (NIAA) became effective January 8, 2008 and requires states to transmit to NICS all state records of individuals who are subject to a federal firearm ban under 18 USC §922(d) and (g), including those individuals with mental health issues or state mental health commitments. The NIAA also requires states to adopt procedures whereby persons with mental health issues or state mental health commitments and who are prohibited from purchasing, possessing, transporting or receiving a firearm under 18 USC §922(d)(4) and (g)(4), may petition to have their federal firearm rights restored. Oregon Laws 2009, chapter 826 (House Bill 2853) implements the requirements of the NIAA by not only requiring certain state agencies in possession of records of individuals with mental health issues or state mental health commitments to transmit “minimum information” of those persons to the department for maintenance of that information, but requires the department to transmit that “minimum information” to NICS. Oregon Laws 2009, chapter 826 (House Bill 2853) further implements the NIAA by allowing the Psychiatric Security Review Board (PSRB) to conduct contested case administrative hearings to determine whether a person subject to either a federal firearm prohibition under 18 USC §922(d)(4) and (g)(4), a state firearm prohibition under ORS 166.250(1)(c)(D) or (E), or a state firearm prohibition under ORS 166.470(1)(e) or (f), should be granted relief and their gun rights restored.

This administrative rule creates the means and manner by which “minimum information” of persons prohibited under 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm is received and maintained, as well as transmitted to the federal government for inclusion in the NICS database, by the department. It creates the means and manner by which “minimum information” of persons prohibited from possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or prohibited from receiving a firearm under ORS 166.470 (1)(e) or (f), is received and maintained by the department. Creates the means and manner by which the department processes, maintains, updates, and transmits to the federal government, records of relief from firearm prohibitions granted by either the Psychiatric Security Review Board or an appellate court. Specif-

ically defines “designated agencies” for purposes of the rule to mean the Oregon Department of Human Services (DHS), the Oregon Health Authority (OHA), the PSRB, and the Oregon Judicial Department (OJD). Defines “minimum information” to mean only those data elements or identifying information that is minimally or nominally required under federal law to accurately identify a person prohibited under 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm, and includes the person’s name, date of birth, gender and reference information that identifies the originating agency or court. Defines “PPF” to mean a Prohibited Persons File created by the department and to which “minimum information” from designated agencies is deposited and maintained by the department, and from which “minimum information” is transmitted to NICS for persons prohibited under 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm. Requires designated agencies to send to the department all current and former client “minimum information” in a single file as required under ORS 181.740 in order for the department to enter that information into the PPF and transmit the PPF to NICS. Requires designated agencies to provide subsequent “minimum information” for their clients to the department immediately to OSP or as soon as such client “minimum information” becomes available, in an electronic format approved by the department. Requires the department to transmit subsequent “minimum information” obtained from designated agencies contained in the PPF to NICS on a daily basis through a secure electronic message via the Law Enforcement Message Switch (LEMS). Requires the department to request NICS to send the department a report every 3 months that details Oregon’s mental health prohibited person record data located in NICS for comparison with the data contained in the department’s PPF. Requires the department to refer any discrepancies between NICS and the PPF back to the agency that originally created the mental health record of the prohibited person for resolution, and requires designated agencies to include any updates made to previously submitted “minimum information” by originating agencies in their subsequent electronic transmissions of “minimal information” to the department. Requires the PSRB to send an electronic notification alerting the department to update the PPF if the PSRB grants relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, and requires the department to transmit the record of relief to NICS on the day the department receives the electronic notification, either in its daily PPF transmission to NICS or in a separate transmission to NICS. Requires the department to transmit an appellate judgment granting relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm to NICS on the day OSP receives the appellate judgment, either in its daily PPF transmission to NICS or in a separate transmission to NICS. Specifies that when the PSRB grants relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), the PSRB shall send the minimum information of the person for whom relief is granted electronically to OSP and that OSP, upon receipt of the minimum information from the PSRB, shall then update the PPF and transmit the minimum information and notification of relief to NICS on the same day that OSP receives the minimum information from the PSRB. Requires that when a person files a petition for judicial review with an appellate court following a final order of the PSRB that denies relief, and an appellate court subsequently grants the person relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), the Oregon Judicial Department (OJD) shall send the minimum information of the person for whom

# NOTICES OF PROPOSED RULEMAKING

relief is granted electronically to OSP and that OSP, upon receipt of the minimum information from OJD, shall update the PPF and transmit the minimum information and notification of relief to NICS on the same day OSP receives the minimum information from OJD. Requires a person granted relief under the following situations to provide OSP with a certified copy of either the PSRB written order or appellate judgment granting relief and a copy of the person's fingerprint card: a) the person granted relief was found responsible except for insanity for an act under ORS 419C.411, b) the person granted relief was found guilty except for insanity of a crime under ORS 161.295 to 161.370 and the person has an existing criminal history, or c) the person granted relief was found by a court to lack fitness to proceed under ORS 161.370 and the person has an existing criminal history.

The Agency will accept public comment at the rulemaking hearing and in writing up to April 13, 2012.

**Rules Coordinator:** Cort Dokken

**Address:** Department of Oregon State Police, 255 Capitol St. NE, 4th Floor, Salem, OR 97310

**Telephone:** (503) 934-0228

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**Rule Caption:** Vehicle towing process scope of hearing.

**Stat. Auth.:** OL 2009, ch. 371 (HB 2738)

**Stats. Implemented:** OL 2009, Ch. 371 (HB 2738)

**Proposed Amendments:** 257-045-0020

**Last Date for Comment:** 4-30-12, Close of Business

**Summary:** Housekeeping: Reinforces that hearings may only be held if Department ordered the tow.

**Rules Coordinator:** Cort Dokken

**Address:** Department of Oregon State Police, 255 Capitol St. NE, 4th Floor, Salem, OR 97310

**Telephone:** (503) 934-0228

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## Department of Public Safety Standards and Training Chapter 259

**Rule Caption:** Repeal obsolete rule relating to certified retired officer program.

**Stat. Auth.:** ORS 181.667

**Stats. Implemented:** ORS 181.667

**Proposed Repeals:** 259-008-0068

**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** For a brief number of years, the Department had a program creating a certified retired officer category for certain police officers. The program was used on a limited basis and resulted in some unintended consequences. When reviewing those issues, the Police Policy Committee determined that there was no ongoing need for the program and directed staff to discontinue it. OAR 259-008-0068 was amended to allow for the program to be phased out based on the date that the program was discontinued.

All previously issued retired officer certifications have now expired and the obsolete rule is being repealed.

The proposed repeal does not affect issuance of retired cards or any other current DPSST program or services.

**Rules Coordinator:** Linsay Hale

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

**Telephone:** (503) 378-2431

.....

**Rule Caption:** Clarify discretionary disqualifying crimes which may be considered by Policy Committees.

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

**Stats. Implemented:** ORS 181.640, 181.661, 181.662 & 181.664

**Proposed Amendments:** 259-008-0070

**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** When the criminal justice denial and revocation rules were updated several years ago, the workgroups, policy committees, and Board identified a list of crimes for which conviction would

result in mandatory denial or revocation. They identified that all other convictions would be discretionary, requiring review by the appropriate policy committee and Board. Convictions of crimes within Oregon's Criminal Code at the time were then reviewed to determine which of the discretionary misconduct categories most closely matched the elements of the crime, and the presumptive categories were identified in the rule. It has recently been pointed out that the rule language associated with that list of crimes does not accurately reflect the intent of the rule, and could be construed as limiting committee consideration of a crime whose ORS reference had changed, or which had been added to Oregon's Criminal Code or found in other statutes outside of the Criminal Code. Although any criminal conviction may be considered under a different subsection of the rule, legal counsel recommends making technical clarifications to the language in OAR 259-008-0070.

**Rules Coordinator:** Linsay Hale

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

**Telephone:** (503) 378-2431

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

**Rule Caption:** Specifies Title and Registration Requirements for ATVs and Emergency Fire Apparatus. Repeals OAR 735-022-0120.

**Date:**  
4-19-12

**Time:**  
9 a.m.

**Location:**  
PUC Bldg., Main Hearing Rm.  
550 Capitol St. NE  
Salem OR

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 184.616, 184.619, 802.010, 803.030, 803.035, 803.305, 803.310 & 803.420

**Stats. Implemented:** ORS 803.010, 803.030, 803.035, 803.040, 803.045, 803.092, 803.305, 803.310, 803.350, 803.370 & 803.420

**Proposed Adoptions:** 735-022-0130, 735-032-0055

**Proposed Repeals:** 735-022-0120

**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** ORS 803.035 authorizes DMV to adopt rules for the titling of vehicles that are not subject to vehicle titling requirements under ORS 803.025; or that are exempt from vehicle titling requirements under ORS 803.030.

ORS 803.310 authorizes DMV to adopt rules for the registration of vehicles that are exempt from vehicle registration requirements under ORS 803.305. Pursuant to ORS 803.035 and ORS 803.310, respectively, DMV is proposing to adopt:

(1) OAR 735-022-0130 authorizes issuance of title and specifies titling requirements for:

(a) Class I, Class III and Class IV ATVs exempt from title requirements under ORS 803.030(3); and

(b) Emergency fire apparatus, owned by a fire service agency, exempt from title requirements under ORS 803.030(8). Emergency fire apparatus include but are not limited to a fire truck, fire engine, tanker or any other similar vehicle that is designed and used primarily for public fire protection or suppression.

Providing for the titling of ATVs and emergency fire apparatus, will facilitate perfection of security interests for banks and other lending institutions who provide loans for the purchase of these vehicles. Having a vehicle title issued by DMV may also make transfer of ownership interests in these vehicles easier, and may assist the vehicle owner in obtaining insurance. Issuing a title for emergency fire apparatus will also allow emergency fire apparatus to be registered as provided under ORS 803.310 and DMV rule.

(2) OAR 735-032-0055 authorizes DMV to issue registration and specifies registration requirements for emergency fire apparatus, owned by a fire service agency. Because these vehicles are exempt from registration requirements under ORS 803.305(8), they do not need a registration plate to operate on Oregon highways. This has

# NOTICES OF PROPOSED RULEMAKING

created confusion for law enforcement officials and made it difficult for some fire service agencies to purchase fuel at commercial filling stations. Issuance of registration will alleviate these problems.

OAR 735-022-0130 replaces OAR 735-022-0120 which DMV proposes to repeal in its entirety.

**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,  
Motor Carrier Transportation Division  
Chapter 740**

**Rule Caption:** Amendment of intrastate exceptions to federal motor carrier safety transportation regulations.

**Stat. Auth.:** ORS 184.616, 184.619, 823.011, 825.232 & 825.252

**Stats. Implemented:** ORS 825.210, 825.250 & 825.252

**Proposed Amendments:** 740-100-0010

**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** Permanent rules were originally filed on October 26, 2011 with the Secretary of State, but the amendments were inadvertently omitted during the annual re-adoption filed in February 2012. This is a new filing to correct the omission.

These rules cover the adoption of federal motor carrier safety regulations and the intrastate exceptions. A recent Motor Carrier Safety Assistance Program (MCSAP) review identified intrastate exceptions that were determined not compatible with federal regulations. The following proposed rule amendments revise rules identified deficient in the review. Specifically, current rules allow an exemption from external identification requirements found in Title 49, Code of Federal Regulations (CFR) Part 390.21 and some driver qualification requirements found in 49 CFR Part 391 for intrastate private carriers operating with a gross weight rating of 26,000 pounds or less. An amendment will further limit applicability of the exemptions by including that in addition to the vehicle(s) weight rating not exceeding 26,000 pounds, actual weight of the vehicle or combination may not exceed 26,000 pounds to use this exemption. Another amendment specifies that an intrastate commercial motor vehicle operator must be 18 years of age. This amendment clarifies the rule and is consistent with the provisions of ORS 807.060. Finally, it is proposed that an exception from CFR 49 Part 396.17 through 396.23 allowing an exemption for periodic inspection requirements for carriers operating wholly in intrastate commerce be repealed in its entirety.

**Rules Coordinator:** Lauri Kunze

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

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

.....  
**Employment Department  
Chapter 471**

**Rule Caption:** Repeal equipment rule.

Date:	Time:	Location:
4-23-12	11 a.m.	Employment Dept. Auditorium 875 Union St. NE Salem, OR

**Hearing Officer:** C. Brooks

**Stat. Auth.:** ORS 657.610

**Stats. Implemented:** ORS 657

**Proposed Repeals:** 471-031-0200

**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** The rule was originally intended to clarify "their equipment" in ORS 657.047(1)(b). It is no longer necessary.

**Rules Coordinator:** Courtney Brooks

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

**Telephone:** (503) 947-1724

## Land Conservation and Development Department Chapter 660

**Rule Caption:** Amended notice to adopt, amend, repeal rules governing Oregon's implementation of Federal CZMA consistency requirements.

Date:	Time:	Location:
5-10-12	9 p.m.	Land Conservation & Development Basement Hearing Rm. 635 Capitol St. NE Salem, OR 97301

**Hearing Officer:** Land Conservation & Development Commission

**Stat. Auth.:** ORS 197.040 & 183.332

**Other Auth.:** 15 CFR Part 930

**Stats. Implemented:** ORS 196.435

**Proposed Adoptions:** 660-035-0005, 660-035-0015, 660-035-0075

**Proposed Amendments:** 660-035-0000, 660-035-0010, 660-035-0020, 660-035-0030, 660-035-0050, 660-035-0060, 660-035-0070

**Proposed Repeals:** 660-035-0040, 660-035-0080

**Last Date for Comment:** 5-10-12, 9 a.m.

**Summary:** The federal Coastal Zone Management Act of 1972, as amended, contains a "federal consistency" provision that allows states with an approved coastal management program to review federal activities affecting coastal uses or resources. The Department of Land Conservation and Development (department) is Oregon's designated coastal zone management agency, and administers Oregon's federal consistency program. The department administers federal consistency reviews according to the federal requirements outlined in 15 CFR Part 930, and the corollary state rules in OAR chapter 660, division 35. The proposed rule adoptions, amendments, and repeals update division 35 to reflect changes in federal requirements since the rule was last updated, and to clarify that the department will follow the requirements of 15 CFR Part 930 when performing consistency reviews. Housekeeping and technical corrections to the rules may be proposed to ensure rule consistency.

Per ORS 183.335(12)(a), this notice amends the department's February 2012 notice to reflect that the department will adopt, amend, repeal, and renumber the proposed rules.

**Rules Coordinator:** Casaria Tuttle

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

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

.....  
**Rule Caption:** Adopt permanent rules specifically applicable to siting photovoltaic solar power generation facilities.

Date:	Time:	Location:
5-10-12	9 a.m.	Land Conservation & Development Basement Hearing Rm. 635 Capitol St. NE Salem, OR 97301

**Hearing Officer:** Land Conservation & Development Commission

**Stat. Auth.:** ORS 197.040

**Other Auth.:** Statewide Planning Goals 2 & 3

**Stats. Implemented:** ORS 215.213(2) & 215.283(2)

**Proposed Amendments:** 660-033-0120, 660-033-0130

**Last Date for Comment:** 5-10-12, 9 a.m.

**Summary:** The proposed change amends OAR Chapter 660, Division 33 regarding the process for siting commercial photovoltaic solar power generation facilities on farm and ranch lands without a Goal 2 exception.

**Rules Coordinator:** Casaria Tuttle

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

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



# NOTICES OF PROPOSED RULEMAKING

## Landscape Architect Board Chapter 804

**Rule Caption:** Updates to Registration Rules, Including Standards for Registration by Reciprocity.

**Date:** 4-19-12      **Time:** 9 a.m.      **Location:** Conference Rm. "A"  
Assoc. Center  
707 13th St. SE  
Salem, OR 97301

**Hearing Officer:** Christine Valentine

**Stat. Auth.:** ORS 671.316, 671.335, 671.345 & 671.415

**Stats. Implemented:** ORS 671.310-671.459

**Proposed Amendments:** 804-022-0005, 804-022-0010

**Last Date for Comment:** 4-19-12

**Summary:** Amendments to OAR 804-022-0005 and OAR 804-022-0010 are proposed to clarify language in relation to application criteria for registration. Additional amendments to OAR 804-022-010 are proposed to define an additional path for determining that an applicant for registration by reciprocity has qualifications substantially equivalent to the registration requirements of 804-022-0005 as required by ORS 671.435. The rule revisions related to reciprocity are designed to add flexibility and fairness while still ensuring that only duly qualified professionals obtain an Oregon registration.

**Rules Coordinator:** Christine Valentine

**Address:** Landscape Architect Board, 707 13th St. SE, Suite 261, Salem, OR 97301

**Telephone:** (503) 589-0093

\*\*\*\*\*

## Landscape Contractors Board Chapter 808

**Rule Caption:** Updates rule to reflect what documentation the agency needs to renew a license.

**Stat. Auth.:** ORS 670.310 & 671.670

**Stats. Implemented:** ORS 671.565 & 671.560

**Proposed Amendments:** 808-003-0230

**Last Date for Comment:** 4-23-12, 5 p.m.

**Summary:** OAR 808-002-0230 is being amended to update rule to reflect what documentation the agency needs to renew a license.

**Rules Coordinator:** Kim Gladwill-Rowley

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

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

\*\*\*\*\*

**Rule Caption:** Amends rule to adopt new Attorney General's Model Rules.

**Stat. Auth.:** ORS 670.310 & 671.670

**Stats. Implemented:** ORS 183.341 & 279

**Proposed Amendments:** 808-001-0005

**Last Date for Comment:** 4-23-12, 5 p.m.

**Summary:** 808-001-0005 is amended to adopt the new Attorney General's Model Rules of Procedure.

**Rules Coordinator:** Kim Gladwill-Rowley

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

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

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## Occupational Therapy Licensing Board Chapter 339

**Rule Caption:** Require applicants to take Law Ethics Exam and require other background checks.

**Stat. Auth.:** ORS 675.320(8)

**Other Auth.:** Board meeting Feb. 3, 2012; Newsletter Jan. 2012

**Stats. Implemented:** ORS 675.320

**Proposed Adoptions:** 339-010-0013

**Proposed Amendments:** 339-010-0012

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

**Summary:** The first rule allows the Board to require an Oregon Law Ethics Exam to be taken and passed by applicants.

The second rule adds to the rule on Fingerprinting that the Board may also require criminal history checks, including Law Enforcement Data System (LEDS). Although there is a current rule allowing fingerprinting, the 2011 Legislature did not approve a Board limitation for fingerprinting (that applicants would have to pay for). As an alternative, the Board may decide to require and fund the cost of other history background checks such as the LEDS.

**Rules Coordinator:** Felicia Holgate

**Address:** Occupational Therapy Licensing Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

**Telephone:** (971) 673-0198

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## Oregon Criminal Justice Commission Chapter 213

**Rule Caption:** Amends Oregon's Sentencing Guidelines.

**Stat. Auth.:** ORS 137.667

**Stats. Implemented:** ORS 137.667, 2011 OL Ch. 598 (SB 395), 2011 OL Ch. 3 § 1 (BM 73) & HB 2940 (2011)

**Proposed Adoptions:** 213-018-0037

**Proposed Amendments:** 213-003-0001, 213-004-0001, 213-005-0001, 213-005-0011, 213-005-0013, 213-017-0006, 213-017-0007, 213-017-0008

**Proposed Repeals:** 213-003-0001(T), 213-017-0006(T), 213-017-0007(T), 213-017-0008(T)

**Last Date for Comment:** 4-26-12

**Summary:** The Criminal Justice Commission (CJC) is required under ORS 137.667 to review all legislation creating new crimes or modifying existing crimes, and to adopt by rule necessary changes to the sentencing guidelines. CJC may also classify offenses as person felonies or person misdemeanors. ORS 137.667(1). These rule changes make permanent various temporary rules that are in currently in place pertaining to the sentencing guidelines. The rule changes also incorporate changes to the guidelines grid and sentencing rules brought about by BM 73 (2010) and SB 395 (2011).

CJC previously classified the offense of Failure to Report as a Sex Offender under ORS 181.599 as a Level 4 on the Crime Seriousness Scale. The offense was erroneously listed as being categorized both as a Level 5 on the Crime Seriousness Scale, as well as a Level 4 on the Crime Seriousness Scale. A temporary rule is currently in place to correct that error, by deleting the listing of Failure to Report as a Sex Offender from Level 5 of the Crime Seriousness Scale. This rule amendment makes permanent that temporary change.

HB 2940 (2011) became effective on January 1, 2012. Section 1 of HB 2940 makes the crime of strangulation under ORS 163.187 a Class C felony under certain circumstances. CJC has classified felony strangulation as a person felony, and as a Crime Category 6 on the crime seriousness scale. A temporary rule is currently in place effectuating these classifications. These rule amendments make permanent those temporary changes.

2011 Or Laws ch 3 § 1 (BM 73) became effective on December 2, 2010. Under BM 73, a Driving Under the Influence of Intoxicants offense under ORS 813.010 committed on or after December 2, 2010 is a class C felony if the defendant has two prior convictions for DUII entered within 10 years of the date of the new offense. Prior to the enactment of 2011 Or Laws ch 598 (SB 395), ORS 813.012(1) required that BM 73 DUIIs be categorized as a Crime Category 6 on the Crime Seriousness Scale. As amended by Section 1 of SB 395, ORS 813.012(1) now provides that a conviction for felony DUII has a crime-seriousness ranking of 6 only if the conviction is a felony under ORS 813.010(5). SB 395 went into effect on June 30, 2011. CJC has classified BM 73 DUII as a Crime Category 4 on the Crime Seriousness Scale. It has also classified BM 73 DUII as a person felony. There is currently a temporary rule in place effectuating those changes. The temporary rule also clarifies that only felony DUII under ORS 813.010(5), not BM 73 felony DUII, is categorized as a



# NOTICES OF PROPOSED RULEMAKING

Crime Category 6 on the Crime Seriousness Scale. This rule change makes permanent those temporary changes. Additionally, the rules pertaining to sentencing (Division 5) and the guidelines gridblocks are being amended to incorporate changes to the guidelines grid, changes the periods of sanction units and jail units, and the mandatory minimum 90 days of incarceration, following BM 73 and SB 395. An additional rule is being adopted to delineate the offense sub-categories for Felony Driving Under the Influence of Intoxicants, also brought about by BM 73 and SB 395.

The rule changes also include numbering changes necessitated by adding to and deleting from the list of numerically ordered crimes, and updated statutory citations.

**Rules Coordinator:** Craig Prins

**Address:** Oregon Criminal Justice Commission, 885 Summer St. NE, Salem, OR 97301

**Telephone:** (503) 378-4830

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## Oregon Department of Education Chapter 581

**Rule Caption:** Rewrite and reorganization of pupil transportation rules.

Date:	Time:	Location:
4-25-12	1 p.m.	255 Capitol St. NE, Rm. 251A Salem, OR

**Hearing Officer:** Cindy Hunt

**Stat. Auth.:** ORS 327.013 & 820.100-820.120

**Stats. Implemented:** ORS 327.013, 820.100, 820.105, 820.110 & 820.120

**Proposed Adoptions:** 581-053-0003, 581-053-0004, 581-053-0021, 581-053-0031, 581-053-0040, 581-053-0050, 581-053-0060, 581-053-0070, 581-053-0100, 581-053-0110, 581-053-0120, 581-053-0130, 581-053-0135, 581-053-0140, 581-053-0145, 581-053-0150, 581-053-0160, 581-053-0170, 581-053-0180, 581-053-0210, 581-053-0220, 581-053-0225, 581-053-0230, 581-053-0240, 581-053-0250, 581-053-0310, 581-053-0320, 581-053-0330, 581-053-0340, 581-053-0410, 581-053-0420, 581-053-0430, 581-053-0440, 581-053-0445, 581-053-0511, 581-053-0521, 581-053-0531, 581-053-0610, 581-053-0615, 581-053-0620, 581-053-0630, 581-053-0640

**Proposed Amendments:** 581-053-0002, 581-053-0010, 581-053-0540

**Proposed Repeals:** 581-053-0006, 581-053-0008, 581-053-0015, 581-053-0507, 581-053-0512, 581-053-0516, 581-053-0527, 581-053-0535, 581-053-0545, 581-053-0550, 581-053-0555, 581-053-0556

**Last Date for Comment:** 4-25-12, 5 p.m.

**Summary:** PUPIL TRANSPORTATION

### Purpose, Applicability and Definitions:

581-053-0002 – Purpose and Applicability.

581-053-0003 – Definitions.

### Administration of Pupil Transportation:

581-053-0004 – Administration of Pupil Transportation – Generally.

581-053-0010 – Rules Governing Pupils Riding School Buses and School Activity Vehicles.

581-053-0021 – Record Retention.

581-053-0031 – Driving Hour Limitations.

581-053-0040 – Physical Examinations.

581-053-0050 – Driving and Criminal Records.

581-053-0060 – Refusals and Suspensions.

581-053-0070 – Pupil Transporting Vehicle Maintenance and Inspection.

### Non-Driving Related Certificates:

581-053-0100 – Non-Driving Related Certificates – Generally.

581-053-0110 – Supervisor Training and Certification.

581-053-0120 – Vehicle Inspection Certification.

581-053-0130 – Assistant Trainer Certificate.

581-053-0135 – Reference Point Assistant Trainer Certificate.

581-053-0140 – Behind-the-Wheel Instructor Certificate.

581-053-0145 – Behind-the-Wheel Instructor Probationary Certificate.

581-053-0150 – Third Party Examiner Training and Support.

581-053-0160 – CORE Instructor Training and Certification.

581-053-0170 – Core Refresher Instructor Training and Certification.

581-053-0180 – Transporting Students with Special Needs Instructor Training and Certification.

### School Buses:

581-053-0210 – Transportation Entity Requirements for School Bus Operation.

581-053-0220 – School Bus Driver Training and Certification.

581-053-0225 – Approved Training for School Bus Drivers.

581-053-0230 – Rules Pertaining to School Bus Drivers.

581-053-0240 – Minimum Standards for School Buses.

581-053-0250 – Retrofit Standards for School Buses.

### Type 10 Activity Vehicles:

581-053-0310 – Transportation Entity Requirements for Type 10 Operation.

581-053-0320 – Type 10 Driver Training and Approval.

581-053-0330 – Rules Pertaining to Type 10 Drivers.

581-053-0340 – Minimum Standards for Type 10 School Activity Vehicles.

### Type 20 Activity Vehicles:

581-053-0410 – Transportation Entity Requirements.

581-053-0420 – Type 20 Driver Training and Certification.

581-053-0430 – Rules Pertaining to Type 20 Drivers.

581-053-0440 – Minimum Standards for Type 20 Vehicles.

581-053-0445 – Use of a School Bus as a Type 20 School Activity Vehicle.

### Type 21 Activity Vehicles:

581-053-0511 – Transportation Entity Requirements.

581-053-0521 – Type 21 Driver Training and Certification.

581-053-0531 – Rules Pertaining to Type 21 Drivers.

581-053-0540 – Minimum Standards for Type 21 Vehicles.

### Special Pupil Activity Buses:

581-053-0610 – Transportation Entity Requirements.

581-053-0615 – SPAB Motor Carrier Requirements.

581-053-0620 – SPAB Driver Training and Certification.

581-053-0630 – Rules Pertaining to SPAB Drivers.

581-053-0640 – Minimum Standards for SPAB Vehicles.

**Rules Coordinator:** Cindy Hunt

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

**Telephone:** (503) 947-5651

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**Rule Caption:** Clarifies that both federal FERPA and IDEA apply to education records of children with disabilities.

Date:	Time:	Location:
4-25-12	1 p.m.	255 Capitol St. NE, Rm. 251A Salem, OR

**Hearing Officer:** Cindy Hunt

**Stat. Auth.:** ORS 343.041, 343.155, 343.475 & 343.485

**Stats. Implemented:** ORS 343.155, 343.173 & 343.485

**Proposed Amendments:** 581-015-2300, 581-015-2770

**Last Date for Comment:** 4-25-12, 5 p.m.

**Summary:** 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

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

**Telephone:** (503) 947-5651

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**Rule Caption:** Prohibits public schools from using race based Native American mascots.

# NOTICES OF PROPOSED RULEMAKING

**Date:** 4-27-12  
**Time:** 9 a.m.  
**Location:** HRC, State Capitol  
900 Court St. NE  
Salem, OR

**Hearing Officer:** Cindy Hunt

**Stat. Auth.:** ORS 326.051, 659.850 & 659.855

**Stats. Implemented:** ORS 326.051, 338.115, 659.850 & 659.855

**Proposed Adoptions:** 581-021-0047

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

**Summary:** Prohibits use of race based Native American mascots by public schools on or after July 1, 2017. Defines the term "Native American mascot." Requires school districts, education service districts and charter school sponsors to notify public schools that use Native American mascots, notify the Department of Education of each school's use and notify Department when new mascot is adopted.

Allows Superintendent to withhold all or part of state funding for noncompliance.

**Rules Coordinator:** Cindy Hunt

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

**Telephone:** (503) 947-5651

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

**Rule Caption:** Residential Treatment Facilities for Mentally or Emotionally Disturbed Persons.

**Date:** 4-26-12  
**Time:** 1 p.m.  
**Location:** 500 Summer St. NE, Rm. 556  
Salem, OR

**Hearing Officer:** Nola Russell

**Stat. Auth.:** ORS 413.042 & 443.450

**Stats. Implemented:** ORS 443.400-443.455, 443.875 & 443.991

**Proposed Amendments:** 309-035-0100, 309-035-0105, 309-035-0250, 309-035-0260

**Proposed Repeals:** 309-035-0100(T), 309-035-0105(T), 309-035-0250(T), 309-035-0260(T)

**Last Date for Comment:** 5-1-12, Close of Business

**Summary:** These rules prescribe standards by which the Addictions and Mental Health Division of the Oregon Health Authority approves residential treatment homes and facilities for adults with mental or emotional disorders.

**Rules Coordinator:** Nola Russell

**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:** Definitions amendments to rules regarding Adult Foster Homes.

**Date:** 4-26-12  
**Time:** 1 p.m.  
**Location:** 500 Summer St. NE, Rm. 556  
Salem, OR

**Hearing Officer:** Nola Russell

**Stat. Auth.:** ORS 413.042 & 443.775

**Stats. Implemented:** ORS 443.705, 443.825, 443.875 & 443.991

**Proposed Amendments:** 309-040-0300, 309-040-0305

**Proposed Repeals:** 309-040-0300(T), 309-040-0305(T)

**Last Date for Comment:** 5-1-12, Close of Business

**Summary:** These rules prescribe standards and procedures for the provision of care and services to residents with mental illness in the Addictions and Mental Health Division of the Oregon Health Authority adult foster homes, as a condition for licensure and payment.

**Rules Coordinator:** Nola Russell

**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:** State Hospital Admissions and Discharges.

**Date:** 4-30-12  
**Time:** 1 p.m.  
**Location:** 500 Summer St. NE, Rm. 137A  
Salem OR

**Hearing Officer:** Nola Russell

**Stat. Auth.:** ORS 413.042, 179.010 & 179.360

**Stats. Implemented:** ORS 179.321, 426.010, 426.020 & 426.072

**Proposed Adoptions:** 309-091-0000, 309-091-0005, 309-091-0010, 309-091-0015, 309-091-0020, 309-091-0025, 309-091-0030, 309-091-0035, 309-091-0040, 309-091-0045, 309-091-0050

**Proposed Repeals:** 309-031-0200, 309-031-0205, 309-031-0210, 309-031-0215, 309-031-0220, 309-031-0250, 309-031-0255, 309-091-0000(T), 309-091-0005(T), 309-091-0010(T), 309-091-0015(T), 309-091-0020(T), 309-091-0025(T), 309-091-0030(T), 309-091-0035(T), 309-091-0040(T), 309-091-0045(T), 309-091-0050(T)

**Last Date for Comment:** 5-4-12, Close of Business

**Summary:** These rules establish and define the criteria which support the proper management and utilization of services provided by the Oregon State Hospital system by limiting admissions to those most severely symptomatic individuals whose treatment and recovery needs cannot be met in a community treatment setting.

**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:** Legislatively mandated implementation of Pharmacy & Therapeutics (P&T) Committee.

**Date:** 4-17-12  
**Time:** 10:30 a.m.  
**Location:** DHS Bldg., Rm. 137  
500 Summer St. NE  
Salem, OR 97301

**Hearing Officer:** Cheryl Peters

**Stat. Auth.:** ORS 409.025, 409.040, 409.110, 413.042, 414.065, 414.325, 414.355, 414.360, 414.365, 414.370, 414.380 & 2011 OL Ch. 720 (HB 2100)

**Stats. Implemented:** ORS 414.065 & 2011 OL Ch. 720 (HB 2100)

**Proposed Adoptions:** 410-121-0110

**Proposed Amendments:** 410-121-0033, 410-121-0100

**Proposed Repeals:** 410-121-0033(T), 410-121-0100(T), 410-121-0110(T)

**Last Date for Comment:** 4-19-12, 10:30 a.m.

**Summary:** The Pharmaceutical Services Program administrative rules (division 121) govern Division payments for services provided to certain clients. The Division permanently adopted 410-121-0110 retroactive to September 5, 2011, pursuant to Oregon Laws 2011, chapter 720 (HB 2100) and amended 410-121-0033 and 410-121-0100 to comply with State and Federal mandates regarding the combined Drug Use Review (DUR)/Pharmacy & Therapeutics (P&T) Committee. Having temporarily adopted and amended rules listed below the Division will permanently adopt and amend with this Notice of Proposed Rulemaking/Hearing:

Adopt:

410-121-0110 to transfer and define duties from the abolished DUR Board to the DUR/P&T Committee.

Amend:

# NOTICES OF PROPOSED RULEMAKING

410-121-0033: 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.

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

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

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

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**Rule Caption:** Amending Preferred Drug List and Prior Authorization Guide – February 23, 2012 DUR/P&T Action.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-17-12	10:30 a.m.	DHS Bldg., Rm. 137 500 Summer St. NE Salem, OR 97301

**Hearing Officer:** Cheryl Peters

**Stat. Auth.:** ORS 409.025, 409.040, 409.110, 413.042, 414.065, 414.325, 414.334, 414.355, 414.360, 414.365, 414.370, 414.380 & 2011 OL Ch. 720 (HB 2100)

**Stats. Implemented:** ORS 414.065 & 2011 OL Ch. 720 (HB 2100)

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

**Last Date for Comment:** 4-19-12, 10:30 a.m.

**Summary:** The Pharmaceutical Services Program administrative rules (division 121) govern Division payments for services provided to certain clients. The Division permanently amended 410-121-0030 and 410-121-0040 per the Drug Use Review (DUR) Pharmacy & Therapeutics (P&T) Committee's recommendations made in the February 23, 2012 meeting.

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

**Rules Coordinator:** Cheryl Peters

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

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

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**Rule Caption:** Update Managed Care Disenrollment criteria from PHP's and clarify Pharmaceutical Drug List exclusions.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-17-12	10:30 a.m.	DHS Bldg., Rm. 137 500 Summer St. NE Salem, OR 97301

**Hearing Officer:** Cheryl Peters

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-141-0070, 410-141-0080

**Proposed Repeals:** 410-141-0070(T), 410-141-0080(T)

**Last Date for Comment:** 4-19-12, 10:30 a.m.

**Summary:** The Oregon Health Plan (OHP or Managed Care) Program administrative rules govern the Division of Medical Assistance Programs' (Division) payment for services to certain clients. The Division will permanently amend OAR 410-141-0070 Pharmaceutical Drug List Requirements which will mitigate concerns with respect to how the Division will exclude drugs from the capitation rate that were FDA approved to treat mental health diseases, but were not listed as a class 7 or 11, by First Data Bank. This will also eliminate any concerns with respect to how the Division will address requests from MCOs to exclude from capitation payments drugs that were FDA approved to treat mental health disease but are not listed in class 7 or 11 by First Data Bank.

The Division will also permanently amend OAR 410-141-0080 Managed Care Disenrollment from PHP which incorporates new leg-

islation (SB 201) which allows disenrollment from a managed care plan due to client choice and if 500 or more Division members choose to change plans in order to continue receiving care from a provider that is terminating their contractual relationship with a PHP;

**Rules Coordinator:** Cheryl Peters

**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, Public Health Division Chapter 333

**Rule Caption:** Changes to In-Home Care Agency licensing rules in response to 2009 and 2011 legislation.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-18-12	2 p.m.	Portland State Office Building 800 NE Oregon St., Rm. 1E Portland, OR 97232

**Hearing Officer:** Jana Fussell

**Stat. Auth.:** ORS 181.534 & 443.340

**Stats. Implemented:** ORS 443.004 & 443.305–443.355

**Proposed Adoptions:** 333-536-0007, 333-536-0021, 333-536-0023, 333-536-0031, 333-536-0033, 333-536-0041, 333-536-0042, 333-536-0043, 333-536-0093, 333-536-0110, 333-536-0117, 333-536-0120, 333-536-0125

**Proposed Amendments:** 333-536-0000, 333-536-0005, 333-536-0010, 333-536-0015, 333-536-0025, 333-536-0035, 333-536-0045, 333-536-0050, 333-536-0055, 333-536-0060, 333-536-0065, 333-536-0070, 333-536-0075, 333-536-0080, 333-536-0085, 333-536-0090, 333-536-0095, 333-536-0105

**Proposed Repeals:** 333-536-0020, 333-536-0030, 333-536-0040, 333-536-0115

**Last Date for Comment:** 4-20-12, 5 p.m.

**Summary:** The Oregon Health Authority, Public Health Division is proposing to permanently adopt and amend Oregon Administrative Rules relating to in-home care agencies in response to legislation passed in 2009 (SB 158) and 2011 (HB 2650). 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. The Public Health Division is required to prescribe the process for home health and in-home care agencies conducting background checks.

The Healthcare Regulation and Quality Improvement program ensures that a safe and healthy environment is provided by over 500 health related facilities and agencies. Regulatory oversight of in-home care agencies is an important component for promoting patient safety and quality care. This can be accomplished with clearly defined and updated responsibilities. In-home care agency rules were last revised in 2007.

This proposed rulemaking addresses the following:

- Updates definitions;
- Clarifies the application and review process for licensure;
- Adds classifications;
- Clarifies approval, denial, and expiration for licensure;
- Adds denial, suspension or revocation of a license;
- Clarifies the survey process;
- Clarifies and adds information on investigating complaints and conducting investigations;
- Adds information on criminal background check requirements;
- Clarifies what is considered a violation;



# NOTICES OF PROPOSED RULEMAKING

- Establishes processes for enforcement actions including civil penalties;
- Clarifies requirements for providing services including medication and nursing services;
- Adds additional provisions for organization, administration and personnel responsibilities;
- Clarifies requirements for disclosure statements, client rights, service plans, caregiver qualifications and client records; and
- Modifies provisions for quality improvement activities.

**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:** Standardize hearing aid board rules to follow model for other OHLA regulated boards.

**Stat. Auth.:** ORS 676.615, 694.115, 694.170 & 694.185

**Stats. Implemented:** ORS 694.025, 694.125 & 694.185

**Proposed Adoptions:** 331-620-0005, 331-630-0001, 331-630-0005, 331-630-0011, 331-630-0015, 331-630-0020, 331-630-0025, 331-630-0030, 331-630-0035, 331-630-0040, 331-630-0050, 331-630-0060, 331-630-0070, 331-640-0005, 331-650-0005, 331-650-0015, 331-660-0000, 331-660-0010, 331-660-0020, 331-660-0030, 331-660-0040, 331-660-0050, 331-660-0060, 331-660-0070, 331-660-0080

**Proposed Repeals:** 331-601-0000, 331-601-0010, 331-610-0000, 331-610-0010, 331-610-0020, 331-610-0030, 331-610-0040, 331-610-0050, 331-620-0000, 331-620-0010, 331-620-0020, 331-630-0000, 331-630-0010, 331-640-0000, 331-640-0010, 331-640-0020, 331-640-0030, 331-640-0040, 331-640-0050, 331-640-0055, 331-640-0060, 331-650-0000, 331-650-0010

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

**Summary:** The Oregon Health Licensing Agency (Agency) and the Advisory Council on Hearing Aids (ACHA) are proposing to adopt the ACHA administrative rules Chapter 331 Divisions 620–660. Rule changes are necessary to standardize and streamline rules for consistency with other professions regulated by OHLA and to allow for the adoption of rules that will align with current industry, agency and statewide rulemaking standards and principles.

Adopt 331-620-0005 Definitions: in order to meet rulemaking protocols and define relevant terms where utilized within the rule for efficiency.

Adopt 331-630-0001 Application Requirements: to establish standardized pathways for licensure and to streamline the application process. The pathways include:

- Qualification through the Trainee registration and examination.
- Qualification through equivalency.
- Qualification through degree equivalency.
- Qualification through other state licensure equivalency.

Adopt 331-630-0005 Examination requirements.

Adopt 331-630-0011 Temporary licenses application and issuance.

Adopt 331-630-0015 Temporary licensee supervisor.

Adopt 331-630-0020 Supervision of temporary hearing aid specialists.

Adopt 331-630-0025 Application for registration as a trainee.

Adopt 331-630-0030 Trainee registration.

Adopt 331-630-0035 Application for registration as a trainee supervisor.

Adopt 331-630-0040 Trainee program.

Adopt 331-630-0050 General examination information.

Adopt 331-630-0060 Examination retake.

Adopt 331-630-0070 License issuance and renewal.

Adopt 331-640-0005 Fees.

Adopt 331-650-0005 Continuing education requirements.

Adopt 331-650-0015 Continuing education: audit, required documentation and sanctions.

Adopt 331-660-0000 Standards of practice.

Adopt 331-660-0010 Standards of professional conduct.

Adopt 331-660-0020 Safety and infection control requirements.

Adopt 331-660-0030 Audiometric testing equipment.

Adopt 331-660-0040 Statement to prospective purchaser.

Adopt 331-660-0050 Additional conditions for referral.

Adopt 331-660-0060 Standards of conduct.

Adopt 331-660-0070 Uniform measurement standards.

Adopt 331-660-0080 Client record requirements .

**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:** Specify hearing request and answer requirements for certain programs OHLA related to potential disciplinary action.

**Stat. Auth.:** ORS 676.608 & 676.615

**Stats. Implemented:** ORS 676.607 & 676.608

**Proposed Amendments:** 331-020-0020

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

**Summary:** Amend OAR 331-020-0020 to delineate which programs under OHLA have more complexity and warrant a more specific response from the respondent when requesting a hearing. The following practices have been deemed more complex: direct entry midwifery, sex offender treatment therapy, respiratory care and polysomnography. The amendment would also allow the respondent to amend the response and answer within 10 day before the scheduled contested case hearing. Hearing requests under all other OHLA programs are deemed a general denial of the matters alleged in the notice and no specific response is necessary.

**Rules Coordinator:** Samantha Patnode

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

**Telephone:** (503) 373-1917

.....  
**Oregon Health Licensing Agency,**  
**Board of Cosmetology**  
**Chapter 817**

**Rule Caption:** Amend civil penalties, repeal communicable disease rules and general maintenance aligning with Agency protocols.

**Stat. Auth.:** ORS 676.607, 676.612, 676.615, 676.992, 690.085, 690.057, 690.123, 690.165, 690.167, 690.205

**Stats. Implemented:** ORS 676.607, 676.612, 676.992, 690.015, 690.046, 690.055, 690.165, 690.085, 690.057, 690.123

**Proposed Adoptions:** 817-020-0001, 817-020-0007, 817-020-0009, 817-030-0003, 817-035-0048, 817-035-0052, 817-035-0068

**Proposed Amendments:** 817-015-0010, 817-020-0006, 817-020-0015, 817-035-0010, 817-035-0050, 817-035-0070, 817-035-0090, 817-090-0025, 817-090-0035, 817-090-0045, 817-090-0105, 817-120-0005

**Proposed Repeals:** 817-080-0005

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

**Summary:** Adopt amend and repeal rules to align with Agency standards and principles. Administrative rules have been streamlined to be consistent with statutory authority and Agency protocol.

Align facility license application requirements for cosmetology Align with Agency protocols including requiring a “natural person” be the owner of a facility effective the day administrative rules become permanent. Other streamlining initiatives are current registration of business name or Assumed Business Name (ABN) as filed with the Secretary of State, Corporations Division corporations.

Repeal requiring a facility located within a residence have a separate entrance.

Align independent contractor registration and freelance authorization application requirements for cosmetology with the current Agency standard.



# NOTICES OF PROPOSED RULEMAKING

Upon renewal of any facility license issued before January 1, 2013, must meet renewal requirements to renew a cosmetology facility license, including having a natural person being listed as the holder (owner) of the license. Corporations, LLC's and others may have to designate a natural person as the facility license holder who will be responsible for matters within the facility.

It is necessary to amend OAR 817-090-0025, 817-090-0035, and 817-090-0045 because the Oregon Health Licensing Agency (Agency) and the Board of Cosmetology (Board) do not have statutory authority to assess civil penalties for violations of ORS chapter 676 or OAR chapter 331 under OAR chapter 817.

It is necessary to amend OAR 817-090-0105 and 817-120-0005 because it is unlawful under the American with Disabilities Act (ADA) for a state to prevent an individual from practicing cosmetology based on that individual's HIV/AIDS (communicable disease) status.

**Rules Coordinator:** Samantha Patnode

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

**Telephone:** (503) 373-1917

\*\*\*\*\*  
**Oregon Medical Board**  
**Chapter 847**

**Rule Caption:** Eliminates the \$225 supervising physician application fee and \$52 criminal records check fee.

**Stat. Auth.:** ORS 677.265 & 181.534

**Stats. Implemented:** ORS 677.265 & 181.534

**Proposed Amendments:** 847-005-0005

**Last Date for Comment:** 4-21-12

**Summary:** The proposed rule amendment eliminates the \$225 fee for the supervising physician application and eliminates the \$52 fee for criminal records checks for an applicant or licensee of the Oregon Medical Board.

**Rules Coordinator:** Nicole Krishnaswami

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

**Telephone:** (971) 673-2667

\*\*\*\*\*

**Rule Caption:** Eliminates the \$52 fee for criminal records checks on an applicant or licensee.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.265 & 181.534

**Proposed Amendments:** 847-020-0155

**Last Date for Comment:** 4-21-12

**Summary:** The proposed rule amendment eliminates the \$52 fee for criminal records checks on an applicant or licensee of the Oregon Medical Board.

**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:** Eliminates the fee for supervising physician applications.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.510

**Proposed Amendments:** 847-050-0027

**Last Date for Comment:** 4-21-12

**Summary:** Temporary amendment eliminates the fee for supervising physician applications.

**Rules Coordinator:** Nicole Krishnaswami

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

**Telephone:** (971) 673-2667

## Oregon Public Employees Retirement System Chapter 459

**Rule Caption:** Update disability application requirements.

**Date:**  
4-25-12

**Time:**  
2 p.m.

**Location:**  
PERS Boardroom  
11410 SW 68th Pkwy.  
Tigard, OR 97223

**Hearing Officer:** Daniel Rivas

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

**Stats. Implemented:** ORS 238.320–238.345 & 238A.235

**Proposed Amendments:** 459-015-0020, 459-076-0020

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

**Summary:** This update to OAR 459-015-0020 and 459-076-0020 reflect the requirements for members who have a temporary disability, do not terminate employment, and return to work before applying for their disability benefit. The modifications also include housekeeping edits to correctly use the term “date of separation” for when PERS may begin paying disability benefits to a disability recipient.

**Rules Coordinator:** Daniel Rivas

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

**Telephone:** (503) 603-7713

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**Rule Caption:** Implement Roth 457 provisions of House Bill 2113 (2011).

**Date:**  
4-25-12

**Time:**  
2 p.m.

**Location:**  
PERS Boardroom  
11410 SW 68th Pkwy.  
Tigard, OR

**Hearing Officer:** Daniel Rivas

**Stat. Auth.:** ORS 243.470

**Stats. Implemented:** ORS 243.401–243.507

**Proposed Amendments:** 459-050-0060, 459-050-0120

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

**Summary:** The 2011 Oregon Legislative Assembly passed House Bill 2113 (chapter 722, Oregon Laws 2011), which became effective on August 5, 2011. The bill was amended to include the SB 950 provisions authorizing the Oregon Savings Growth Plan (OSGP) to offer a Roth 457 account to conform to a change in federal law. After noticing several Division 50 OSGP rules in March, it was later determined that to fully implement these provisions, modifications are also needed to OSGP rules 459-050-0060, OSGP Designation of Beneficiary, and 459-050-0120, Self-Directed Brokerage Option.

**Rules Coordinator:** Daniel Rivas

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

**Telephone:** (503) 603-7713

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## Oregon University System Chapter 580

**Rule Caption:** Supersede all prior Academic Year and Summer Session Fee Book rules.

**Date:**  
5-3-12

**Time:**  
10 a.m.

**Location:**  
EMU Boardroom  
University of Oregon Campus  
Eugene, OR

5-4-12

10 a.m.

MU Boardroom  
Oregon State University Campus  
Corvallis, OR

**Hearing Officer:** Marcia Stuart, Barbara Russell

**Stat. Auth.:** ORS 351.070 & 351.063(2)

**Stats. Implemented:** ORS 351.070 & 351.063(2)

**Proposed Amendments:** 580-040-0040

**Proposed Repeals:** 580-040-0035

**Last Date for Comment:** 5-7-12, Close of Business

**Summary:** To establish Tuition and Fees for both Academic Year 2012–13 and Summer Session 2013. Supersedes all prior Academ-

## NOTICES OF PROPOSED RULEMAKING

ic Year and Summer Session Fee Book rules. To establish a process under which each public university develops and submits proposed enrollment fees for Board consideration in accordance with ORS 351.063(2). Comments may be submitted to <http://www.ous.edu/factreport/tuition> beginning April 27, 2012.

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

\*\*\*\*\*

**Rule Caption:** To establish student involvement in the development of proposed resident undergraduate tuition rates.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
5-3-12	10 a.m.	EMU Boardroom University of Oregon Campus Eugene, OR
5-4-12	10: a.m.	MU Boardroom Oregon State University Campus Corvallis, OR

**Hearing Officer:** Marcia Stuart, Barbara Russell  
**Stat. Auth.:** ORS 351  
**Stats. Implemented:** ORS 351  
**Proposed Adoptions:** 580-010-0089

**Last Date for Comment:** 5-7-12, Close of Business  
**Summary:** During each fall term, the university president, or designee, will develop a process (or affirm a previously developed process) that involves students in the annual development of proposed tuition rates. This process will be communicated to the student government for discussion and input. Prior to the university president formally submitting proposed tuition rates to the Chancellor's Office and/or Board, the university president, or designee, will provide adequate opportunity for student government to consider and discuss the proposed rates as well provide feedback. Discussion of the university process for student involvement and student feedback on both the process and the proposed rates for undergraduate resident tuition will be included with tuition rate proposals formally submitted to the Chancellor's Office and/or Board.

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

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**Rule Caption:** Nonresident tuition differential to domestic non-resident students attending EOU.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
5-3-12	10 a.m.	EMU Boardroom University of Oregon Campus Eugene, OR
5-4-12	10 a.m.	MU Boardroom Oregon State University Campus Corvallis, OR

**Hearing Officer:** Marcia Stuart, Barbara Russell  
**Stat. Auth.:** ORS 351  
**Stats. Implemented:** ORS 351  
**Proposed Amendments:** 580-010-0081

**Last Date for Comment:** 5-7-12, Close of Business  
**Summary:** Due to the economic challenges associated with declining levels of state support, in academic year 2011-12, EOU began to charge international students a higher level of tuition than was paid by resident and domestic nonresident students. Starting in 2012-13, EOU requests charging a nonresident tuition differential to all domestic nonresident students who either were not previously enrolled or continue to be enrolled at EOU, or who are from states other than Washington, Idaho, or Oregon.

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

**Rule Caption:** Delegation of authority in matters of OUS procurement and contracting code.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-20-12	10 a.m.	SCH Rm. 246, 1431 Johnson Ln. Eugene, OR

**Hearing Officer:** Marcia Stuart  
**Stat. Auth.:** ORS 351  
**Stats. Implemented:** ORS 351

**Proposed Amendments:** 580-061-0010, 580-061-0030  
**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** To delegate authority to execute certain transactions to the Board Finance and Administration Committee or other entities, such as the Chancellor or presidents.

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

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**Rule Caption:** Delegation of Authority in matters of Real Property, Facility, and Campus Planning.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-20-12	10 a.m.	SCH Rm. 246, 1431 Johnson Ln. Eugene, OR

**Hearing Officer:** Marcia Stuart  
**Stat. Auth.:** ORS 351  
**Stats. Implemented:** ORS 351

**Proposed Amendments:** 580-060-0050  
**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** To delegate new responsibilities to the OSBHE's Finance and Administration Committee in alignment with statutory changes contained within SB 242. The State Board of Higher Education meets to conduct business only four to five times per year. The delegation of new responsibilities to the Finance and Administration Committee will allow the administrative affairs of the Chancellor's Office and campuses to run efficiently during the university system's transition from state agency to "public university system."

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

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**Rule Caption:** Delegation of Authority in matters of Purchasing and Contracts for Personal or Professional Services.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
4-20-12	10 a.m.	SCH Rm. 246, 1431 Johnson Ln. Eugene, OR

**Hearing Officer:** Marcia Stuart  
**Stat. Auth.:** ORS 351  
**Stats. Implemented:** ORS 351

**Proposed Amendments:** 580-062-0020  
**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** To delegate authority to execute certain transactions to the OSBHE's Finance and Administration Committee or other entities, such as the Chancellor or presidents in alignment with statutory changes contained within SB 242. The State Board of Higher Education meets to conduct business only four to five times per year. The delegation of new responsibilities to the Finance & Administration Committee will allow the administrative affairs of the Chancellor's Office and campuses to run efficiently during the university system's transition from state agency to "public university system."

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

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**Rule Caption:** Delegation of Authority in matters of Capital Construction and Contracting.

# NOTICES OF PROPOSED RULEMAKING

**Date:** 4-20-12  
**Time:** 10 a.m.  
**Location:** SCH Rm. 246, 1431 Johnson Ln.  
Eugene, OR

**Hearing Officer:** Marcia Stuart

**Stat. Auth.:** ORS 351

**Stats. Implemented:** ORS 351

**Proposed Amendments:** 580-063-0005, 580-063-0020

**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** To delegate authority to execute certain transactions to the OSBHE's Finance and Administration Committee or other entities, such as the Chancellor or presidents in alignment with statutory changes contained within SB 242. The State Board of Higher Education meets to conduct business only four to five times per year. The delegation of new responsibilities to the Finance & Administration Committee will allow the administrative affairs of the Chancellor's Office and campuses to run efficiently during the university system's transition from state agency to "public university system."

**Rules Coordinator:** Marcia M. Stuart

**Address:** Oregon University System, PO Box 3175, Eugene, OR 97403-0175

**Telephone:** (541) 346-5749

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**Rule Caption:** Housekeeping to add additional wording at Board member's request.

**Date:** 5-2-12  
**Time:** 10 a.m.  
**Location:** SCH Rm. 246, 1431 Johnson Ln.  
Eugene, OR

**Hearing Officer:** Marcia Stuart

**Stat. Auth.:** ORS 351

**Stats. Implemented:** ORS 351

**Proposed Amendments:** 580-020-0005

**Last Date for Comment:** 5-7-12, Close of Business

**Summary:** The amended rule provides the definition of faculty rank, creates consistency in titles, and constructs career ladders within titles; this amendment is at the request of the Board to include a clarification.

**Rules Coordinator:** Marcia M. Stuart

**Address:** Oregon University System, PO Box 3175, Eugene, OR 97403-0175

**Telephone:** (541) 346-5749

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

**Rule Caption:** Amend special student and course fees.

**Stat. Auth.:** ORS 351.070

**Other Auth.:** ORS 351.070

**Stats. Implemented:**

**Proposed Amendments:** 579-020-0006

**Last Date for Comment:** 4-16-12

**Summary:** Amend fees charged to student for special use of facilities, services or supplies at Eastern Oregon University.

**Rules Coordinator:** Teresa Carson-Mastrude

**Address:** Oregon University System, Eastern Oregon University, One University Blvd., La Grande, OR 97850

**Telephone:** (541) 962-3773

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**Oregon University System, Oregon  
Institute of Technology  
Chapter 578**

**Rule Caption:** To amend the schedule of Special Institutional Fees and Charges and Parking Fees.

**Date:** 4-24-12  
**Time:** 4 p.m.  
**Location:** Mt. Thielsen Rm.  
3201 Campus Dr.  
Klamath Falls, OR 97601-8801

**Hearing Officer:** Mary Ann Zemke

**Stat. Auth.:** ORS 51

**Stats. Implemented:** ORS 351.070

**Proposed Amendments:** 578-041-0030, 578-072-0030

**Last Date for Comment:** 4-24-12, 5 p.m.

**Summary:** 578-041-0030 – Amends the Schedule of Special Institution Fees and Charges. Amendments allow for increases, revisions, additions or deletions of special course fees, and general service fees for fiscal year 2012–2013. The schedule of subject fees may be obtained from the Oregon Institute of Technology Business Affairs Office.

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

**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:** Amending rules regarding prohibition of firearms on University property.

**Stat. Auth.:** ORS 351.060 & 351.070

**Stats. Implemented:** ORS 351.060 & 351.070

**Proposed Amendments:** 576-015-0020, 576-024-0000, 576-065-0000, 576-065-0010

**Last Date for Comment:** 5-3-12, Close of Business

**Summary:** The Oregon Court of Appeals has held that the Board of Higher Education is not authorized to regulate firearms on campus through its rulemaking authority. The University is proposing to amend its rules to remove firearm prohibitions.

See Oregon Court of Appeals opinion in Oregon Firearms Educational Foundation v. Board of Higher Education and Oregon University System, Case No. A142974, September 28, 2011 (<http://www.publications.ojd.state.or.us/A142974.pdf>)

**Rules Coordinator:** Beth Giddens

**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,  
Portland State University  
Chapter 577**

**Rule Caption:** Amends rule to eliminate the prohibition against possession or use of firearms on University property.

**Stat. Auth.:** ORS 351 & 351.060

**Stats. Implemented:**

**Proposed Amendments:** 577-031-0135

**Last Date for Comment:** 4-30-12

**Summary:** The proposed amendment to Portland State University's Student Conduct Code is needed in response to the Oregon Court of Appeals decision in Oregon *Firearm Education Foundation v. Oregon State Board of Higher Education* and to align the University's rules and policies with the State Board of Higher Education's rules and policies regarding firearms on campus.

**Rules Coordinator:** Diane Kirk

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

**Telephone:** (503) 725-2656



# NOTICES OF PROPOSED RULEMAKING

## Oregon University System, Southern Oregon University Chapter 573

**Rule Caption:** Special Fees.

**Date:** 4-30-12      **Time:** 10 a.m.      **Location:** Hannon Library, Rm. 329  
1250 Siskiyou Blvd.  
Ashland, OR

**Hearing Officer:** Victoria Vannice

**Stat. Auth.:** ORS 351.070

**Stats. Implemented:** ORS 351.070

**Proposed Amendments:** 573-040-0005

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

**Summary:** The proposed rule amendments eliminate fees that are no longer necessary and establish, increase, or decrease fees to more accurately reflect the actual costs of instruction for certain courses and special services not otherwise funded through the institution's operating budget.

**Rules Coordinator:** Treasa Sprague

**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 special fees, fines, penalties, and service charges – including Family Housing Rental Rates.

**Date:** 4-25-12      **Time:** 4 p.m.      **Location:** Owyhee River Rm.  
Erb Memorial Union (EMU)  
University of Oregon  
Eugene, OR

**Hearing Officer:** Donna Chittenden

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

**Stats. Implemented:** ORS 351.070

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

**Last Date for Comment:** 4-26-12, 12 p.m.

**Summary:** The University administration has determined that the adoption of the amendments to the fee list will be necessary in order to provide the basis for funding to cover the expenses of the services rendered and to maintain a current schedule of fees, fines, and penalties.

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

Other proposed amendments can be found at the following website: <http://brp.uoregon.edu/special-fees-fines-book>

**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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## Racing Commission Chapter 462

**Rule Caption:** Rulemaking will edit OARs with detailed direction to licensees and updates rule terminology.

**Date:** 5-17-12      **Time:** 10:30 a.m.      **Location:** Portland State Office Bldg.  
800 NE Oregon St., Rm. 1A  
Portland, OR 97232

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 462.270(3) & 462.700

**Stats. Implemented:** ORS 462.020, 462.142, 462.405 & 462.725

**Proposed Adoptions:** 462-120-0135, 462-230-0010, 462-230-0020

**Proposed Amendments:** 462-120-0100, 462-120-0050, 462-130-0010, 462-210-0010, 462-210-0020, 462-210-0030, 462-220-0010, 462-220-0040, 462-220-0050, 462-220-0080, 462-220-0090

**Last Date for Comment:** 5-17-12, Close of Hearing

**Summary:** ADOPT:

Adoption #1: 462-120-0135 (Licensing Fees): The proposed, new rule text explains licensing fees.

Adoption #2: 462-230-0010 (Totalizator Licensing Requirements) Proposed, new rule text establishes that Totalizator companies transacting any business within the State of Oregon shall be licensed by the Oregon Racing Commission. Further, it lists what the license application shall include.

Adoption #3: 462-230-0020 (General Totalizator Requirements) Proposed, new rule details requirements for Totalizator companies.

AMEND:

Amendment #1: 462-120-0100 (Renewals; Reapplications; Duplicates): The proposed rule amendments remove "Renewals" from the title, (1) "Renewals" and renames it "Reapplication," and clarify the language regarding replacement fees for duplicate licenses.

Amendment #2: 462-120-0050 (License Application Procedures; Requirements for Corporations and Partnerships; Stable/Assumed Name): The proposed rule amendment removes (3) as listed in current rule and proposes new language for (3) that clarifies licensing fees. The term "shareholders" is replaced by "designated representative." Updates rule to current practice.

Amendment #3 462-130-0010 (Prohibited Conduct; Investigations; Discipline): Adds a section to the rule that describes authority needed to enter locations such as stalls, shed row, tack rooms and feed sheds.

Amendment #4: 462-210-0010 (Definitions): Proposed amendments add definitions for "Advance Deposit Wagering Licensee or ADW," "Business Day," and "Person" and clarify existing definitions.

Amendment #5: 462-210-0020 (Authorization for Account Wagering): Proposed rule amendment adds additional statutory citations and updates language to current terminology.

Amendment #6: 462-210-0030 (Establishing an Account): Proposed rule amendments add direction to account wagering centers regarding time period to comply with requests for information from the Oregon Racing Commission. Further, they specify how an account should be established by a commercial race meet licensee facility. Updates some language to current terminology.

Amendment #7: 462-220-0010 (Definitions): Proposed amendments update some language to current terminology and clarify existing definitions.

Amendment #8: 462-220-0040 (State of Oregon Share of the Pari-Mutuel Handle): Proposed amendments to this rule update some of the rule language and list an updated tax table.

Amendment #9: 462-220-0050 (Total Take-out Rates for Non-Merged Pools): Proposed amendments to this rule add more direction for Hub operators.

Amendment #10: 462-220-0080 (Distribution of Receipts from Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs): Proposed amendment to this rule corrects a spelling error.

Amendment #11: 462-220-0090 (Enforcement): Proposed amendment to this rule is a grammatical correction.

**Rules Coordinator:** Nancy A. Artmann

**Address:** Oregon Racing Commission, 800 NE Oregon St., Suite 310, Portland, OR 97232

**Telephone:** (971) 673-0211



## NOTICES OF PROPOSED RULEMAKING

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

**Rule Caption:** Incorporating 2012 revisions into the Vote By Mail Manual.

**Stat. Auth.:** ORS 246.150, 254.465 & 254.470

**Stats. Implemented:** ORS 254.465 & 254.470

**Proposed Amendments:** 165-007-0030

**Last Date for Comment:** 4-23-12, Close of Business

**Summary:** This proposed rule amendment adopts the Vote by Mail Manual which incorporates 2012 revisions as the processes, procedures and requirements for conducting an election by mail.

**Rules Coordinator:** Brenda Bayes

**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:** Reestablishes Board's authority to license and regulate Certified Euthanasia Technicians (CETs).

**Stat. Auth.:** ORS 686.210

**Other Auth.:** ORS 475.190(4)

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

**Proposed Adoptions:** 875-040-0005

**Proposed Amendments:** 875-005-0005

**Last Date for Comment:** 4-20-12, Close of Business

**Summary:** Reestablishes Board's authority to license and regulate 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 Speech-Language Pathology and Audiology Chapter 335

Stat Authority: ORS 681.  
Stats Implemented: ORS 681.250 & 681.260  
Hist.: SPA 2-2011, f. & cert. ef. 10-10-11; SPA 1-2012, f. & cert. ef. 2-23-12

**Rule Caption:** Reverts speech-language pathology and audiology fees to Legislatively-approved levels; updates required test scores for literature.

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

**Filed with Sec. of State:** 2-23-2012

**Certified to be Effective:** 2-23-12

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

**Rules Amended:** 335-060-0006, 335-060-0007, 335-060-0010

**Subject:** Lowers application fee to \$40.

Lowers delinquent fee to \$50.

Lowers active SLP and Audiologist license fee to \$160.

Lowers conditional SLP and Audiologist Assistant license fee to \$160.

Lowers active Speech-language Pathology Assistant license fee to \$50.

removes specific test scores required for licensure in favor of stating that a passing score is required.

**Rules Coordinator:** Sandy Leybold—(971) 673-0220

### 335-060-0006

#### Licensure of Speech-Language Pathologists

(1) "Degree requirements" under ORS 681.260(2) for those speech-language pathologists completing their professional training after January 1, 2006 are those outlined in the 2005 Certification Standards for Speech-Language Pathologists as promulgated by the Council For Clinical Certification (CFCC) of the American Speech-Language-Hearing Association:

(a) A minimum of 75 semester hours pertinent to speech-language pathology, which include:

(b) At least 36 graduate credits in speech-language pathology;

(c) A clinical practicum of 400 clock hours, of which 25 must be observational hours and 375 must be direct clinical interaction. Supervision must be provided by a speech-language pathologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association. At least 325 of these clock hours must be completed while in an accredited graduate program.

(d) Credit earned for a thesis or capstone project, if part of the accredited graduate program.

(2) For those speech-language pathologists completing their professional training after January 1, 2006 "supervised clinical experience" under ORS 681.260(3) means a program of clinical work that is:

(a) Begun after completing all graduate degree requirements;

(b) Supervised by a speech-language pathologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association;

(c) A minimum of 35 hours per week for 36 weeks of practice, or its equivalent, for a total of not less than 1,260 hours;

(d) A minimum of 80% of the hours spent in direct client/patient contact (assessment/diagnosis/evaluation, screening, treatment, report writing, family/client consultation, and/or counseling), with the remainder in related record keeping and administrative duties.

(3) For those speech-language pathologists completing their professional training after January 1, 2006, "examinations" under ORS 681.260(4) means the Praxis Examination in Speech-Language Pathology as administered by the Educational Testing Service. Applicants must attain a passing score to qualify for licensure.

(4) Applicants whose first language is not English may be required to submit scores from the following standardized tests to demonstrate English language fluency:

(a) The internet-based Test of English as a Foreign Language (TOEFL) with minimum scores of 100 overall, 26 in writing, and 26 in speaking; or

(b) The paper-based TOEFL and Test of Spoken English (TSE) with minimum scores of 600 overall; 5 on the essay; and 50 on the TSE; or

(c) The computer-based TOEFL and TSE with minimum scores of 250 overall; 5 on the essay; and 50 on the TSE.

(5) For those speech-language pathologists completing their training before January 1, 2006, "degree requirements", "supervised clinical experience" and "examinations" mean those in effect for ASHA certification at the time training was completed.

### 335-060-0007

#### Licensure of Audiologists

(1) "Degree requirements" under ORS 681.264(2):

(a) For those applicants completing their graduate program after 1993 but prior to August 1, 2007 are those outlined in the 1993 Certification Standards for Audiologists as promulgated by the Council For Clinical Certification (CFCC) of the American Speech-Language-Hearing Association.

(A) Completion of at least 75 graduate credits in audiology;

(B) A clinical practicum of 350 clock hours of direct patient care, of which 250 must be at the graduate level. Supervision must be provided by an audiologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association or certification from the American Board of Audiology.

(C) Credit earned for a thesis or capstone project, if part of the accredited graduate program.

(b) For those applicants completing their graduate program after August 1, 2007 are those outlined in the 2007 Certification Standards for Audiologists as promulgated by the Council For Clinical Certification (CFCC) of the American Speech-Language-Hearing Association.

(A) Completion of a coursework required by an accredited program granting the clinical doctorate degree in audiology;

(B) Includes supervised clinical experience of not less than 1,820 hours (52 weeks at 35 hours per week).

(2) "Supervised clinical experience" under ORS 681.264(3) means:

(a) For those applicants completing their graduate program after 1993 but prior to August 1, 2007 a program of clinical work that is:

(A) Begun after completing all graduate degree requirements;

(B) Supervised by an audiologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association or certification from the American Board of Audiology;

(C) A minimum of 35 hours per week for 52 weeks of practice, or its equivalent, for a total of not less than 1,820 hours;

(D) A minimum of 50% of the hours spent in direct client/patient contact (assessment/diagnosis/evaluation, screening, treatment, report writing, family/client consultation, and/or counseling), with the remainder in related record keeping and administrative duties.

(b) For those applicants completing their graduate program after August 1, 2007 a program of clinical work that is:

(A) Incorporated into an accredited graduate program awarding a clinical doctorate (Au.D.) degree in audiology;

(B) Supervised by an audiologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association or certification from the American Board of Audiology;

(C) A minimum of 1,820 hours.

(3) "Examinations" under ORS 681.264(4) means the Praxis Examination in Audiology as administered by the Educational Testing Service. Applicants must attain a passing score to qualify for licensure.

(4) Applicants whose first language is not English may be required to submit scores from the following standardized tests to demonstrate English language fluency:

(a) The internet-based Test of English as a Foreign Language (TOEFL) with minimum scores of 100 overall, 26 in writing, and 26 in speaking; or

(b) The paper-based TOEFL and Test of Spoken English (TSE) with minimum scores of 600 overall; 5 on the essay; and 50 on the TSE; or

(c) The computer-based TOEFL and TSE with minimum scores of 250 overall; 5 on the essay; and 50 on the TSE.

(5) For those audiologists completing their graduate program before 1993, "degree requirements", "supervised clinical experience" and "examinations" mean those in effect for ASHA certification at the time training was completed.

Stat Authority: ORS 681  
Stats Implemented: ORS 681.250 & 681.264  
Hist.: SPA 2-2011, f. & cert. ef. 10-10-11; SPA 1-2012, f. & cert. ef. 2-23-12

### 335-060-0010

#### Fees

In accordance with the provisions of ORS 681.340 and 681.360, the following fees, where applicable, are payable to the Board by check, money order, or electronic payment if available:

(1) All Applicants:

(a) Application fee shall be \$40, non-refundable.

# ADMINISTRATIVE RULES

- (b) Delinquent fee shall be \$50.
  - (c) A delinquent fee will be charged for each or all of the following, as applicable:
    - (A) Renewal applications postmarked or submitted electronically after December 31st of odd-numbered years;
    - (B) Renewal applications postmarked by December 31st of odd numbered years which are incomplete or otherwise unable to be processed;
    - (C) Conditional license renewals or conditional license upgrade applications postmarked less than 30 days prior to the expiration date of the conditional license;
    - (D) Requests for special approval of professional development received 30 days or more after the activity is completed;
    - (d) A delinquent fee may be charged for each or all of the following, as applicable:
      - (A) Failure to respond to audit by the prescribed deadline;
      - (B) Audit responses postmarked by the deadline which are incomplete or otherwise unable to be processed;
      - (C) Failure to complete all required hours of professional development prior to January 1st of even-numbered years;
      - (e) The Board may provide for waiver of the license or certificate fee where the license or certificate is issued less than 45 days before the date on which it will expire.
        - (2) Speech-Language Pathologists and Audiologists:
          - (a) Biennial license fee and renewal thereof shall be \$160.
          - (b) Biennial inactive license fee and renewal thereof shall be \$50.
          - (c) Conditional license fee and renewal thereof shall be \$50.
        - (3) Speech-Language Pathology Assistants:
          - (a) Biennial certificate fee and renewal thereof shall be \$50.
          - (b) Biennial inactive certificate fee and renewal thereof shall be \$20.
- Stat. Auth.: ORS 681.340, 681.360, 681.420 & 681.460  
Stats. Implemented: ORS 681.340(1), 681.360(2)(b) & 681.360(3)(b)  
Hist.: SPA 2-1993(Temp), f. 12-8-93, cert. ef. 12-10-93; SPA 1-1994, f. & cert. ef. 6-10-94; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2002(Temp), f. 11-8-02, cert. ef. 12-1-02 thru 5-1-03; SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2005, f. & cert. ef. 9-13-05; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 1-2010(Temp), f. & cert. ef. 8-11-10 thru 2-4-11; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11; SPA 3-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 4-4-12; SPA 1-2012, f. & cert. ef. 2-23-12

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**Board of Nursing**  
**Chapter 851**

**Rule Caption:** To synchronize with changes made to the related Board policy regarding medication aide curriculum.

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

**Filed with Sec. of State:** 2-24-2012

**Certified to be Effective:** 4-1-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 851-062-0090, 851-062-0110

**Subject:** The purpose of the proposed changes is to synchronize with changes to the medication aide curriculum policy that was approved by the Board in April, 2011.

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

## 851-062-0090

### CMA Certification

An applicant for CMA certification must submit a completed application using forms and instructions provided by the Board and pay the examination fee established by the Board. CMA certification may be obtained in one of the following ways:

- (1) Training and competency examination:
  - (a) Hold a current unencumbered Oregon CNA certificate. An applicant with an encumbered CNA certificate may be considered on an individual basis.
  - (b) Submit evidence of completion of a Board-approved medication aide training program.
  - (c) Document, within the two years preceding application for medication aide examination:
    - (A) Six months full-time experience as a nursing assistant; or
    - (B) Equivalent experience in part-time employment as a nursing assistant.
  - (d) Pass the Board administered medication aide examination.
  - (2) Enrollment in an approved nursing program in any U.S. state or jurisdiction:
    - (a) Obtain CNA 1 certification according to these rules;
    - (b) Show evidence of satisfactory completion of three terms of nursing school, each of which must have included a clinical nursing component.

- (A) The three terms combined must have included:
    - (i) Basic clinical skills;
    - (ii) Basic pharmacology;
    - (iii) Principles of medication administration; and
    - (iv) Math competency.
  - (B) The following will be considered satisfactory evidence of meeting the requirements for satisfactory completion of three terms:
    - (i) Official transcript of the nursing program verifying successful completion of three terms; or
    - (ii) A letter from the Dean or Director of the school of nursing verifying the completion of the required course content.
    - (c) Submit application and fee for CMA certification;
    - (d) Pass the medication aide examination.
    - (e) Nursing students are exempt from the requirement to:
      - (A) Complete a medication aide training program;
      - (B) Have six months experience as a nursing assistant.
- U.S.

- (a) Obtain CNA 1 certification according to these rules; and
- (b) Pass the medication aide examination.
- (c) A graduate nurse is exempt from the requirements to:
  - (A) Complete a medication aide training program;
  - (B) Have six months experience as a nursing assistant.
- (4) Medication aide training in another state.
  - (a) Obtain Oregon CNA 1 certification according to these rules; and
  - (b) Submit evidence of successful completion of a medication aide training program equal in content to the Board-approved medication aide curriculum; and
  - (c) Document at least six months full-time experience performing CNA 1 authorized duties, or the equivalent in part-time experience, since completion of nursing assistant training and within the last two years preceding application; and
  - (d) Pass the medication aide examination;
- (5) Military corpsman or medic training and experience and competency examination:
  - (a) Obtain Oregon CNA 1 certification according to these rules; and
  - (b) Submit evidence of training that is equal in content to the Board-approved medication aide curriculum; and
  - (c) Verify at least six months full-time experience performing CNA 1 authorized duties or the equivalent in part-time experience in the two years prior to application; and
  - (d) Pass the medication aide examination.
- (6) RN or LPN Licensure in Oregon:
  - (a) Obtain CNA 1 certification according to OAR 851-062-0050(3);

- and
- (b) Submit application and fee for CMA certification.
  - (c) A RN or LPN is exempt from the requirements to:
    - (A) Complete a medication aide training program;
    - (B) Have six months experience as a nursing assistant; and
    - (C) Pass the medication aide examination.
  - (7) CMA Testing Eligibility:
    - (a) An applicant shall be eligible for examination for one year from the date of completion of the medication aide training program.
    - (b) A completed application shall be valid for the period of eligibility to test.
    - (c) An application process not completed within one year becomes void.

- (d) An applicant who fails to pass the Board-administered medication aide examination within one year of completion of the training program and within three attempts shall not be eligible to reapply for the examination except that the applicant may re-enroll and successfully complete a Board-approved medication aide training program.

Stat. Auth.: ORS 678.440 & 678.442

Stats. Implemented: ORS 678.442

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 2-2004, f. 1-29-04, cert. ef. 2-12-04; BN 1-2012, f. 2-24-12, cert. ef. 4-1-12

## 851-062-0110

### CMA Renewal and Continuing Education

Renewal of the CMA certificate is concurrent with the renewal of CNA 1 as described in these rules.

- (1) The CMA is required to:
  - (a) Participate in at least eight hours of medication related continuing education in the 24 months immediately prior to expiration of certificate and to submit documentation of attendance with the application for Renewal of CMA Certification.



# ADMINISTRATIVE RULES

(A) The following are acceptable methods of meeting the medication aide continuing education requirement:

- (i) Facility-based classes dealing with the medications used at that facility;
- (ii) Medication classes taught by a licensed nurse, pharmacist or representative of a pharmaceutical company;
- (iii) Repeating classes offered for medication aide students;
- (iv) Video material when used as part of a presentation by an instructor;
- (v) Infection control classes when the content is medication related;
- (vi) Noninjectable medication related continuing education in recognized nursing journals; or
- (vii) Individual tutoring sessions by a nurse or pharmacist.

(B) The following are not acceptable toward meeting the medication aide continuing education requirement:

- (i) TV programs;
- (ii) Reading articles in non-nursing magazines;
- (iii) CPR classes;
- (iv) Classes dealing with injectable medications or IV medications; or
- (v) Job orientation.

(C) A CMA who is enrolled in a basic nursing education program has satisfied the requirement for medication-related continuing education.

(b) Perform at least 400 hours of authorized medication aide duties under supervision or monitoring by a nurse in the 24 months immediately prior to expiration of certification.

(c) Affirm and document paid employment as a CMA under supervision or monitoring by a nurse and completion of continuing education.

(d) For a CMA who has been certified less than two years:

- (A) The continuing education requirement will be prorated; and
- (B) The paid employment requirement is waived.

(2) A CMA who has not performed at least 400 hours of authorized medication aide duties under the supervision or monitoring by a nurse or has not completed the eight hours of medication-related continuing education in the 24 months immediately prior to expiration of certification must successfully complete the medication aide examination as a condition of renewing CMA certification. A CMA is eligible to renew by examination only if the individual has completed a medication aide training program that meets the Board's approved curriculum.

(3) Employment and continuing education are subject to audit by the Board. Falsification of employment or continuing education is grounds for disciplinary action.

Stat. Auth.: ORS 678.440 & 678.442  
Stats. Implemented: ORS 678.442

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 2-2004, f. 1-29-04, cert. ef. 2-12-04; BN 10-2010, f. & cert. ef. 6-25-10; BN 10-2010, f. & cert. ef. 6-25-10; BN 1-2012, f. 2-24-12, cert. ef. 4-1-12

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## Board of Parole and Post-Prison Supervision Chapter 255

**Rule Caption:** Amends rules and exhibits governing procedures for setting prison terms for qualified aggravated murderers.

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

**Filed with Sec. of State:** 3-13-2012

**Certified to be Effective:** 3-13-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 255-032-0005, 255-032-0037

**Rules Repealed:** 255-032-0011

**Subject:** Division 32 rules govern procedures related to persons convicted of aggravated murder under ORS 163.105. Division 35 rules and related exhibits govern procedures related to setting a prison term. Recent Oregon Supreme Court decisions necessitate changes in the Board's rules:

(1) In Janowski/Fleming v. Board of Parole, 349 Or 432 (2010), the Board was directed to apply the "matrix system" in effect at the time the crimes were committed in order to set a prison term for adults convicted of aggravated murder who had been found likely to be rehabilitated within a reasonable period of time under ORS 163.105. Exhibit A-I is amended to add crime severity ratings to aggravated murder. Exhibit A-II is amended to restore the subcategory rationale for aggravated murder, including Category 8 (stranger to stranger; cruelty to victim; prior conviction of murder or manslaughter; evidence of significant planning or preparation), and Category 7 (all other cases of aggravated murder). Both of these

changes are required in order to allow the Board to establish a matrix range for persons convicted of aggravated murder.

(2) In State ex rel Engweiler v. Felton, 350 Or 592 (2011), the court concluded that the Board exceeded its statutory authority when it promulgated rules requiring five juvenile aggravated murderers to undergo the intermediate review process of a murder review hearing before the Board makes parole release decisions regarding them. OAR 255-032-005 is adopted and OAR 255-032-0011 is deleted to comply with this decision.

**Rules Coordinator:** Shawna Harnden—(503) 945-0913

## 255-032-0005

### Prison Term Hearing to Be Held

(1) An adult person convicted of Aggravated Murder under ORS 163.095 shall receive a hearing within one year of sentencing. A person convicted of Murder under ORS 163.115 that was committed on or after June 30, 1995, and who was sentenced to life with a twenty-five (25) year minimum shall receive a hearing within one year of sentencing. At the hearing the Board shall set a review date congruent with the minimum terms set forth in OAR 255-032-0010 rather than a parole release date. In lieu of holding a hearing, the Board may determine the prison term/murder review date by administrative file pass.

(2) Adult persons sentenced to death or life without the possibility of release or parole shall not receive a hearing.

(3) Adult persons sentenced to life with a twenty (20) or thirty (30) year minimum for aggravated murder shall receive a prison term hearing pursuant to ORS 144.120 if they also have a sentence to the Department of Corrections' custody for a crime other than aggravated murder.

(4) Inmates, who were juveniles and waived to adult court pursuant to ORS 419C.340 through 419C.364, and were under the age of 17 years at the time of their crime(s), and were convicted of Aggravated Murder, per ORS 163.095, and whose crimes were committed after October 31, 1989 and prior to April 1, 1995, shall receive a prison term hearing. At the hearing, the Board shall set a projected parole release date, in accordance with the guidelines and matrix that apply with respect to the date of the crime.

(5) The Board will apply the applicable procedural rules under OAR Divisions 30 and 35, in effect at the time of the hearing, for the conduct of the hearing.

Stat. Auth.: ORS 144.120, 163.095, 163.115, 419C.340 & 419C.364  
Stats. Implemented: ORS 163.105

Hist.: 2PB 8-1985, f. & cert. ef. 5-31-85; PAR 4-1989, f. & cert. ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 4-1999, f. & cert. ef. 5-18-99; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 1-2003, f. & cert. ef. 5-13-03; PAR 4-2009(Temp), f. & cert. ef. 9-29-09 thru 3-28-10; PAR 3-2010, f. & cert. ef. 3-26-10; PAR 1-2012, f. & cert. ef. 3-13-12

## 255-032-0037

### Prison Term Hearings for Inmates Found Likely to be Rehabilitated

(1) The Board shall hold a prison term hearing for an adult inmate convicted of murder as defined in ORS 163.115 or Aggravated Murder as defined in ORS 163.095 committed on or before October 22, 1999, whose sentence has been converted to life with the possibility of parole based on the Board's determination that the inmate is likely to be rehabilitated within a reasonable period of time.

(2) The Board will conduct the hearing under the provisions of Division 030 of the Board's rules in place at the time the hearing is conducted, and will establish the prison term or take other action authorized under the law and administrative rules that apply with respect to the date of the crime.

Stat. Auth.: ORS 144.120; Other Auth.: OAR 255-030-0012(1982), 255-032-0005(1)(1985), 255-032-0005(1)(1982)(1985), Janowski/Fleming v. Board of Parole, 349 OR 432(2010), Severy/Wilson v. Board of Parole, 349 OR 461(2010)  
Stats. Implemented: ORS 144.120.

Hist.: PAR 7-2011, f. & cert. ef. 11-30-11; PAR 1-2012, f. & cert. ef. 3-13-12

## Construction Contractors Board Chapter 812

**Rule Caption:** Housekeeping, emergency suspension authority, petition to reduce larger bond requirement, & LBPR emergency renovation operations.

**Adm. Order No.:** CCB 3-2012

**Filed with Sec. of State:** 3-2-2012

**Certified to be Effective:** 3-2-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 812-002-0443, 812-005-0140, 812-005-0250, 812-005-0800, 812-007-0020, 812-007-0302, 812-007-0350

# ADMINISTRATIVE RULES

## Rules Repealed: 812-005-0140(T)

**Subject:** • 812-002-0443 is amended to correct a cite reference.

• 812-005-0140 is amended to make the rule consistent with ORS 701.098(4) and make the rule retroactive and effective on the date the statute was changed (1/1/08).

• 812-005-0250 is amended to:

- Section (1): Remove references to 2005 statutes. There should no longer be any licensees or applicants affected by those statutes. Consolidate old sections (1) and (2) into one section for simplicity and clarity. Refer to “agency” rather than “Board.” This is consistent with the remainder of the rule. Extend minimum period to operate under increased bond from two to three years.

- Section (2): Change petition requirement from an explanation why there is no longer an “increased risk to the public” to describing the factors for consideration in Section (3).

- Section (3): Change basis for review to clearly articulated standards for approval or denial.

- Section (3)(a): Expand the class of agency “orders” to recognize DRS arbitration awards and (new) determinations.

- Section (4): Explain that if petitioner fails to satisfy all of the requirements in Section (3), the agency will not allow the reduced bond for an additional three years. After that time, the applicant or licensee may again petition the agency.

- Section (5): Clarify that agency will notify petitioner of its decision within 30 days of receiving the petition.

- Section (6): Change procedure from contested case review (Office of Administrative Hearings) to an order in other than a contested case (Circuit Court).

• 812-005-0800 is amended to clarify that sanction in section (16) is not subject to authorization in ORS 701.106 and to correct cross-reference in section (22).

• 812-007-0020 is amended to provide an exemption for emergency renovation operations, as the Oregon Health Authority (OHA) rules do. Definitions are amended to make CCB’s rules consistent with the OHA rules.

• 812-007-0302 is amended to provide an exemption for emergency renovation operations, as the Oregon Health Authority (OHA) rules do. Exemption rules are amended to make CCB’s rules consistent with OHA’s rules.

• 812-007-0350 is amended (1)(d) adds a missing word “refer” between the words “Authority” and “to the board.”

**Rules Coordinator:** Catherine Dixon—(503) 934-2185

## 812-002-0443

### Legal Capacity to Enter into Contracts

“Legal capacity to enter into contracts” as used in ORS 701.046(3)(b), means the attaining of the age of 18 for any sole proprietor, partner of any general partnership, limited liability partnership, limited partnership or joint venture, corporate officer, member, or any other persons similarly situated who holds or could hold the authority to enter into a contract on behalf of the licensed entity.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.046

Hist.: CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 3-2012, f. & cert. ef. 3-2-12

## 812-005-0140

### Emergency Suspension

Effective January 1, 2008, the Administrator of the Board may immediately suspend or refuse to renew a license without a prior hearing, in accordance with ORS 701.098(4), in cases where the Administrator of the Board has in its possession a prima facie case of a wrongful act as described in 701.098(4)(a)(A)–(E) having been committed by a contractor and upon a finding by the Administrator that the contractor is a serious danger to the public welfare. The respondent shall be entitled to a hearing on the Administrator’s action if the respondent requests such a hearing within 90 days after the date of the notice to the respondent, as provided in 701.098(4)(b).

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235 & 701.992

Stats. Implemented: ORS 701.098 & 701.102

Hist.: IBB 7-1980(Temp), f. & ef. 11-4-80; IBB 8-1980, f. & ef. 12-9-80; IBB 2-1981, f. & ef. 6-4-81; IBB 1-1982, f. 3-31-82, ef. 4-1-82; IBB 4-1982, f. & ef. 10-7-82; IBB 1-1983, f. & ef. 3-1-83; Renumbered from 812-11-080; IBB 4-1985, f. & ef. 12-8-85; BB 3-1987, f. 12-

30-87, cert. ef. 1-1-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 2-1991, f. 6-28-91, cert. ef. 7-1-91; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 6-1997, f. & cert. ef. 11-26-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; Renumbered from 812-005-0000(2), CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 14-2011(Temp), f. & cert. ef. 10-24-11 thru 4-20-12; CCB 3-2012, f. & cert. ef. 3-2-12

## 812-005-0250

### Repeal of Increased Bond, Letter of Credit or Cash Deposit Requirement

(1) Under ORS 701.068 or 701.088 after three years of operating under the increased bond, letter of credit or cash deposit, an applicant or licensee may submit a written request to the agency to be relieved of that obligation after demonstrating three full years of acceptable business practices while having posted the increased bond, letter of credit or cash deposit.

(2) Petitions for return to normal bond, letter of credit or cash deposit requirements under ORS 701.068 or 701.088 must be made in writing and delivered to the agency. The petition should address each requirement set forth in section (3) of this rule.

(3) The agency shall consider the applicant’s or licensee’s petition. The agency shall grant the petition for return to a normal bond if, within three-years period in which the increased bond was in effect, applicant or licensee satisfies all of the following requirements.

(a) The applicant or licensee paid Dispute Resolution Services final orders, arbitration awards and determinations within thirty (30) days of its issuance.

(b) The applicant or licensee paid unpaid construction related court judgments issued against the applicant or licensee.

(c) The agency did not issue any enforcement final order against the applicant or licensee.

(d) There were no criminal convictions for any of the crimes set forth in ORS 701.098(i) entered against the applicant or licensee, its owners or officers.

(4) If the applicant or licensee fails to satisfy all of the conditions set forth in section (3), the agency will require the applicant or licensee to maintain the increased bond for an additional three years from the date of the agency’s decision. After that three year period, the applicant or licensee may again petition to return to a normal bond.

(5) The agency shall notify the licensee or applicant in writing of the agency’s decision within 30 days of receiving the petition.

(6) If the agency denies the petition, the agency shall notify the licensee or applicant of the reasons for the denial. The licensee or applicant may seek judicial review of the agency’s denial as an order in other than a contested case.

Stat. Auth.: ORS 670.310, 701.068, 701.085 (2005) & 701.088 & 701.235

Stats. Implemented: ORS 701.068, 701.085 (2005) & 701.088

Hist.: CCB 9-2006, f. & cert. ef. 9-5-06; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 3-2012, f. & cert. ef. 3-2-12

## 812-005-0800

### Schedule of Penalties

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.021 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and

(4)(a) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.

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(b) A “complaint for damages” as used in section (4) of this rule includes, but is not limited to:

(A) A Construction Contractors Board Dispute Resolution Services (DRS) complaint; or

(B) A letter to Construction Contractors Board indicating that a citizen has been damaged by the contractor; and

(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(6) \$500 per offense for failure to respond to the agency’s request for the list of subcontractors required in ORS 701.345; and

(7) \$1,000 per offense for hiring a unlicensed subcontractor; and

(8) For failing to provide an “Information Notice to Owners about Construction Liens” as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.

(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.

(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260: First offense \$50, second offense \$100, subsequent offenses \$200.

(11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense warning, second offense \$50, subsequent offenses \$200.

(12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.

(13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

(14) Failure to conform to information provided on the application in violation of ORS 701.046(4), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.

(a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.

(b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (14) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

(15) Knowingly assisting an unlicensed contractor to act in violation of ORS chapter 701, \$1,000.

(16) Failure to comply with any part of ORS Chapters 316, 656, or 657 or with 701.035, 701.046 or 701.091, \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(17) Violating an order to stop work as authorized by ORS 701.225(3), \$1,000 per day.

(18) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(19) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.

(20) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(21) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

(a) Not paying prevailing wage on a public works job; or

(b) Violating the federal Davis-Bacon Act; or

(c) Failing to pay minimum wages or overtime wages as required under state and federal law; or

(d) Failing to comply with the payroll certification requirements of ORS 279C.845; or

(e) Failing to comply with the posting requirements of ORS 279C.840: \$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(22) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in sections (20) or (21), where more than two violations have occurred: \$5,000 and revocation of the license.

(23) When, as set forth in ORS 701.098(1)(h), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(24) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): \$5,000.

(25) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): \$5,000.

(26) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: \$750 per offense.

(27) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(4): \$750 per offense.

(28) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: \$5,000 per offense.

(29) Failure to include certification number in all written reports, bids, contracts, and an individual’s business cards in violation of OAR 812-008-0202(4): \$400 per offense.

(30) Violation of work practice standards for lead-based paint (LBP) activity pursuant to OAR 812-007-0140 or 812-007-0240 first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 plus suspension of license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(31) Violation of work practice standards for LBP renovation pursuant to OAR 812-007-0340 or violation of recordkeeping and reporting requirements pursuant to OAR 333-070-0110: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 and suspension of the certified LBP renovation contractor license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(32) Violation of OAR 812-007-0100, 812-007-0200 or 812-007-0300: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000. The civil penalty is payable to the Construction Contractors Board Lead-Based Paint (LBP) Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(33) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or \$15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to \$1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(34) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with



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the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(35) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(36) Violation of 701.098(1)(f), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.

(37) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.

(38) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.

(39) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.

(40) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(41) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.

(42) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.

(43) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.

(44) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.

(45) Undertaking, offering to undertake, or submitting a bid to work as a locksmith when an individual is not certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(46) Undertaking, offering to undertake, or submitting a bid to provide locksmith services when a business is not a licensed construction contractor or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(47) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the individual is a locksmith, unless an individual is certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(48) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the business providing locksmith services, unless a business (a) is a licensed construction contractor and (b) is owned by or employs a certified locksmith or is otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(49) Violating any applicable provision of the rules in division 30, including violating any standard of professional conduct other than OAR 812-030-0300(4): first offense, \$1,000; second offense, \$3,000; third offense, \$5,000 and revocation of the certificate.

(50) Violating OAR 812-030-0300(4): first offense, \$200; second offense, \$500; third offense, \$1,000.

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235, 701.515, 701.992 & 701.995  
Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995

Hist.: 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0080(13); 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 3-1985, f. & ef. 4-25-85; BB 1-1987, f. & ef. 3-5-87; BB 1-1988(Temp), f. & cert. ef. 1-26-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1990(Temp), f. & cert. ef. 7-27-90; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 4-1992, f. & cert. ef. 6-1-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2000(Temp), f. & cert. ef. 11-13-00 thru 5-11-01; CCB 2-2001 f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 1-2002(Temp), f. & cert. ef. 3-1-02 thru 8-26-02; CCB 2-2002, f. & cert. ef. 3-1-02; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 8-2002, f.

& cert. ef. 9-3-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; Renumbered from 812-005-0005, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2006, f. & cert. ef. 1-26-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 4-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 2-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 13-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 17-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 19-2008, f. & cert. ef. 11-20-08; CCB 1-2009, f. 1-30-09, cert. ef. 2-1-09; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 6-2009, f. & cert. ef. 9-1-09; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10; CCB 13-2010(Temp), f. & cert. ef. 7-7-10 thru 1-2-11; Administrative correction 1-25-11; CCB 1-2011, f. 2-28-11, cert. ef. 3-1-11; CCB 4-2011, f. 6-24-11, cert. ef. 7-1-11; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 16-2011, f. 12-13-11, cert. ef. 1-1-12; CCB 3-2012, f. & cert. ef. 3-2-12

## 812-007-0020

### Definitions

The following definitions apply to division 7 of OAR chapter 812.

(1) "Abatement" means any measure or set of measures designed to permanently eliminate LBP hazards.

(2) "Accredited training program" means a training program provisionally accredited or accredited by the OHA, the Environmental Protection Agency (EPA) or an EPA-authorized state or tribal program.

(3) "Certified" means certified by OHA to perform LBP activities.

(4) "Certified lead-based paint renovation contractor" means a construction contractor that is licensed by the board to conduct LBP renovation under ORS 701.515.

(5) "Certified renovator" means an individual who has successfully completed a renovator course accredited by OHA, EPA, or EPA authorized program.

(6) "Child-occupied facility" means a building, or portion of a building, constructed before 1978 and visited regularly by the same child, under age six, on at least two different days within any week (Sunday through Saturday), provided that each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

(7) "Component or building component" means specific design or structural elements or fixtures of a building or residential dwelling that are distinguished from each other by form, function, and location. These include, but are not limited to: interior components such as ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and tri (including sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

(8) "Course completion certificate" means documentation issued by an accredited training program to an individual as proof of successful completion of an accredited renovator training program (initial or refresher).

(9) "Deteriorated lead-based paint (LBP)" means any interior or exterior paint or other covering that is peeling, chipping, chalking, cracking, flaking or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

(10) "Dust-lead hazard" means surface dust that contains a mass-per-area concentration of lead equal to or exceeding 40  $\mu\text{g}/\text{ft}^2$  on floors or 250  $\mu\text{g}/\text{ft}^2$  on interior windows or 400  $\mu\text{g}/\text{ft}^2$  in troughs based on wipe samples.

(11) "Emergency" means a situation in which failure to act promptly would likely result in immediate harm to persons or property.

(12) "Emergency renovation operations" means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threat-

# ADMINISTRATIVE RULES

ens equipment or property with significant damage. Interim controls performed in response to an elevated blood lead level in a resident child are also emergency renovations.

(13) "Inspection" means a surface-to-surface investigation to determine the presence of LBP and an accompanying report explaining the results of the investigation.

(14) "Lead abatement contractor" means a construction contractor that is licensed by the board to perform abatement.

(15) "Lead assessor" or "risk assessor" means an individual who has been trained by an accredited training program and certified by the Department to conduct risk assessments.

(16) "Lead-based paint" or "LBP" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

(17) "Lead-based paint activities" means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.

(18) "Lead inspection contractor" means a construction contractor that is licensed by the board to perform inspections or risk assessments.

(19) "Lead inspector" means an individual who has been trained by an accredited training program and certified by OHA to conduct inspections.

(20) "Lead supervisor" means an individual who has been trained by an accredited training program and certified by OHA to supervise and conduct abatements and prepare abatement reports.

(21) "Lead worker" or "lead abatement worker" means an individual who has been trained by an accredited training program and certified by OHA to perform abatements.

(22) "Minor repair and maintenance" means activities, (including minor heating, ventilation, air conditioning work, electrical work, or plumbing) that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities, that do not involve prohibited or restricted work activities and do not involve window replacement or painted surface demolition. Jobs, other than emergency renovations, performed within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

(23) "Prohibited or restricted work activities" include:

(a) Open flame burning or torching;

(b) Machines to remove paint through high-speed operation without HEPA exhaust control; and

(c) Operating a heat gun at temperatures at or above 1100 degrees Fahrenheit.

(24) "Recognized test kit" means a commercially available kit recognized by EPA under 40 CFR § 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5 percent lead by weight, in a paint chip, paint powder, or painted surface.

(25) "Renovation" means the modification of any existing structure, or portion thereof, which results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term renovation includes, but is not limited to:

(a) Removal, modification or repair of painted surfaces or painted components, such as modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping or other such activities that may generate paint dust);

(b) The removal of building components, such as walls, ceilings, plumbing and windows;

(c) Window replacement;

(d) Weatherization projects, such as cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, or planing thresholds to install weather-stripping;

(e) Interim controls that disturb painted surfaces. A renovation for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation. The term "renovation" does not include minor repair and maintenance.

(26) "Renovation Right Pamphlet" means the pamphlet entitled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* or any pamphlet approved by the Environmental Protection Agency (EPA) for the same purpose.

(27) "Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of a LBP hazard and an accompanying report explaining the results of the investigation and options for reducing LBP hazards.

(28) "Soil lead hazard" means 400 ppm of lead in child play areas or 1200 ppm in non-child play areas.

(29) "Target housing" means any housing constructed before 1978, except housing for the elderly or persons with disabilities or any housing with no bedrooms.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.505 - 701.520

Hist.: CCB 6-1996(Temp), f. & cert. ef. 11-26-96; Administrative Re-number from 812-007-0015, 5-19-97; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 5-2010(Temp), f. & cert. ef. 3-11-10 thru 9-3-10; CCB 10-2010(Temp), f. & cert. ef. 6-1-10 thru 9-3-10; CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 3-2012, f. & cert. ef. 3-2-12

## 812-007-0302

### Applicability of and Exceptions to Rules Relating to Lead-Based Paint Renovation

(1) OAR 812-007-0300 to 812-007-0374 apply to all renovations performed for compensation in target housing and child-occupied facilities, except for renovations in target housing or child-occupied facilities in which:

(a) A lead assessor or lead inspector has made a written determination that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter (mg/cm<sup>2</sup>) or 0.5 percent by weight. The person performing the renovation must obtain a copy of the written determination.

(b) A certified renovator, using a recognized test kit, has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter (mg/cm<sup>2</sup>) or 0.5 percent by weight. The certified renovator must follow the kit manufacturer's instructions.

(2) The notification requirements in OAR 812-007-0370 to 812-007-0374 do not apply to emergency renovation operations. Emergency renovations other than interim controls are also exempt from the warning sign, containment, waste handling, training, and certification requirements in OAR 333-070-0105 to the extent necessary to respond to the emergency. Emergency renovations are not exempt from:

(a) The cleaning requirements of OAR 333-070-0090 (applicable to LBP renovation contractors by 812-007-0340), which must be performed by certified renovators or individuals trained in accordance with 333-070-0100;

(b) The cleaning verification requirements of OAR 333-070-0090, which must be performed by certified renovators; and

(c) The recordkeeping requirements of OAR 333-070-0110. Once the immediate emergency is over, lead safe work practices and all the requirements of these rules shall be in effect.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.505-701.520

Hist.: CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 3-2012, f. & cert. ef. 3-2-12

## 812-007-0350

### Denial, Suspension or Revocation of Certified Lead-Based Paint Renovation Contractor License

(1) The board may deny, suspend, or revoke a license of a certified LBP renovation contractor on the following grounds:

(a) Obtaining a license through invalid documentation;

(b) Permitting the duplication or use of the license by another;

(c) Violating a rule of the board; or

(d) Violating OAR 333-070-0090 (work practice standards), 333-070-0100(4) (renovator responsibilities), or 333-070-0110 (recordkeeping and reporting requirements.) For purposes of recordkeeping and reporting requirements, as used in OAR 333-070-0110, the terms "Oregon Health Authority" and "Authority" refer to the board.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 3-2012, f. & cert. ef. 3-2-12

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**Rule Caption:** Residential Continuing Education – Housekeeping, increase work experience of providers, active/inactive status.

**Adm. Order No.:** CCB 4-2012

**Filed with Sec. of State:** 3-2-2012

**Certified to be Effective:** 3-2-12

**Notice Publication Date:** 2-1-2012

# ADMINISTRATIVE RULES

**Rules Amended:** 812-021-0015, 812-021-0019, 812-021-0025, 812-021-0040

**Rules Repealed:** 812-021-0015(T), 812-021-0025(T)

**Subject:** • OAR 812-021-0015 section (4) is amended to delete the word “core” and to allow contractors that took the initiative and earned continuing education (CE) before it was required to include the CE hours for their first renewal, which satisfies the goals of the CE program. CCB wants to reward, not punish, contractors that took the initiative to earn CE before it was required. The rule is retroactive to October 1, 2011. The rule is also being amended to correct cite reference in 812-0021-0015(2)(b)(A).

• OAR 812-021-0019 is amended to change the word “attending” to “completing” because contractors earn continuing education credits by completing courses. Some courses are taken online and are completed, they are not attended

• OAR 812-021-0025 is amended increase work experience or education requirements for education providers. The current amount of required work experience and education is two years; it increases to four years.

• OAR 812-021-0040 is amended to incorporate a policy governing active contractors renewing as inactive. The rule also applies where the inactive contractor (recently renewed) seeks to return to active status.

**Rules Coordinator:** Catherine Dixon—(503) 934-2185

## 812-021-0015

### Minimum Continuing Education Requirements — Continuing Education for Residential Contractors

(1) Residential contractors, other than residential limited contractors, shall have an owner, officer, RMI or employee, or a combination of those persons, who complete a minimum of 16 hours of continuing education every license period as described in sections (3) and (4).

(2) Residential limited contractors shall have an owner, officer, RMI or employee, or a combination of those persons, who complete:

(a) A minimum of eight hours of continuing education as described in subsection (3)(a), for license renewals on or after October 1, 2011, and before October 1, 2013;

(b) A minimum of eight hours of continuing education, for license renewals on or after October 1, 2013 as follows:

(A) Five core hours as described in subsection (5)(a); and

(B) Three elective hours as described in OAR 812-021-0019.

(3) For a residential contractor renewing on or after October 1, 2011, and before October 1, 2013, continuing education hours shall consist of the following:

(a) Eight core hours consisting of the following:

(A) Three hours of BEST offered by the agency or an approved provider;

(B) Two hours of education on one or more building codes offered by:

(i) A provider approved by the agency to offer courses in building codes; or

(ii) A provider offering a building codes course completed by the contractor on or before June 30, 2012, and approved by the Oregon Department of Consumer and Business Services, Building Codes Division, or the International Codes Council; and

(C) Three hours of education on laws, regulations, and business practices offered by the agency.

(b) For residential contractors renewing on or after October 1, 2011, and before October 1, 2013, education on “green” or sustainable building practices may satisfy the requirement for education on one or more building codes as required in paragraph (B) of subsection (a) provided that the contractor completes the education on “green” or sustainable building practices on or before September 30, 2011.

(c) Eight elective hours which may be satisfied by completing additional core hours or by completing other construction related courses or as otherwise set forth in OAR 812-021-0019.

(4) Effective October 1, 2011, if a residential contractor renews its license on or after October 1, 2011, but before October 1, 2013, for that renewal period only, the contractor may include any continuing education hours that it earned from July 1, 2009, to the renewal date.

(5) For a residential contractor renewing on or after October 1, 2013, continuing education hours shall consist of the following:

(a) Five core hours consisting of the following:

(A) Two hours of education on one or more building codes offered by a provider approved by the agency to offer courses in building codes; and

(B) Three hours of education on laws, regulations, and business practices offered by the agency.

(b) Eleven elective hours which may be satisfied by completing additional core hours or by completing other construction related courses or as otherwise set forth in OAR 812-021-0019.

(6) Courses shall be a minimum of one clock hour to qualify for one hour of continuing education credit.

(7) Credit shall not be given for a person repeating the same continuing education course during a two-year period.

(8) If, during the two years immediately preceding the expiration date of the license, a residential contractor served on active duty in the United States armed forces, including but not limited to mobilization or deployment, the continuing education requirement is waived for that two-year period. This exemption applies only if the residential contractor is a:

(a) Sole proprietor without employees;

(b) Sole owner of a corporation; or

(c) Sole member of a limited liability company.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 15-2011(Temp), f. & cert. ef. 11-18-11 thru 5-16-12; CCB 4-2012, f. & cert. ef. 3-2-12

## 812-021-0019

### Elective Hours — Continuing Education for Residential Contractors

(1) Elective hours may be earned by completing construction or construction business related offerings provided by any of the following:

(a) Post-secondary institutions such as colleges or universities;

(b) Trade schools;

(c) Trade associations;

(d) Professional societies;

(e) Private companies;

(f) Public agencies;

(g) Business associations;

(h) Contractor-provided in-house training programs;

(i) Non-profit organizations; or

(j) Manufacturers or businesses in the construction industry.

(2) Elective hours may be earned by completing trainings or demonstrations offered by building component manufacturers on product use, capabilities, or installation.

(3) Elective hours may be earned by completing education classes required to maintain another construction industry license, such as a certified home inspector or a registered professional engineer.

(4) Elective hours may be earned by completing core classes not otherwise completed for core credit.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 4-2011, f. 6-24-11, cert. ef. 7-1-11; CCB 4-2012, f. & cert. ef. 3-2-12

## 812-021-0025

### Provider Approval, Standards, Fees and Renewal for Core — Continuing Education for Residential Contractors

(1) The agency will review and approve providers offering core continuing education.

(2) Providers will apply for approval on a form prescribed by the agency. Providers may, but need not, apply for approval at the same time they apply for course approval.

(3) Providers seeking approval to offer training in BEST or building codes must submit the following to the agency:

(a) Name, address and contact information of the provider;

(b) Business entity type of the provider and, if applicable, the Corporation Division business registry number;

(c) Description of provider business plan;

(d) Description of the core subject area(s) provider intends to offer;

and

(e) Such other information or documentation as the agency may request.

(4) Notwithstanding sections (1) through (3) of this rule, a provider offering education on “green” or sustainable building practices that obtained provider approval before January 1, 2011, may continue to offer courses qualifying for mandatory core continuing education until September 30, 2011.

(5) Providers must remit to the agency together with their application:

(a) A non-refundable fee of \$2,000 if applying to offer BEST;



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(b) A non-refundable fee of \$500 if applying to offer building codes; or

(c) A non-refundable fee of \$2,500 if applying to offer both BEST and building codes.

(6) To qualify for approval, providers must:

(a) Certify the programs offered meet the minimum standards and content objectives established by the Board;

(b) Employ or contract with educators who have at least four years work experience or four years of education, or any combination of both, in the subject that they instruct;

(c) Be capable of entering and transmitting electronic data to the agency;

(d) Describe a process for prompt resolution of complaints by registrants;

(e) Describe a process for cancellations and refunding registrant payments; and

(f) If applying to offer BEST, provide a surety bond in an amount of \$20,000 obligating the surety to pay registrants to whom the provider owes money for cancellation or other refunds that the provider fails to pay. The bond must be in the form adopted by the board as the "Continuing Education Provider Surety Bond" dated December 1, 2009.

(7) Provider approval will be valid for two (2) years from the date the provider is approved by the agency.

(8) Providers must re-submit application and fees required under sections (3) and (5) of this rule for renewal of approval. Renewal of approval will be subject to the same requirements as initial approval.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 8-2009, f. 12-28-09, cert. ef. 1-1-10; CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 2-2012(Temp), f. & cert. ef. 2-9-12 thru 8-7-12; CCB 4-2012, f. & cert. ef. 3-2-12

## 812-021-0040

### Inactive Status During the License Period or Upon Renewal — Continuing Education for Residential Contractors

(1) If a contractor is inactive for less than a year and seeks to renew in an active status, the contractor must complete the total continuing education hours required in OAR 812-021-0015 in order to renew.

(2) If a contractor is inactive for one year or more during the license period and seeks to renew in an active status, the contractor is not required to complete the continuing education hours as required in OAR 812-021-0015 in order to renew.

(3) If a contractor is inactive for any period of time and seeks to renew in an inactive status, the contractor is not required to complete the continuing education hours required in OAR 812-021-0015 in order to renew.

(4) If a contractor is active at the time of renewal and seeks to renew in an inactive status, the contractor is not required to complete the continuing education hours required in OAR 812-021-0015 in order to renew.

(5) Notwithstanding section (4) of this rule, if a active contractor renews to an inactive status and seeks to change to active status during the two-year license renewal period, the contractor must complete the continuing education requirements in OAR 812-021-0015 in order to change to active status. Continuing education hours earned during the prior two-year license period and the period of inactivity may be included for determining compliance. Notwithstanding 812-021-0015, hours completed during this same period and credited towards renewal to active may not be included for the contractor's next renewal.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.063 & 701.126

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 4-2012, f. & cert. ef. 3-2-12

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

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

**Adm. Order No.:** BCD 2-2012(Temp)

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12 thru 6-30-12

**Notice Publication Date:**

**Rules Adopted:** 918-098-1590

**Rules Amended:** 918-098-1510, 918-098-01530

**Subject:** HB 3462 (2009) authorized the Building Codes Division to create a program for training, qualifying, and certifying individuals as specialized building inspectors authorized to perform inspec-

tions and enforce portions of Oregon's specialty codes. These rules establish new inspector certifications to cover limited commercial and other multidisciplinary inspections that are not presently independently authorized by the division's existing inspector certifications. These rules establish the criteria for the Specialized Finals Inspector certification. This multidisciplinary certification allows an individual to perform all residential final inspections.

**Rules Coordinator:** Stephanie Snyder—(503) 373-7438

## 918-098-1510

### Purpose and Scope

(1) The specialized inspector certification program, in OAR 918-098-1510 through 918-098-1590, establishes a program for training, qualifying and certifying individuals as specialized building inspectors authorized to perform inspections and enforce portions of the state building code. Inspector certifications cover limited commercial and other multidisciplinary inspections that presently are not independently authorized by the division in existing inspector certifications.

(2) Specialized inspectors may, after receiving certification issued under these rules, conduct inspections as provided in these rules. These rules apply to applicants and certificate holders, training providers, and participating jurisdictions for the purposes of administering and enforcing the restrictions and requirements under these rules.

Stat. Auth.: ORS 455.720, 455.730 & 455.735

Stats. Implemented: ORS 455.720, 455.730 & 455.735

Hist.: BCD 10-2011(Temp), f. 4-15-11, cert. ef. 5-1-11 thru 6-30-11; BCD 15-2011, f. 6-30-11, cert. ef. 7-1-11; BCD 25-2011(Temp), f. & cert. ef. 8-18-11 thru 10-1-11; BCD 27-2011, f. 9-30-11, cert. ef. 10-1-11; BCD 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-30-12

## 918-098-1530

### Training Programs

(1) Approved applicants must complete an appropriate division-approved training program and pass a division-approved examination for the desired specialized certification. Training program requirements are stated in OAR 918-098-1560 for the Specialized Solar Photo-Voltaic Inspector Certification, in 918-098-1570 for the Specialized Plumbing Inspector Certification, in 918-098-1580 for the Specialized Electrical Inspector Certification, and in 918-098-1590 for the Specialized Finals Inspector Certification.

(2) Instructor Qualifications. Specialized certification training course instructors must be approved by the division under these rules.

(a) Training course instructors may apply for approval as part of the course approval process or independent of the course approval process.

(b) Approved training course instructors must be qualified by training, licensure, and experience to teach the subject matter and supervise the corresponding fieldwork training inspections of a specialized inspector certification training program.

(c) Approved fieldwork supervisors must be qualified by training, licensure, and experience to perform the specialized inspector certification fieldwork inspections being performed.

(d) Division staff teaching training courses of supervising related fieldwork in the normal course of their duties are considered approved instructors for the purposes of these rules.

(3) Fieldwork Training. A specialized inspector certification applicant is eligible to perform the required fieldwork training after the applicant has begun the required academic coursework.

(4) Fieldwork Supervision. All specialized certification fieldwork training must be supervised and verified by an inspector with a valid Oregon Inspector Certification required to conduct the inspections being performed.

(a) An applicant's fieldwork training must be documented on a division-approved form and signed by the inspector who supervised the inspections.

(b) An inspector supervising and verifying an applicant's fieldwork training may not be qualified to conduct the inspections performed based solely on a specialized inspector certification issued according to these rules.

(5) Fieldwork Training Approval. A specialized inspector certification applicant must submit proof of completed fieldwork training to the division for verification and approval, and issuance of specialized inspector certification.

(6) Examination Approval. A specialized inspector certification applicant is eligible to take a certification examination after the division receives proof that the applicant has successfully completed the required academic coursework and fieldwork training.

Stat. Auth.: ORS 455.720, 455.730 & 455.735

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Stats. Implemented: ORS 455.720, 455.730 & 455.735  
Hist.: BCD 10-2011(Temp), f. 4-15-11, cert. ef. 5-1-11 thru 6-30-11; BCD 15-2011, f. 6-30-11, cert. ef. 7-1-11; BCD 25-2011(Temp), f. & cert. ef. 8-18-11 thru 10-1-11; BCD 27-2011, f. 9-30-11, cert. ef. 10-1-11; BCD 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-30-12

## 918-098-1590

### Specialized Finals Inspector Certification

(1) Scope of Activities and Authority. Specialized finals inspectors may upon receipt of this certification conduct final inspections of one- and two- family dwellings constructed under the **Oregon Residential Specialty Code** as provided by the Director through rule.

(2) **Procedure for Qualification.** An applicant for certification under this rule must meet the general qualifications in OAR 918-098-1520, 918-098-1530 and this rule.

#### (3) Experience, Education, and Training Requirements.

(a) As a condition of entering a specialized finals inspector training program:

(A) Applicants must hold valid Oregon Inspector Certification and at least one appropriate certification to perform either residential or commercial mechanical, structural, electrical or plumbing inspections in Oregon; and

(B) Been employed as an inspector and performed inspections of the **Oregon Structural or Residential Specialty Codes, Oregon Mechanical Specialty Code, Oregon Electrical Specialty Code, or Oregon Plumbing Specialty Code** for a minimum of one year prior to applying for the Specialized Finals Inspector Certification.

(b) Applicants must complete a specialized finals inspector training program that meets the minimum requirements established by the division, and consists of:

(A) Classroom coursework; and

(B) Required fieldwork inspections

(c) After completion of the classroom coursework and required field inspections, applicants must successfully pass a division-approved examination.

(d) **Certification.** Upon completion of all training and after passing a division-approved examination, the division will certify an applicant as qualified to perform specialized finals inspections, and issue the appropriate documentation.

Stat. Auth.: ORS 455.720, 455.730 & 455.735

Stats. Implemented: ORS 455.720, 455.730 & 455.735

Hist.: BCD 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-30-12

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## Department of Consumer and Business Services, Insurance Division Chapter 836

**Rule Caption:** Clarifying six month guarantee issue period and establishing "birthday rule" for Medicare supplement insurance.

**Adm. Order No.:** ID 4-2012

**Filed with Sec. of State:** 2-16-2012

**Certified to be Effective:** 1-1-13

**Notice Publication Date:** 12-1-2011

**Rules Adopted:** 836-052-0143

**Rules Amended:** 836-052-0138

**Subject:** These rules were developed in response to numerous complaints received by the Department of Consumer and Business Services regarding open enrollment periods and unexpected rate increases with respect to Medicare supplement policies. To address these complaints, the rules:

- Clarify that for a person who receives "retroactive" eligibility for Medicare as a result of an appeal of an initial denial for eligibility, the six month open enrollment period begins after the person is notified of their enrollment in Medicare, not on the date the person's enrollment has been backdated to.

- Adopt a "birthday rule" for Medicare supplement policies to allow an individual the opportunity to change Medicare supplement plans (as long as the new policy has the same or lesser benefits) with guaranteed issue and nondiscrimination in rating once per year for a period of thirty days beginning on the individual's birthday.

**Rules Coordinator:** Sue Munson — (503) 947-7272

## 836-052-0138

### Open Enrollment

(1)(a) An issuer may not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in

this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a Medicare supplement policy or certificate that is submitted to the issuer prior to or during the six month period beginning with the first day of the first month in which an individual is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an issuer shall be made available on a guaranteed issue basis to all applicants who qualify under this section without regard to age.

(b) If a person under the age of 65 applies for enrollment under Medicare Part B due to disability and is initially denied as ineligible, but upon conclusion of the person's appeals process the person is awarded retroactive enrollment, the six month period described in this section begins on the first day of the first month after the person receives written notice of retroactive enrollment.

(2)(a) If an applicant qualifies under section (1) of this rule and submits an application during the time period referenced in section (1) of this rule and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition;

(b) If the applicant qualifies under section (1) of this rule and submits an application during the time period referenced in section (1) of this rule and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The manner of the reduction under this subsection shall be the manner prescribed in 42 USC 300gg(a)(3) as of the effective date of this rule.

(3) Except as provided in section 2 of this rule and OAR 836-052-0142 and 836-052-0190, section (1) of this rule shall not be construed as preventing the exclusion of benefits under a policy, during the first six months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six months before the coverage became effective.

(4) This section applies to a person who qualifies for Medicare by reason of disability and who obtains a Medicare supplement policy during the six month period described in section (1) of this rule. For the period that a person to whom this section applies is 65 years of age or less, the premium charged the person by the issuer shall not be greater than the premium charged by the issuer for persons who are 65 years of age. Following that period, for issuers who charge rates on policies on the basis of attained age, the rating plan shall not differentiate on the basis of the reason for eligibility for Medicare Part B.

(5) An issuer must comply with section (1) of this rule with respect to a person:

(a) Who qualifies for Medicare by reason of disability, who first enrolls for benefits under Medicare Part B on or after September 1, 1993, and who applies for a Medicare supplement policy or certificate during the period of eligibility described in section (1) of this rule; or

(b) Who enrolled in Medicare Part B before attaining 65 years of age, who applies for a Medicare supplement policy or certificate upon attaining 65 years of age, during the period of eligibility described in section (1) of this rule that would apply if the person first enrolled in Medicare Part B upon attaining 65 years of age.

Stat. Auth.: ORS 743.683

Stats. Implemented: ORS 743.010 & 743.683

Hist.: ID 7-1992, f. & cert. ef. 5-8-92; ID 5-1993(Temp), f. 8-11-93, cert. ef. 9-1-93; ID 9-1993, f. 9-28-93, cert. ef. 10-1-93; ID 5-1996, f. & cert. ef. 4-26-96; ID 21-1998(Temp), f. 12-8-98, cert. ef. 1-1-99 thru 6-25-99; ID 4-1999, f. & cert. ef. 4-29-99; ID 6-2001, f. & cert. ef. 5-22-01; ID 10-2005, f. & cert. ef. 7-26-05; ID 4-2012, f. 2-16-12, cert. ef. 1-1-13

## 836-052-0143

### Annual Opportunity to Select Another Medicare Supplement Policy or Certificate

(1) For the purposes of this rule, for 1990 and 2010 Medicare Supplement Plans, "same or lesser benefits" means a policy or certificate of the same or lower benefit level as indicated on a chart available on the website of the Insurance Division of the Department of Consumer and Business Services.

(2) Beginning on a person's birthday and for 30 days after the person's birthday, a person enrolled in a Medicare supplement policy may cancel the person's existing Medicare supplement policy or certificate and purchase or select another Medicare supplement policy or certificate with the same or lesser benefits to replace the existing Medicare supplement policy or certificate. An issuer may not deny or condition the issuance or effectiveness, nor discriminate in the pricing of the replacement policy or cer-

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tificate on the basis of health status, claims experience, receipt of health care or medical condition of the applicant.

(3) This rule does not apply to Medicare supplement policies or certificates issued or delivered before January 1, 1990.

Stat. Auth.: ORS 731.244, 743.010, 743.680 - 743.689

Stats. Implemented: ORS 743.010, 743.683, 743.684

Hist.: ID 4-2012, f. 2-16-12, cert. ef. 1-1-13

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**Rule Caption:** Requirements for Health Insurers' Report on Services Provided by Expanded Practice Dental Hygienists.

**Adm. Order No.:** ID 5-2012

**Filed with Sec. of State:** 2-16-2012

**Certified to be Effective:** 2-16-12

**Notice Publication Date:** 11-1-2011

**Rules Adopted:** 836-011-0600

**Subject:** Enrolled Senate Bill 738 requires a health insurance policy that covers dental health services to cover services provided by an expanded practice dental hygienist if the same services are covered when provided by a licensed dentist and the expanded practice dental hygienist has entered into a provider contract with the insurer. Section 12 of SB 738 (ORS 680.210) requires the Department of Consumer and Business Services (DCBS) to adopt rules requiring health insurers to report to DCBS on the reimbursement of services to expanded practice dental hygienists and requires DCBS to provide the information to the Oregon Board of Dentistry (OBD).

This new rule establishes those reporting requirements and also defines "expanded practice dental hygienist" and "health insurer" for purposes of the reporting requirement. The first report is due on or before August 1, 2012.

**Rules Coordinator:** Sue Munson—(503) 947-7272

## 836-011-0600

### Report on Services Provided by Expanded Practice Dental Hygienists

(1) As used in this rule:

(a) "Expanded practice dental hygienist" has the meaning given in ORS 679.010.

(b) "Health insurer" includes:

(A) An insurer authorized to transact health insurance in Oregon;

(B) A health care service contractor as defined in ORS 750.005;

(C) A multiple employer welfare arrangement as defined in ORS 750.301;

(D) A coordinated care organization as defined in ORS 414.025, or a dental care organization or governed by the Oregon Health Authority;

(E) A third party administrator licensed under ORS 744.702; and

(F) Federally qualified health centers governed by the United States Department of Health and Human Services.

(2) A health insurer authorized to transact health insurance that provides coverage for dental services in Oregon shall, by August 1 of every even-numbered year, report to the Department of Consumer and Business Services information pertaining to reimbursement for those dental services provided by Expanded Practice Dental Hygienists (EPDH) to Oregon residents for the 24-month period ending June 30 of the reporting year. For each dental service provided during the period under review the information shall include:

(a) The Current Dental Terminology code denoting the type of service provided;

(b) The provider's National Provider Identifier number; and

(c) The following information, which the department will aggregate prior to providing the information to the Board of Dentistry:

(A) The amount billed by the EPDH to the insurer for the service provided;

(B) The amount allowed for the service under the insurance plan;

(C) The amount of benefit paid by the insurer for the dental service (i.e. the amount of the benefit subtracting any deductible, copay, coinsurance or other cost-sharing);

(D) The amount owed by the insured for the service (i.e. deductible, copay, coinsurance or other cost-sharing);

(E) The amount of excluded charges owed by the insured; and

(F) The amount of excluded charges, if any, that the provider is not allowed to collect from the insured due to their provider agreement with the insurer.

(3) A health insurer subject to this rule shall provide the report required in section (2) of this rule electronically, as requested by the Director.

Stat. Auth.: ORS 731.244, 680.210.

Stats. Implemented: ORS 680.210 (Sec. 11 & 12, Ch.716, OL 2011).

Hist.: ID 5-2012, f. & cert. ef. 2-16-12

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## Department of Consumer and Business Services, Workers' Compensation Division Chapter 436

**Rule Caption:** Rule changes affecting workers' compensation medical fees, medical services, and managed care organizations.

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

**Filed with Sec. of State:** 2-16-2012

**Certified to be Effective:** 4-1-12

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

**Rules Adopted:** 436-009-0177, 436-015-0075

**Rules Amended:** 436-009-0003, 436-009-0004, 436-009-0010, 436-009-0030, 436-009-0040, 436-009-0050, 436-009-0060, 436-009-0070, 436-009-0080, 436-009-0090, 436-009-0110, 436-009-0115, 436-009-0120, 436-009-0125, 436-009-0130, 436-009-0135, 436-009-0140, 436-009-0145, 436-009-0155, 436-009-0160, 436-009-0165, 436-009-0170, 436-009-0175, 436-009-0180, 436-009-0185, 436-009-0200, 436-009-0205, 436-009-0206, 436-009-0207, 436-009-0210, 436-009-0215, 436-009-0220, 436-009-0225, 436-009-0230, 436-009-0235, 436-009-0240, 436-009-0245, 436-009-0255, 436-009-0260, 436-009-0265, 436-009-0270, 436-009-0275, 436-009-0285, 436-009-0290, 436-010-0330, 436-015-0003, 436-015-0005, 436-015-0007, 436-015-0009, 436-015-0010, 436-015-0030, 436-015-0050, 436-015-0080, 436-015-0110

**Rules Repealed:** 436-009-0022, 436-009-0150, 436-009-0250, 436-009-0280, 436-015-0020

**Subject: Revised OAR 436-009, "Oregon Medical Fee and Payment Rules":**

- Adopts new and updates existing medical fee schedules and resources for the payment of health care providers.

- Increases payment for ambulance and dental services.

- Increases payment for chiropractic manipulation codes 98940 – 98943.

- Clarifies that an insurer must initiate a dispute before the director if it is challenging the reasonableness of a provider's billing.

- Eliminates multiple-surgery discounts for add-on codes that already have built-in discounts.

- Establishes Oregon specific (billing) codes for closing examinations and for closing reports, and limits payment to 80% of amount billed.

- Provides payment criteria for daily rentals, in addition to monthly rentals, of durable medical equipment, orthotics, prosthetics, and supplies.

- Specifies that injectable drugs are prescription medications subject to the maximum payment fee schedule under these rules.

- Describes the compensability limitation for physician dispensing of medications (not a new requirement, but repeating the provision in OAR 436-010-0230(6)).

- Increases interpreter mileage reimbursement by reducing the minimum round-trip mileage eligible for reimbursement from 60 miles to 15 miles.

- Eliminates the requirement that an interpreter's invoice include the name of the interpreter who provided the service.

- Amends explanation-of-benefits and related communication requirements applicable to interpreters.

- Specifies what an ambulatory surgery center's (ASC's) surgical procedure fee does not include.

- Provides an ASC 60 days to submit a bill after any litigation affecting the compensability of the services is final, if the ASC receives written notice of the final litigation from the insurer.

- Clarifies payment requirements when an ambulatory surgery center performs multiple procedures.

- Requires that implantable devices be paid separately to an ambulatory surgery center and not packaged with the surgery charge.



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- Describes billing and payment requirements affecting ambulatory surgery centers for durable medical equipment, prosthetic services, orthotic services, and medical supplies.

## **Revised OAR 436-010-0330, “Medical Services”:**

- Includes amended citations to a renumbered rule in OAR 436-009.

## **Revised OAR 436-015, “Managed Care Organizations” (MCOs):**

- Modifies the MCO certification and plan development process by:

- Eliminating the requirement for prospective MCOs to “qualify” before applying for certification.

- Streamlining the MCO application process.

- Removing the requirement to show that workers can receive treatment by an MCO physician in cases requiring emergency inpatient hospitalization.

- Eliminating the requirement that an MCO send to the director a copy of every provider agreement; instead allowing the MCO to send a standard provider agreement and identify variations.

- Requiring MCOs to regularly update their MCO panel provider lists.

- Requires that if the MCO schedules a medical exam for the worker, the appointment letter must inform the worker if a psychological evaluation is part of the exam and state the reason for the psychological evaluation.

**Rules Coordinator:** Fred Bruyns—(503) 947-7717

### **436-009-0003**

#### **Applicability of Rules**

(1) These rules apply to all services rendered on or after the effective date of these rules.

(2) The director may waive procedural rules as justice requires, unless otherwise obligated by statute.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09, Administrative correction 1-23-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

### **436-009-0004**

#### **Adoption of Standards**

(1) The director adopts, by reference, the *American Society of Anesthesiologists ASA, Relative Value Guide 2012* as a supplementary fee schedule for those anesthesia codes not found in Appendix B. To get a copy of the ASA Relative Value Guide 2012, contact the American Society of Anesthesiologists, 520 N. Northwest Highway, Park Ridge, IL 60068-2573, 847-825-5586, or on the web at: <http://www.asahq.org>.

(2) The director adopts, by reference, the American Medical Association’s (AMA) Current Procedural Terminology (CPT® 2012), Fourth Edition Revised, 2011, for billing by medical providers. The guidelines are adopted as the basis for determining level of service.

(3) The director adopts, by reference, the AMA’s CPT® Assistant, Volume 0, Issue 04 1990 through Volume 21, Issue 12, 2011. If there is a conflict between the CPT® manual and CPT® Assistant, the CPT® manual is the controlling resource.

(4) To get a copy of the CPT® 2012 or the CPT® Assistant, contact the American Medical Association, 515 North State Street, Chicago, IL 60610, 800-621-8335, or on the web at: <http://www.ama-assn.org>.

(4)(a) The director adopts, by reference, only the alphanumeric codes from the CMS Healthcare Common Procedure Coding System (HCPCS) to be used when billing for services only to identify products, supplies, and services that are not described by CPT® codes or that provide more detail than a CPT® code.

(b) Except as otherwise provided in these rules, the director does not adopt the HCPCS edits, processes, exclusions, color-coding and associated instructions, age and sex edits, notes, status indicators, or other policies of CMS.

(c) To get a copy of the HCPCS, contact the National Technical Information Service, Springfield, VA 22161, 800-621-8335 or on the web at: [www.cms.hhs.gov/HCPCSReleaseCodeSets/ANHCPCS/list.asp](http://www.cms.hhs.gov/HCPCSReleaseCodeSets/ANHCPCS/list.asp).

(5) The director adopts, by reference, the 7.07/11 version of the 1500 Health Insurance Claim Form Reference Instruction Manual published by the National Uniform Claim Committee (NUCC). To get a copy, contact the

NUCC, American Medical Association, 515 N. State St., Chicago, IL 60654, or on the web at: [www.nucc.org](http://www.nucc.org).

(6) The director adopts, by reference, the Official UB-04 Data Specifications Manual 2012 Edition, published by the National Uniform Billing Committee (NUBC). To get a copy, contact the NUBC, American Hospital Association, One North Franklin, 29th Floor, Chicago, IL 60606, 312-422-3390, or on the web at: [www.nubc.org](http://www.nubc.org).

(7) Specific provisions contained in OAR chapter 436, divisions 009, 010, and 015 control over any conflicting provision in ASA Relative Value Guide 2012, CPT® 2012, CPT® Assistant, or HCPCS 2012.

(8) Copies of the standards referenced in this rule are also available for review during regular business hours at the Workers’ Compensation Division, Medical Section, 350 Winter Street NE, Salem OR 97301, 503-947-7606.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 656.248 & 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; 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 6-2003, f. 5-28-03, cert. ef. 7-1-03; 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 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

### **436-009-0010**

#### **General Requirements for Medical Billings**

(1) Only treatment that falls within the scope and field of the medical provider’s license to practice will be paid under a worker’s compensation claim.

(2) Billings must include the worker’s full name and date of injury, the employer’s name and, if available, the insurer’s claim number and the provider’s NPI. If the provider does not have an NPI, then the provider must provide its license number and the billing provider’s FEIN. For provider types not licensed by the state, “99999” must be used in place of the state license number. All medical providers must submit bills to the insurer or, if provided by their contract for medical services, to the managed care organization. Medical providers must submit bills on a completed current UB-04 (CMS 1450) or CMS 1500 form, except for:

(a) Dental billings, which must be submitted on American Dental Association dental claim forms;

(b) Pharmacy billings, which must be submitted on the most current National Council for Prescription Drug Programs (NCPDP) form; and

(c) EDI transmissions of medical bills under OAR 436-009-0030(3)(c).

(d) Computer-generated reproductions of forms referenced in subsections (2)(a) and (b) may also be used.

(3)(a) All original medical provider billings must be accompanied by legible chart notes documenting services that have been billed and identifying the person performing the service and license number of the person providing the service. Medical providers are not required to provide their license number if they are already providing a national identification number.

(b) When processing billings via EDI, the insurer may waive the requirement that billings be accompanied by chart notes. The insurer remains responsible for payment of only compensable medical services. The medical provider may submit their chart notes separately or at regular intervals as agreed with the insurer.

(4) When billing for medical services, a medical service provider must use codes listed in CPT® 2012 or Oregon Specific Codes (OSC) that accurately describe the service. If there is no specific CPT® code or OSC, a medical service provider must use the appropriate HCPCS code, if available, to identify the medical supply or service. Pharmacy billings must use the National Drug Code (NDC) to identify the drug or biological billed.

(a) If there is no specific code for the medical service, the medical service provider must use the appropriate unlisted code from HCPCS or the unlisted code at the end of each medical service section of CPT® 2012 and provide a description of the service provided.

(b) Any service not identifiable with a code number must be adequately described by report.

(5) Medical providers must submit billings for medical services in accordance with this section.

(a) Bills must be submitted within:

(A) 60 days of the date of service;

(B) 60 days after the medical provider has received notice or knowledge of the responsible workers’ compensation insurer or processing agent; or

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(C) 60 days after any litigation affecting the compensability of the service is final, if the provider receives written notice of the final litigation from the insurer.

(b) A medical provider must establish good cause when submitting a bill later than outlined in subsection (a) of this section. Good cause may include, but is not limited to, such issues as extenuating circumstances or circumstances considered outside the control of the provider.

(c) When a provider submits a bill within 12 months of the date of service, the insurer may not reduce payment due to late billing. When a provider submits a bill over 12 months after the date of service, the bill is not payable, except when a provision of subsection (a) of this section is the reason the billing was submitted after 12 months.

(6) When rebilling, medical providers must indicate that the charges have been previously billed.

(7) The medical provider must bill their usual fee charged to the general public. The submission of the bill by the medical provider shall serve as a warrant that the fee submitted is the usual fee of the medical provider for the services rendered. The department shall have the right to require documentation from the medical provider establishing that the fee under question is the medical provider's usual fee charged to the general public. For purposes of this rule, "general public" means any person who receives medical services, except those persons who receive medical services subject to specific billing arrangements allowed under the law which require providers to bill other than their usual fee.

(8) Medical providers must not submit false or fraudulent billings, including billing for services not provided. As used in this section, "false or fraudulent" means an intentional deception or misrepresentation with the knowledge that the deception could result in unauthorized benefit to the provider or some other person. A request for pre-payment for a deposition is not considered false or fraudulent.

(9) When a worker with two or more separate compensable claims receives treatment for more than one injury or illness, costs must be divided among the injuries or illnesses, irrespective of whether there is more than one insurer.

(10) Workers may make a written request to a medical provider to receive copies of medical billings. Upon receipt of a request, the provider may furnish the worker a copy during the next billing cycle, but no later than 30 days following receipt of the request. Thereafter, worker copies must be furnished during the regular billing cycle.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 656.245, 656.252, 656.254

Stats. Implemented: ORS 656.245, 656.252, 656.254

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; 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 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0030

### Insurer's Duties and Responsibilities

(1) The insurer must pay for medical services related to a compensable injury claim, except as provided by OAR 436-060-0055.

(2) The insurer, or its designated agent, may request from the medical provider, any and all necessary records needed to review accuracy of billings. The medical provider may charge an appropriate fee for copying documents under OAR 436-009-0070(1). If the evaluation of the records must be conducted on-site, the provider must furnish a reasonable work-site for the records to be reviewed at no cost. These records must be provided or made available for review within 14 days of a request.

(3) Insurers must date stamp medical bills and reports upon receipt and pay bills for medical services on accepted claims within 45 days of receipt of the bill, if the billing is submitted in proper form according to OAR 436-009-0010(2) through (4) and clearly shows that the treatment is related to the accepted compensable injury or disease. Billings not submitted in the proper form must be returned to the medical provider within 20 days of receipt of the bill with a written explanation describing why the bill was not paid or what needs to be corrected. A request for chart notes on EDI billings must be made to the medical provider within 20 days of receipt of the bill. The number of days between the date the insurer returns the billing or requests for chart notes from the provider and the date the insurer receives the corrected billing or chart notes, does not apply toward the 45 days within which the insurer is required to make payment.

(a) The insurer must retain a copy of each medical provider's bill received by the insurer or must be able to reproduce upon request data rel-

evant to the bill, including but not limited to, provider name, date of service, date the insurer received the bill, type of service, billed amount, coding submitted by the medical provider as described in OAR 436-009-0010(2), and insurer action, for any non-payment or fee reduction. This includes all bills submitted to the insurer even when the insurer determines no payment is due.

(b) Any service billed with a code number commanding a higher fee than the services provided must be returned to the medical provider for correction or paid at the value of the service provided.

(c) When a medical provider submits a bill electronically, it is considered "mailed" according to OAR 436-010-0005.

(4) The insurer or its representative must provide a written explanation of benefits being paid or denied. The insurer or its representative must send the explanation to the medical provider that billed for the services. All information on the explanation must be in 10 point size font or larger.

(5) The explanation of benefits must include:

(a) The amount of payment for each service billed. When the payment covers multiple patients, the explanation must clearly separate and identify payments for each patient;

(b) The specific reason for non-payment, reduced payment, or discontinued payment for each service billed;

(c) An Oregon or toll-free phone number for the insurer or its representative, and a statement that the insurer or its representative must respond to a medical provider's payment question within 48 hours, excluding weekends and legal holidays;

(d) The following notice, web link, and phone number: "To access information about Oregon's Medical Fee and Payment Rules, visit [www.oregonwcdoc.info](http://www.oregonwcdoc.info) or call 503-947-7606";

(e) Space for a signature and date; and

(f) A notice of right to administrative review as follows: "If you disagree with this decision about this payment, please contact {the insurer or its representative} first. If you are not satisfied with the response you receive, you may request administrative review by the Director of the Department of Consumer and Business Services. Your request for review must be made within 90 days of the mailing date of this explanation. To request review, sign and date in the space provided, indicate what you believe is incorrect about the payment, and mail this document with the required supporting documentation to the Workers' Compensation Division, Medical Section, PO Box 14480, Salem, OR 97309-0405. Or you may fax the request to the director at 503-947-7629. You must also send a copy of the request to the insurer. You should keep a copy of this document for your records."

(6) The insurer or its representative must respond to a medical provider's inquiry about a medical payment within 48 hours, not including weekends or legal holidays, of the medical provider's inquiry. The insurer or its representative may not refer the medical provider to another entity to obtain an answer.

(7) An insurer or its representative and a medical service provider may agree to send and receive payment information by e-mail. Electronic records sent by e-mail are subject to the Oregon Consumer Identity Theft Protection Act under ORS 646A.600 to 646A.628 and federal law.

(8) Payment of medical bills is required within 14 days of any action causing the service to be payable, or within 45 days of the insurer's receipt of the bill, whichever is later.

(9) Failure to pay for medical services timely may render the insurer liable to pay a reasonable monthly service charge for the period payment was delayed, if the provider customarily levies such a service charge to the general public.

(10) When there is a dispute over the amount of a bill or the appropriateness of services rendered, the insurer must, within 45 days, pay the undisputed portion of the bill and at the same time provide specific reasons for non-payment or reduction of each medical service code. Resolution of billing disputes, including possible overpayment disputes, must be made under OAR 436-009-0008, 436-010-0008 and 436-015.

(11) Bills for medical services rendered at the request of the insurer and bills for information submitted at the request of the insurer, which are in addition to those required in OAR 436-010-0240 must be paid for within 45 days of receipt by the insurer even if the claim is denied.

(12) The insurer must establish an audit program for bills for all medical services to determine that the bill reflects the services provided, that appropriate prescriptions and treatment plans are completed in a timely manner, that payments do not exceed the maximum fees adopted by the director, and that bills are submitted in a timely manner. The audit must be continuous and must include no fewer than 10 percent of medical bills. The insurer must provide upon request documentation establishing that the

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insurer is conducting a continuous audit of medical bills. This documentation must include, but not be limited to, medical bills, internal audit forms, and any medical charge summaries prepared by private medical audit companies.

(13) The insurer must pay a medical provider for any bill related to the claimed condition received by the insurer on or before the date the terms of a disputed claim settlement (DCS) were agreed on, but was either not listed in the approved DCS or was not paid to the medical provider as set forth in the approved DCS. Payment must be made by the insurer as prescribed by ORS 656.313(4)(d) and OAR 438-009-0010(2)(g) as if the bill had been listed in the approved settlement or as set forth in the approved DCS, except if the DCS payments have already been made, the payment must not be deducted from the settlement proceeds. Payment must be made within 45 days of the insurer's knowledge of the outstanding bill.

(14) For medical bill reporting requirements, see OAR 436-160 Electronic Data Interchange Medical Bill Data rules.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.252, 656.325, 656.245, 656.248, 656.260 & 656.264

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; 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 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 6-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0040

### Calculating Medical Provider Fees

(1) Unless otherwise provided by contract or fee discount agreement permitted by these rules, insurers must pay for medical services the lesser of:

(a) The maximum allowable payment amount for CPT® codes, HCPCS codes, and Oregon Specific Codes listed in Appendix B of these rules; or

(b) The provider's usual fee.

(2) Unless otherwise provided by contract or fee discount agreement, the insurer must pay 80 percent of the provider's usual fee when:

(a) Appendix B does not establish a maximum payment amount and the code is designated "80% of billed";

(b) The fee schedule does not establish a fixed, maximum payment amount (e.g., certain medical supplies); or

(c) The service is not covered by the fee schedule.

(3) Unless otherwise provided by contract or fee discount agreement permitted by these rules, the insurer must pay 90 percent of the provider's usual fee for dental services billed with dental HCPCS codes.

(4) Unless otherwise provided by contract, the insurer must pay the provider's usual fee for ambulance services billed with the following HCPCS codes: A0425, A0426, A0427, A0428, A0429, A0433, and A0434.

(5) For services payable under section (2), (3), or (4) of this rule, for hospital outpatient charges, or for services payable "as billed," an insurer may only challenge the reasonableness of a provider's billing on a case by case basis by asking the director to review the billing under OAR 436-009-0008. If the director determines the amount billed is unreasonable, the director may establish a different fee to be paid to the provider based on at least one of, but not limited to, the following: reasonableness, the usual fees of similar providers, the services provided in the specific case, fees for similar services in similar geographic regions, and any extenuating circumstances.

(6)(a) When using **Appendix B** for calculating payment for CPT® codes, the maximum allowable payment column is determined by the location where the procedure is performed: If the procedure is performed inside the medical service provider's office, use the Non-Facility Maximum column; if the procedure is performed outside the medical service provider's office, use the Facility Maximum column. Use the Global Days column to identify the follow up days when applicable. For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology), use the Non-Facility Maximum column.

(b) When an Oregon specific code is assigned, the maximum allowable payment for multidisciplinary program and other services is found at the end of Appendix B, and in OAR 436-009-0060(5) and OAR 436-009-0070(13).

(7) When using the American Society of Anesthesiologists Relative Value Guide, a basic unit value is determined by reference to the appropriate anesthesia code. The anesthesia value includes the basic unit value, time

units, and modifying units. The maximum allowable payment amount for anesthesia codes is determined by multiplying the anesthesia value by a conversion factor of \$58.00.

(a) Unless otherwise provided by contract or fee discount agreement permitted by these rules, the insurer must pay the lesser of:

(A) The maximum allowable payment amount for anesthesia codes; or

(B) The provider's usual fee.

(b) When the anesthesia code is designated by IC (individual consideration), unless otherwise provided by a contract or fee discount agreement, the insurer must pay 80 percent of the provider's usual fee.

[ED. NOTE: 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 2-2000, f. 3-15-00, cert. ef. 4-1-00; 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 6-2003, f. 5-28-03, cert. ef. 7-1-03; 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 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0050

### CPT® Sections

Each CPT® section has its own schedule of relative values, completely independent of and unrelated to any of the other sections. The definitions, descriptions, and guidelines found in CPT® must be used as guides governing the descriptions of services, except as otherwise provided in these rules. The following provisions are in addition to those provided in each section of CPT®.

(1) Evaluation and Management services.

(2) Anesthesia services.

(a) In calculating the units of time, use 15 minutes per unit. If a medical provider bills for a portion of 15 minutes, round the time up to the next 15 minutes and pay one unit for the portion of time.

(b) Anesthesia basic unit values are to be used only when the anesthesia is personally administered by either a licensed physician or certified nurse anesthetist who remains in constant attendance during the procedure for the sole purpose of rendering such anesthesia service.

(c) When a regional anesthesia is administered by the attending surgeon, the value must be the "basic" anesthesia value only without added value for time.

(d) When the surgeon or attending physician administers a local or regional block for anesthesia during a procedure, the modifier "NT" (no time) must be noted on the bill.

(e) Local infiltration, digital block, or topical anesthesia administered by the operating surgeon is included in the relative value unit for the surgical procedure.

(3) Surgery services.

(a) When a worker is scheduled for elective surgery, the pre-operative visit, in the hospital or elsewhere, necessary to examine the patient, complete the hospital records, and initiate the treatment program is included in the listed global value of the surgical procedure. If the procedure is not elective, the physician is entitled to payment for the initial evaluation of the worker in addition to the global fee for the surgical procedure(s) performed.

(b) When an additional surgical procedure(s) is carried out within the listed period of follow-up care for a previous surgery, the follow-up periods will continue concurrently to their normal terminations.

(c) Multiple surgical procedures performed at the same session must be paid as follows:

(A) When multiple surgical procedures are performed by one surgeon, the principal procedure is paid at 100 percent of the maximum allowable fee, the secondary and all subsequent procedures are paid 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.

(B) When multiple arthroscopic procedures are performed, the major procedure must be paid at no more than 100 percent of the value listed in these rules and the subsequent procedures paid at 50 percent of the value listed.

(C) When more than one surgeon performs surgery, each procedure must be billed separately. The maximum allowable fee for each procedure, as listed in these rules, must be reduced by 25 percent. When the surgeons assist each other throughout the operation, each is entitled to an additional fee of 20 percent of the other surgeon's allowable fee as an assistant's fee. When the surgeons do not assist each other, and a third physician assists the



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surgeons, the third physician is entitled to the assistant's fee of 20 percent of the surgeons' allowable fees.

(D) When a surgeon performs surgery following severe trauma that requires considerable time, and the surgeon does not think the fees should be reduced under the multiple surgery rule, the surgeon may request special consideration by the insurer. Such a request must be accompanied by written documentation and justification. Based on the documentation, the insurer may pay for each procedure at 100 percent.

(E) The multiple surgery discount described in this subsection does not apply to add-on codes listed in Appendix B with a global period indicator of ZZZ.

(F) When a surgical procedure is performed bilaterally, the modifier "-50" must be noted on the bill for the second side, and paid at 50 percent of the fee allowed for the first side.

(d) When physician assistants or nurse practitioners assist a surgeon performing surgery, they must be paid at the rate of 15 percent of the surgeon's allowable fee for the surgical procedure(s). When physician assistants or nurse practitioners are the primary providers of a surgical procedure, they must be paid at the rate of 85 percent of a physician's allowable fee for a comparable service. Physician assistants and nurse practitioners must mark their bills with a modifier "-81." Chart notes must document when medical services have been provided by a physician assistant or nurse practitioner.

(e) Other surgical assistants who are self-employed and work under the direct control and supervision of a physician must be paid at the rate of 10 percent of the surgeon's allowable fee for the surgical procedure(s). The operation report must document who assisted.

(4) Radiology services.

(a) In order to be paid, x-ray films must be of diagnostic quality and include a report of the findings. Billings for 14" x 36" lateral views shall not be paid.

(b) When multiple contiguous areas are examined by computerized axial tomography (CAT) scan, computerized tomography angiography (CTA), magnetic resonance angiography (MRA), or magnetic resonance imaging (MRI), the technical component for the first area examined must be paid at 100 percent, the second area at 50 percent, and the third and all subsequent areas at 25 percent under these rules. The discount applies to multiple studies done within 2 days, unless the ordering provider provides a reasonable explanation of why the studies needed to be done on separate days. No reduction is applied to multiple areas for the professional component.

(5) Pathology and Laboratory services.

(a) The maximum allowable payment amount established in Appendix B applies only when there is direct physician involvement.

(b) Laboratory fees must be billed in accordance with ORS 676.310. If any physician submits a bill for laboratory services that were performed in an independent laboratory, the bill must show the amount charged by the laboratory and any service fee that the physician charges.

(6) Medicine services.

(7) Physical Medicine and Rehabilitation services.

(a) Increments of time for a time-based CPT® code must not be pro-rated.

(b) Payment for modalities and therapeutic procedures is limited to a total of three separate CPT®-coded services per day. CPT® codes 97001, 97002, 97003, or 97004 are not subject to this limit. An additional unit of time (15 minute increment) for the same CPT® code is not counted as a separate code.

(c) All modality codes requiring constant attendance (97032, 97033, 97034, 97035, 97036, and 97039) are time-based. Chart notes must clearly indicate the time treatment begins and the time treatment ends for the day or the amount of time spent providing the treatment.

(d) CPT® codes 97010 through 97028 shall not be paid unless they are performed in conjunction with other procedures or modalities which require constant attendance or knowledge and skill of the licensed medical provider.

(e) When multiple treatments are provided simultaneously by a machine, device or table there must be a notation on the bill that treatments were provided simultaneously by a machine, device or table and there must be one charge.

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 2-2000, f. 3-15-00, cert. ef. 4-1-00; 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 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; 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 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0060

### Oregon Specific Code (OSC), Multidisciplinary Services

(1) Services provided by multidisciplinary programs not otherwise described by CPT® codes must be billed under Oregon specific codes.

(2) Treatment in a chronic pain management program, physical rehabilitation program, work hardening program, or a substance abuse program shall not be paid unless the program is accredited for that purpose by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

(a) Organizations which have applied for CARF accreditation, but have not yet received such accreditation, may receive payment for multidisciplinary programs upon providing evidence to the insurer that an application for accreditation has been filed with and acknowledged by CARF. Such organizations may provide multidisciplinary services under this section for a period of up to 6 months from the date CARF provided notice to the organization that the accreditation process has been initiated, or until such time as CARF accreditation has been received or denied, whichever occurs first.

(b) Notwithstanding OAR 436-009-0010(4), program fees for services within a multidisciplinary program may be used based upon written pre-authorization from the insurer. Programs must identify the extent, frequency, and duration of services to be provided.

(c) All job site visits and ergonomic consultations must be preauthorized by the insurer.

(3) When an attending physician or authorized nurse practitioner approves a multidisciplinary treatment program for an injured worker, he or she must provide the insurer with a copy of the approved treatment program within 14 days of the beginning of the treatment program.

(4) Billings using the multidisciplinary codes must include copies of the treatment record which specifies the type of service rendered, the medical provider who provided the service, whether treatment was individualized or provided in a group session, and the amount of time treatment was rendered for each service billed.

(5) The table below lists the Oregon specific codes for Multidisciplinary Services. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables 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 6-2003, f. 5-28-03, cert. ef. 7-1-03; 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 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; 2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0070

### Oregon Specific Code, Other Services

(1) Except for records required in OAR 436-009-0010(3), copies of requested medical records must be paid under OSC R0001.

(2) A brief narrative by the attending physician or authorized nurse practitioner, including a summary of treatment to date and current status, and, if requested, brief answers to one to five specific questions related to the attending physician's or authorized nurse practitioner's current or proposed treatment, must be paid under OSC N0001.

(3) A complex narrative by the attending physician or authorized nurse practitioner, may include past history, history of present illness, attending physician's or authorized nurse practitioner's treatment to date, current status, impairment, prognosis, and medically stationary information, must be paid under OSC N0002.

(4) Fees for a PCE and a WCE shall be based upon the type of evaluation requested and performed:

(a) FIRST LEVEL PCE: This is a limited evaluation primarily to measure musculoskeletal components of a specific body part. These components include such tests as active range of motion, motor power using the 5/5 scale, and sensation. This level generally requires 30 to 45 minutes of actual patient contact. A first level PCE shall be paid under OSC 99196, which includes the evaluation and report. Additional 15-minute increments may be added if multiple body parts are reviewed and time exceeds 45 minutes. Each additional 15 minutes must be paid under OSC 99193, which includes the evaluation and report.

(b) SECOND LEVEL PCE: This is a PCE to measure general residual functional capacity to perform work or provide other general evaluation information, including musculoskeletal evaluation. It may be used to establish Residual Functional Capacities for claim closure. This level generally requires not less than two hours of actual patient contact. The second level PCE must be paid under OSC 99197, which includes the evaluation and report. Additional 15 minute increments may be added to measure additional body parts, to establish endurance and to project tolerances. Each

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additional 15 minutes must be paid under OSC 99193, which includes the evaluation and report.

(c) WCE: This is a residual functional capacity evaluation, which generally requires not less than 4 hours of actual patient contact. The evaluation may include a musculoskeletal evaluation for a single body part. A WCE must be paid under OSC 99198, which includes the evaluation and report. Additional 15 minute increments (per additional body part) may be added to determine endurance (e.g., cardiovascular) or to project tolerances (e.g., repetitive motion). Each additional 15 minutes must be paid under OSC 99193, which includes the evaluation and report. Special emphasis should be given to:

(A) The ability to perform essential physical functions of the job based on a specific job analysis as related to the accepted condition;

(B) The ability to sustain activity over time; and

(C) The reliability of the evaluation findings.

(5) A closing examination is a medical evaluation to measure impairment, which occurs when the worker's condition is medically stationary.

(a) For the closing examination, bill using OSC CE001;

(b) For the closing report, use OSC CR001.

(6) When an attorney requires a consultation with a medical provider, the medical provider must bill under OSC D0001. Unless otherwise provided by contract, insurers must pay for attorney consultation time as billed.

(7) When an insurer requires a consultation with a medical provider, the medical provider must bill under OSC D0030. Unless otherwise provided by contract, insurers must pay for insurer consultation time as billed.

(8) The fee for a deposition must be billed under OSC D0002. This code should include time for preparation, travel, and deposition. Unless otherwise provided by contract, insurers must pay for deposition time as billed. Upon request of one of the parties, the director may limit payment of the provider's hourly rate to a fee charged by similar providers.

(9) When an insurer obtains an Independent Medical Examination (IME):

(a) The medical service provider doing the IME must bill under OSC D0003. This code must be used for a report, addendum to a report, file review, or examination.

(b) Notwithstanding 436-009-0010(2), a medical service provider doing an IME may submit a bill in the form or format agreed to by the insurer and the medical service provider.

(c) Unless otherwise provided by contract, insurers must pay for IMEs as billed.

(d) If the insurer asks the medical service provider to review the IME report and respond, the medical service provider must bill for the time spent reviewing and responding using OSC D0019. Billing should include documentation of time spent. Unless otherwise provided by contract, insurers must pay for medical service providers' review and response to IME reports as billed.

(10) Fees for all arbiters and panel of arbiters used for director reviews under OAR 436-030-0165 will be established by the director. This fee determination will be based on the complexity of the examination, the report requirements, and the extent of the record review. The level of each category is determined by the director based on the individual complexities of each case as compared to the universe of claims in the medical arbiter process. When the examination is scheduled, the director will notify the medical arbiter and the parties of the authorized fee for that medical arbiter review based on a combination of separate components.

(a) Level 1 OSC AR001 Exam:

Level 2 OSC AR002 Exam

Level 3 OSC AR003 Exam

Limited OSC AR004 Exam

As determined by the director, a level 1 exam generally involves a basic medical exam with no complicating factors. A level 2 exam generally involves a moderately complex exam and may have complicating factors. A level 3 exam generally involves a very complex exam and may have several complicating factors. A limited exam generally involves a newly accepted condition, or some other partial exam.

(b) Level 1 OSC AR011 Report:

Level 2 OSC AR012 Report

Level 3 OSC AR013 Report

As determined by the director, a level 1 report generally includes standard questions. A level 2 report generally includes questions regarding complicating factors. A level 3 report generally includes questions regarding multiple complicating factors.

(c) Level 1 OSC AR021 File Review:

Level 2 OSC AR022 File Review

Level 3 OSC AR023 File Review

Level 4 OSC AR024 File Review

Level 5 OSC AR025 File Review

As determined by the director, a level 1 file review generally includes review of a limited record. A level 2 file review generally includes review of an average record. A level 3 file review generally includes review of a large record or disability evaluation without an exam. A level 4 file review generally includes an extensive record. A level 5 file review generally includes an extensive record with unique factors.

(d) The director will notify the medical arbiter and the insurer of the approved code for each component to establish the total fee for the medical arbiter review. If a worker fails to appear for a medical arbiter examination without giving each medical arbiter at least 48 hours notice, each medical arbiter will be paid at 50 percent of the examination or testing fee. A medical arbiter must also be paid for any file review completed prior to cancellation.

(e) If the director determines that a supplemental medical arbiter report is necessary to clarify information or address additional issues, an additional report fee may be established. The fee is based on the complexity of the supplemental report as determined by the director. The additional fees are established as follows:

Limited OSC AR031

Complex OSC AR032

(f) Prior to completion of the reconsideration process, the medical arbiter may request the director to redetermine the authorized fee by providing the director with rationale explaining why the physician believes the fee should be different than authorized.

(g) The director may authorize testing which must be paid under OAR 436-009.

(h) Should an advance of costs be necessary for the worker to attend a medical arbiter exam, a request for advancement must be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer must contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(11) A single physician selected under ORS 656.327 or 656.260, to review treatment, perform reasonable and appropriate tests, or examine the worker, and submit a report to the director, must be paid at an hourly rate up to a maximum of 4 hours for record review and examination.

(a) The physician will be paid for preparation and submission of the report. Billings for services by a single physician must be billed under OSC P0001 for the examination and under OSC P0003 for the report.

(b) Physicians selected under OAR 436-010-0008, to serve on a panel of physicians must each receive payment based on an hourly rate up to a maximum of 4 hours for record review and panel examination. Each physician must bill for the record review and panel examination under OSC P0002. The panel member who prepares and submits the panel report must receive an additional payment under OSC-P0003.

(c) The director may, in a complex case requiring extensive review by a physician, pre-authorize an additional fee. Complex case review must be billed under OSC P0004.

(d) An insurer may not discount or reduce fees related to examinations or reviews performed by medical providers under OAR 436-010-0330.

(e) If a worker fails to appear for a director required examination without providing the physician with at least 48 hours notice, each physician must bill under OSC P0005. The insurer must pay the physician for the appointment time and any time spent reviewing the record completed prior to the examination time. The billing must document the physician's time spent reviewing the record.

(f) Should an advance of costs be necessary for the worker to attend an exam under ORS 656.327 or 656.260, a request for advancement must be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer must contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely, as required in this subsection.

(12) The fee for a Worker Requested Medical Examination must be billed under OSC W0001. This code must be used for a report, file review, or examination. Unless otherwise provided by contract, the insurer must pay the provider at the billed amount.

(13) The table below lists the Oregon specific codes for other services. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

# ADMINISTRATIVE RULES

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; 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 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 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, insurers must pay for DMEPOS according to the following table: [Table not included. See ED. NOTE.]

(7) For items rented, unless otherwise provided by contract:

(a) Daily or monthly rental is determined by CMS regulations, which are available at [www.cms.gov](http://www.cms.gov).

(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, 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.

(9)(a) Testing for 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) Payment for hearing aids is determined under section (6) of this rule. 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.

(10) 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.

(11) Except as provided in subsection (9)(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.

(12) 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: Table 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

## 436-009-0090

### Pharmacy Fees

(1) Except for hospital charges or unless otherwise provided by contract, insurers must pay medical providers for prescription medication, including injectable drugs, at the medical provider's usual fee, or the amount set by the fee schedule, whichever is less.

(a) "AWP" means the Average Wholesale Price effective on the day the drug was dispensed.

(b) The maximum allowable fee is calculated according to the following table: [Table not included. See ED. NOTE.]

(2) All prescription medications are required medical services and do not require prior approval under the palliative care provisions of OAR 436-010-0290.

(3) Under ORS 689.515(2) licensed providers may dispense generic drugs to injured workers.

(4) (a) Unless the prescription is for five days or less, the prescribing provider must submit a clinical justification for the following drugs:

- (A) Celebrex®
- (B) Cymbalta®
- (C) Fentora®
- (D) Kadian®
- (E) Lidoderm®
- (F) Lyrica®
- (G) OxyContin®

(b) The prescribing provider must fill out the clinical justification on Form 4909, Pharmaceutical Clinical Justification for Workers' Compensation, and submit it to the insurer.

(c) Insurers cannot challenge the adequacy of the clinical justification. However, they can challenge whether or not the medication is excessive, inappropriate, or ineffectual under ORS 656.327.

(d) The prescribing provider is not required to fill out an additional Form 4909 for refills of that medication.

(5) Except in an emergency, drugs and medicine for oral consumption supplied by a physician's or authorized nurse practitioner's office are compensable only for the initial supply to treat the worker with the medication up to a maximum of 10 days, subject to the requirements of the provider's licensing board.

(6) Insurers must use the prescription pricing guide First DataBank published by Hearst Corporation, RED BOOK published by Thomson Reuters, or Medi-Span published by Wolters Kluwer for calculating payments to the licensed provider. Insurers must update their source at least monthly.

(7) The worker may select the pharmacy, except for claims enrolled in a managed care organization (MCO) where pharmacy service providers are specified by the MCO contract.

(8) Except for sections 2, 3, 4 and 7 of this rule, this rule does not apply to a worker's direct purchase of prescription medications, and does not limit a worker's right to reimbursement for actual out-of-pocket expenses under OAR 436-009-0025.

(9) The insurer must pay the retail-based fee for over-the-counter medications.

(10) Drugs dispensed by a hospital (inpatient or outpatient) must be billed and paid according to OAR 436-009-0020.

[ED. NOTE: Table 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 6-2003, f. 5-28-03, cert. ef. 7-1-03; 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 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0110

### Definitions for OAR 436-009-0110 through 436-009-0145

(1) "Interpreter" means a person who:

(a) Provides oral or sign language translation; and

(b) Owns, operates, or works for a business that receives income for providing oral or sign language translation. It does not include a medical



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provider, medical provider's employee, or a family member or friend of the patient.

(2) "Interpreter services" means the act of orally translating between a medical provider and a patient who speak different languages, including sign language. It includes time spent waiting at the location for the medical provider to examine or treat the patient.

(3) "Mileage" means the number of miles traveling from the interpreter's starting point to the exam or treatment location.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0115

### Who do I Bill for Providing Interpreter Services?

(1) Interpreters may only bill an insurer or, if provided by contract, a managed care organization.

(2) Interpreters may only bill a patient if the insurer denies the claim.  
Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0120

### What May Interpreters Bill for?

(1) Interpreters may bill for:  
(a) Interpreter services; and  
(b) Mileage when the round-trip mileage is 15 or more miles.  
(2) If the interpreter arrives at the provider's office for an appointment that was required by the insurer or the director, e.g., an independent medical exam, a physician review exam, or an arbiter exam, the interpreter may bill for interpreter services and mileage under section (1) of this rule even if:

(a) The patient fails to attend the appointment; or  
(b) The provider has to cancel or reschedule the appointment.  
Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0125

### When May Interpreters Not Bill?

When an appointment was not required by the insurer or director, interpreters may not bill any amount for interpreter services or mileage if:

(a) The patient fails to attend the appointment; or  
(b) The provider cancels or reschedules the appointment.  
Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0130

### How Do Interpreters Bill for Interpreter Services and Mileage?

Interpreters must use an invoice when billing for interpreter services and mileage and use Oregon specific code D0004 for interpreter services and D0041 for mileage.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0135

### What Must Interpreters Include On An Invoice?

An interpreter's invoice must include:  
(1) The interpreter's company name, billing address, and phone number;  
(2) The patient's name, address, and phone number;  
(3) The patient's workers' compensation claim number, if known;  
(4) The correct Oregon specific codes for the billed services (D0004 or D0041);  
(5) The workers' compensation insurer's name, address, and phone number;  
(6) The date interpreter services were provided;  
(7) The name and address of the medical provider that conducted the exam or provided treatment;  
(8) The total amount of time interpreter services were provided; and  
(9) The mileage, if the round trip was 15 or more miles.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0140

### How Much May an Interpreter Charge?

Interpreters must charge the usual fee they charge to the general public for the same service.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0145

### When Must Interpreters Submit Their Invoice?

(1) Interpreters must send their invoice to the workers' compensation insurer within 60 days of the later of:

(a) The first date of service listed on the invoice; or  
(b) The date the interpreter knew or should have known the patient filed a workers' compensation claim.

(2) If interpreters do not know the workers' compensation insurer responsible for the claim, they may contact the Department of Consumer and Business Services' Workers' Compensation Division at 503-947-7814. They may also access insurance policy information at <http://www4.cbs.state.or.us/ex/wcd/cov/index.cfm>.

(3) A bill is considered sent on the date the envelope is post-marked or the date the document is faxed.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0155

### What are the Maximum Allowable Payment Amounts for Interpreter Services and Mileage?

Insurers must use the following table to calculate the maximum allowable payment: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0160

### What Must the Insurer Pay for?

(1) When the medical exam or treatment is directed to an accepted claim or condition, the insurer must pay for:

(a) Interpreter services provided by an interpreter; and  
(b) Mileage if the round-trip mileage is 15 or more miles.

(2) When the patient fails to attend or the provider cancels or reschedules a medical exam required by the director or the insurer, the insurer must pay:

(a) The no show fee; and  
(b) Mileage if the round-trip mileage is 15 or more miles.  
Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0165

### How Much Do Insurers Have to Pay for Interpreter Services and Mileage?

Unless otherwise provided by contract, insurers must pay the lesser of:

(1) The maximum allowable payment amount; or  
(2) The interpreter's usual fee.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0170

### When Must the Insurer Pay an Interpreter?

The insurer must pay the interpreter within:  
(1) 45 days of receiving the invoice for an exam required by the insurer or director; or  
(2) 14 days of the date of claim acceptance, or 45 days of receiving the invoice, whichever is later.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0175

### What If the Interpreter's Bill Does Not Provide All the Information the Insurer Needs in Order to Process Payment?

If the insurer doesn't receive all the information to process payment, the insurer must return the invoice to the interpreter within 20 days of

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receipt. The insurer must provide specific information about what is needed to process payment.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0177

### What If the Insurer Disagrees With the Interpreter's Bill?

If the insurer disagrees with the amount of the interpreter's bill, the insurer must, within 45 days, pay the undisputed portion of the bill and at the same time provide specific reasons for non-payment or reduction of either interpreter services or mileage.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist.: WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0180

### What Must the Insurer Include on an Explanation of Benefits?

(1) The insurer must provide a written explanation for services paid or denied and must send the explanation to the interpreter that billed for the services. All the information on the explanation must be in 10 point size font or larger.

(2) The explanation must include:

(a) The payment amount for each service billed. When the payment covers multiple patients, the explanation must clearly separate and identify payments for each patient;

(b) The specific reason for non-payment, reduced payment, or discounted payment for each service billed;

(c) An Oregon or toll-free phone number for the insurer or its representative, and a statement that the insurer or its representative must respond to an interpreter's payment questions within 48 hours, excluding weekends and legal holidays;

(d) The following notice, web link, and phone number: "To access the information about Oregon's Medical Fee and Payment rules, visit [www.oregonwcdoc.info](http://www.oregonwcdoc.info) or call 503-947-7606";

(e) Space for a signature and date; and

(f) A notice of the right to administrative review as follows: "**If you disagree with this decision about this payment, please contact {the insurer or its representative} first. If you are not satisfied with the response you receive, you may request administrative review by the Director of the Department of Consumer and Business Services. Your request for review must be made within 90 days of the mailing date of this explanation. To request review, sign and date in the space provided, indicate what you believe is incorrect about the payment, and mail this document with the required supporting documentation to the Workers' Compensation Division, Medical Section, PO Box 14480, Salem, OR 97309-0405. Or you may fax the request to the director at 503-947-7629. You must also send a copy of the request to the insurer. You should keep a copy of this document for your records.**"

(3) The insurer or its representative must respond to an interpreter's inquiry about a medical payment within 48 hours, not including weekends or legal holidays, of the interpreter's inquiry. The insurer or its representative may not refer the interpreter to another entity to obtain the answer.

(4) The insurer or its representative and an interpreter may agree to send and receive payment information by e-mail. Electronic records sent by e-mail are subject to the Oregon Consumer Identity Theft Protection Act under ORS 646A.600 and federal

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248  
Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0185

### Does the Insurer Have to Pay for Interpreter Services That Are Not Provided by an Interpreter?

The insurer is not required to pay for interpreter services or mileage when the services are provided by:

(1) A family member or friend of the patient; or

(2) The medical provider or medical provider's employee.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.245, 656.248

Hist. WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-009-0200

### Definitions for OAR 436-009-0205 through 436-009-0240

(1) An "ambulatory surgery center" (ASC) means:

(a) Any distinct entity licensed by the state of Oregon, and operated exclusively for the purpose of providing surgical services to patients not requiring hospitalization; or

(b) Any entity outside of Oregon similarly licensed, or certified by Medicare or a nationally recognized agency as an ASC.

(2) 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.

(3) 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.

(4) 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.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 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

## 436-009-0205

### Who Do I Bill for Providing Medical Services?

The ASC must submit bills for medical services to the insurer or, if provided by contract for medical services, to the managed care organization.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 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

## 436-009-0206

### What Billing Form Must the ASC Use?

Unless the ASC submits medical bills electronically, the ASC must bill on a CMS 1500 form. Computer-generated reproductions of the CMS 1500 form may also be used.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 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

## 436-009-0207

### How Does the ASC Fill Out the CMS 1500 Form?

Unless different instructions are provided in the table below, use the instructions provided in the **National Uniform Claim Committee 1500 Claim Form Reference Instruction Manual**.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 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

## 436-009-0210

### How Much Should the ASC Charge?

(1) The ASC must bill the usual fee charged to the general public.

(2) For purposes of this rule, "general public" means any person who receives medical services, unless the law requires the ASC to bill a specific amount.

(3) When a patient with two or more separate compensable claims receives treatment for more than one injury or illness, the ASC must divide the charges accordingly.

(4) If the ASC provides packaged services (see Appendices C and D) with a surgical procedure, the ASC should include the charges for the packaged services in the surgical charges.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 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

## 436-009-0215

### What Must Accompany the ASC's Bill?

The ASC must submit legible chart notes with each bill, documenting the services that have been billed.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 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

## 436-009-0220

### What May the ASC Not Bill for?

The ASC may not bill for:

(1) Providing chart notes with each bill.

(2) Services that were not performed.

(3) Treatment that falls outside the scope and field of the ASC's license to operate.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 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

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## 436-009-0225

### What Services Are Included In the ASC Facility Fee?

(1) The following services are included in the ASC facility fee and the ASC may not be paid separately for them:

- (a) Nursing, technical, and related services;
- (b) Use of the facility where the surgical procedure is performed;
- (c) Drugs and biologicals designated as packaged in Appendix D, surgical dressings, supplies, splints, casts, appliances, and equipment directly related to the provision of the surgical procedure;
- (d) Radiology services designated as packaged in Appendix D;
- (e) Administrative, record-keeping, and housekeeping items and services;
- (f) Materials for anesthesia; and
- (g) Supervision of the services of an anesthetist by the operating surgeon.

- (2) Packaged services identified in **Appendix C** or **D**.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 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

## 436-009-0230

### What Services Are Not Included in the ASC Facility Fee?

The payment for the surgical procedure (i.e., the ASC facility fee) does not include physician's services, laboratory, x-ray, or diagnostic procedures not directly related to the surgical procedures, prosthetic devices, orthotic devices, durable medical equipment (DME), or anesthetists' services.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 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

## 436-009-0235

### When Must the ASC Submit a Bill?

(1) Unless the ASC establishes good cause, the ASC must submit a bill within:

- (a) 60 days of the date of service;
- (b) 60 days of the date the ASC learns which insurer is responsible for the worker's compensable claim; or
- (c) 60 days after any litigation affecting the compensability of the services is final, if the ASC receives written notice of the final litigation from the insurer.

(2) If an ASC does not know the workers' compensation insurer responsible for the claim, the ASC may contact the Department of Consumer and Business Services' Workers' Compensation Division at 503-947-7814. The ASC may also access insurance policy information at <http://www4.cbs.state.or.us/ex/wcd/cov/index.cfm>.

(3) A bill is considered submitted on the date the envelope is post-marked, the date the document is faxed, or the date the document is transmitted electronically.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 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

## 436-009-0240

### Are There Specific Billing Requirements for Certain Services That the ASC Needs to Know?

(1) If the ASC provides packaged services (see Appendices C and D) with a surgical procedure, the ASC should include the charges for the packaged services in the surgical charges.

(2) The ASC should not bill for packaged codes as separate line-item charges when the payment amount says "packaged" in Appendices C or D.

(3)(a) When the ASC's cost for an implant is more than \$100, the ASC may bill for the implant as a separate line item. The ASC must provide the insurer a receipt of sale showing the ASC's cost of the implant.

(b) For the purpose of these rules, an implant is an object or material inserted or grafted into the body.

(4) When a surgical procedure is performed bilaterally, the ASC must add the modifier "-50" on the bill for the second side.

(5) When a service is provided by a physician assistant or nurse practitioner, the ASC must add the modifier "-81" to the appropriate code. The chart notes must document when medical services have been provided by a physician assistant or nurse practitioner.

(6) When billing for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS), the ASC 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

(7) When the ASC receives a request for medical records, the ASC should use the Oregon specific code R0001

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 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

## 436-009-0245

### Who is Responsible for Payment?

The insurer is responsible for paying an ASC for compensable medical services.

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

## 436-009-0255

### What Does the Insurer Not Have to Pay for?

(1) The insurer is not required to pay for services that have been excluded from compensability under OAR 436-009-0015, or for treatment of any of the side effects caused by the excluded services. The following are excluded services:

(a) Dimethyl sulfoxide (DMSO), except for treatment of compensable interstitial cystitis;

(b) Intradiscal electrothermal therapy (IDET);

(c) Surface EMG (electromyography) tests;

(d) Rolting;

(e) Prolotherapy;

(f) Thermography;

(g) Lumbar artificial disc replacement, unless it is a single level replacement with an unconstrained or semi-constrained metal on polymer device and:

(A) The single level artificial disc replacement is between L3 and S1;

(B) The injured worker is 16 to 60 years old;

(C) The injured worker underwent a minimum of six months unsuccessful exercise based rehabilitation; and

(D) The procedure is not found inappropriate under OAR 436-010-0230(13) or (14); and

(h) Cervical artificial disc replacement, unless it is a single level replacement with a semi-constrained metal on polymer or a semi-constrained metal on metal device and:

(A) The single level artificial disc replacement is between C3 and C7;

(B) The injured worker is 16 to 60 years old;

(C) The injured worker underwent unsuccessful conservative treatment;

(D) There is intraoperative visualization of the surgical implant level; and

(E) The procedure is not found inappropriate under OAR 436-010-0230(15) or (16).

(2) The insurer is not required to pay an ASC when:

(a) The patient misses an appointment;

(b) The ASC bills later than:

(A) 12 months after the date of service;

(B) 12 months after the ASC's knowledge of the workers' compensation insurer; or

(C) 12 months after any litigation affecting the compensability of the services is final, if the ASC receives written notice of the final litigation from the insurer.

(c) X-ray films are not of diagnostic quality, do not include a report of findings, or the films are 14" x 36" lateral views; or

(d) The ASC provides services to a worker who is enrolled in a managed care organization (MCO) and:

(A) The ASC is not a contracted facility for the MCO;

(B) The MCO has not pre-certified the service provided; or

(C) The surgeon is not a panel provider.

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

## 436-009-0260

### What are the Payment Amounts for Services Provided by an ASC?

Unless otherwise provided by contract, the insurer must:

(1) 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.



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(2) When more than one procedure is performed in a single operative session, 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.

(3) 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.

(4) Pay for durable medical equipment, prosthetics, orthotics, and supplies (DEMPOS) according to the following table: [ED. NOTE: Table referenced are available from the agency.]

(5) For items rented, unless otherwise provided by contract:

(a) Daily or monthly rental is determined by CMS regulations, which are available at [www.cms.gov](http://www.cms.gov).

(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.

(6) For items purchased, unless otherwise provided by contract:

(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.

(7) 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: Table 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

## 436-009-0265

### What If the Insurer Doesn’t Receive All the Information Needed to Process Payment?

When the insurer receives a bill that cannot be processed because it is not submitted in the proper form or the form is not complete, the insurer must return the bill to the ASC within 20 days of receipt of the bill with a written explanation describing why the bill was returned. The insurer must provide specific information about what is needed in order to process the bill.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 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

## 436-009-0270

### What If the Insurer Disagrees With the Billing?

If the insurer disagrees with the amount of a bill or the appropriateness of services rendered, the insurer must, within 45 days, pay the undisputed portion of the bill and at the same time provide specific reasons for non-payment or reduction of each medical service code.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 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

## 436-009-0275

### What Discounts May the Insurer Apply Under This Fee Schedule?

(1) The insurer may apply a discount to the ASC’s fee if a written contract exists.

(2) If the insurer and the ASC have multiple contracts, only one discount may be applied.

(3) If the insurer has multiple contracts and one of the contracts is through a certified managed care organization for services provided to an enrolled worker, the insurer may only apply the discount under the managed care organization’s contract.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 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

## 436-009-0285

### When Must the Insurer Pay the ASC?

The insurer must pay the ASC by whichever date is later:

(1) 45 days after the date the insurer receives the bill; or

(2) 14 days after any action causes the service to be payable.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 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

## 436-009-0290

### What Must the Insurer Include on an Explanation of Benefits?

(1) The insurer must provide a written explanation for services being paid or denied, and must send the explanation to the ASC that billed for the services. All information on the explanation must be in 10 point size font or larger.

(2) The explanation must include:

(a) The payment amount for each service billed. When the payment covers multiple patients, the explanation must clearly separate and identify payments for each patient;

(b) The specific reason for non-payment, reduced payment, or discounted payment for each service billed;

(c) An Oregon or toll-free phone number for the insurer or its representative, and a statement that the insurer or its representative must respond to an ASC’s payment questions within 48 hours, excluding weekends and legal holidays;

(d) The following notice, web link, and phone number: “To access information about Oregon’s Medical Fee and Payment Rules, visit [www.oregonwcdoc.info](http://www.oregonwcdoc.info) or call 503-947-7606”;

(e) Space for a signature and date; and

(f) A notice of right to administrative review as follows: “If you disagree with this decision about this payment, please contact {the insurer or its representative} first. If you are not satisfied with the response you receive, you may request administrative review by the Director of the Department of Consumer and Business Services. Your request for review must be made within 90 days of the mailing date of this explanation. To request review, sign and date in the space provided, indicate what you believe is incorrect about the payment, and mail this document with the required supporting documentation to the Workers’ Compensation Division, Medical Section, PO Box 14480, Salem, OR 97309-0405. Or you may fax the request to the director at 503-947-7629. You must also send a copy of the request to the insurer. You should keep a copy of this document for your records.”

(3) The insurer or its representative must respond to an ASC’s inquiry about a medical payment within 48 hours, not including weekends or legal holidays, of the ASC’s inquiry. The insurer or its representative may not refer the ASC to another entity to obtain an answer.

(4) The insurer or its representative and an ASC may agree to send and receive payment information by e-mail. Electronic records sent by e-mail are subject to the Oregon Consumer Identity Theft Protection Act under ORS 646A.600 to 646A.628 and federal law.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 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

## 436-010-0330

### Medical Arbiters and Panels of Physicians

(1) In consultation with the Workers’ Compensation Management-Labor Advisory Committee under ORS 656.790, the director will establish and maintain a list of physicians to be used as follows:

(a) To appoint a medical arbiter or a panel of medical arbiters under ORS 656.268 and to select a physician under ORS 656.325 (1)(b).

(b) To appoint an appropriate physician or a panel of physicians to review medical treatment or medical services disputes under ORS 656.245 and ORS 656.327.

(2) Arbiters, panels of arbiters, physicians, and panels of physicians will be selected by the director.

(3) When a worker is required to attend an examination under this rule the director will provide notice of the examination to the worker and all affected parties. The notice will inform all parties of the time, date, location, and purpose of the examination. Examinations will be at a place reasonably convenient to the worker, if possible.

(4) The arbiters, the panels of arbiters, the physicians and the panels of physicians selected under this rule must be paid by the insurer in accordance with OAR 436-009-0070(10) to (12).

(5) The insurer must pay the worker for all necessary related services in accordance with ORS 656.325(1).

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.268, 656.325 & 656.327

Hist.: WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0047; WCD 11-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 2-2008, f. 6-13-08, cert. ef. 6-30-08; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

# ADMINISTRATIVE RULES

## 436-015-0003

### Applicability of Rules

(1) These rules apply on and after the effective date to carry out the provisions of ORS 656.245, 656.248, 656.252, 656.254, 656.260, 656.268, 656.325, 656.327, and 656.794, and govern all MCOs and insurers contracting with an MCO.

(2) Applicable to this chapter, the director may, unless otherwise obligated by statute, waive any procedural rules as justice so requires.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-015-0005

### Definitions

Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of ORS chapter 656 and OAR 436-010-0005 are hereby incorporated by reference and made a part of these rules.

(1) "Group of medical service providers" means individuals duly licensed to practice one or more of the healing arts who join together to provide managed medical services through a managed care organization, whether or not such providers have an ownership interest in the managed care organization.

(2) "GSA" means a geographic service area.

(3) "Health care provider" means an entity or group of entities, organized to provide health care services or organized to provide administrative support services to entities providing health care services. An entity solely organized to become an MCO under these rules is not, in and of itself, a health care provider.

(4) "Managed care organization" or "MCO" means an organization formed to provide medical services and certified under these rules.

(5) "Non-qualifying employer" means either:

(a) An insurer as defined under ORS 656.005(14), with respect to managed care services to be provided to any subject worker; or,

(b) An employer as defined under ORS 656.005(13), other than a health care provider, with respect to managed care services to such employer's employees.

(6) "Primary care physician" means a physician qualified to be an attending physician according to ORS 656.005(12)(b)(A) and who is a general practitioner, family practitioner, or internal medicine practitioner.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260, OL 2007 Ch. 423

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 4-1991, f. & cert. ef. 6-14-91; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 4-2006(Temp), f. 5-11-06, cert. ef. 6-1-06 thru 11-27-06; WCD 7-2006, f. 10-19-06, cert. ef. 11-28-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-015-0007

### Entities Allowed to Manage Care

Only an MCO may provide managed care services as described in ORS 656.260(4)(d), 656.260(20)(a), and under these rules, except as allowed under 436-015-0009. An insurer or someone acting on behalf of an insurer may not manage the care of non-MCO enrolled workers by limiting choice of medical providers, except as allowed under ORS chapter 656, or by requiring medical providers to abide by specific treatment standards, treatment guidelines, and treatment protocols.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-015-0009

### Formed/Owned/Operated

(1) The director will not certify an MCO formed, owned, or operated by a non-qualifying employer.

(2) A non-qualifying employer or any member of its staff may not:

(a) Directly participate in the formation, certification, or incorporation of the MCO;

(b) Nominate, assume a position as, or act in the role of, a director, officer, agent, or employee of the MCO; or

(c) Arrange for, lend, guarantee, or otherwise provide financing for any of the organizational costs of the MCO.

(3) A non-qualifying employer or any member of its staff, or their immediate family, may not:

(a) Arrange for, lend, guarantee, or otherwise provide financial support to the MCO (financial support does not include contracted fees for services rendered by an MCO); or

(b) Have any ownership or similar financial interest in or right to payment from the MCO.

(4) A non-qualifying employer or any member of its staff may not:

(a) Make or exercise any control over business, operational, or policy decisions of the MCO;

(b) Possess or control the ownership of voting securities of the MCO; the director will presume possession or control exists if any person, directly or indirectly, holds the power to vote or holds proxies of any other person representing ten percent or more of the voting securities of the MCO;

(c) Provide MCO services other than as allowed by section (6) of this rule;

(d) Enter into any contract with the MCO that limits the ability of the MCO to accept business from any other source; or

(e) Direct or interfere with the MCO's delivery of medical and health care services.

(5) For purposes of this rule, "staff" is any individual who is a regular employee of a non-qualified employer or of any parent or subsidiary entity of a non-qualified employer.

(6) Notwithstanding sections (2), (3), and (4) of this rule, an MCO may contract with an insurer to provide certain managed care services. However, such insurer-provided services must be in accordance with protocols and standards established by the certified MCO plan. For purposes of this rule, the insurer may not provide or participate in provision of managed care services related to dispute resolution, service utilization review, or physician peer review.

(7) An MCO may not contract exclusively with a single insurer. However, an MCO has up to one year from the effective date of its first contract to obtain contracts with more than one insurer. If the MCO has not obtained additional contracts within this time period, the MCO must provide the director with a report documenting the MCO's efforts to obtain additional contracts.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-015-0010

### Notice of Intent to Form

Any health care provider or group of medical service providers initiating an MCO under ORS 656.260, must submit a "Notice of Intent to Form" to the director, by certified mail, in a format prescribed by the director. (Form 440-2737 may be used for this purpose). The notice must include the following:

(1) Identity of the person or persons who participate in discussions intended to result in the formation of an MCO. If the person is a member of a closely held corporation, the notice should include the identity of the shareholders;

(2) The name, address, and telephone number of a contact person; and

(3) A summary of the information that will be shared in discussions preceding the application for MCO certification.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-015-0030

### Applying for Certification

(1) An applicant for MCO certification must submit to the director the following:

(a) One copy of the application;

(b) A non-refundable fee of \$1,500 which will be deposited in the Consumer and Business Services Fund;

(c) Affidavits of each person identified in section (2) of this rule, certifying that the individuals have no interest in an insurance company in accordance with the provisions of OAR 436-015-0009;

(d) An affidavit of an authorized officer or agent of the MCO, certifying that the MCO is financially sound and able to meet all requirements necessary to ensure delivery of services in accordance with the plan, and in full satisfaction of the MCO's obligations under ORS 656.260 and OAR 436-015; and

(e) A complete organizational chart.

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- (2) The application must include:
  - (a) The name of the MCO;
  - (b) A proposed plan for the MCO, in which the applicant identifies the manner in which the MCO will meet the requirements of ORS 656.260 and these rules;
  - (c) The name(s) of the person(s) who will be director(s) of the MCO;
  - (d) The name of the person who will be the president of the MCO;
  - (e) The title and name of the person who will be the day-to-day administrator of the MCO; and
  - (f) The title and name of the person who will be the administrator of the financial affairs of the MCO.
- (3) The plan must identify the initial GSA(s) in which the MCO intends to operate. (For details regarding GSAs, see <http://www.cbs.state.or.us/wcd/compliance/iaoc/mco/orgsa.html>).
- (4) The plan must provide a description of the times, places, and manner of providing services adequate to ensure that workers governed by the MCO will be able to:
  - (a) Access an MCO panel with a minimum of one attending physician within the MCO for every 1,000 workers covered by the plan;
  - (b) Receive initial treatment by the worker's choice of an attending physician or authorized nurse practitioner within 24 hours of the MCO's knowledge of the need or a request for treatment;
  - (c) Receive initial treatment by the worker's choice of an attending physician or authorized nurse practitioner in the MCO within 5 working days, after treatment by a physician outside the MCO;
  - (d) Receive information on a 24-hour basis regarding medical services available within the MCO which must include the worker's right to receive emergency or urgent care, and the hours of regular MCO operation if assistance is needed to select an attending physician or answer other questions;
  - (e) Receive necessary treatment from any category of medical service provider as defined in subsection (7)(a) of this rule and have a choice of at least three medical service providers within each category. The worker also must be able to choose from at least three physical therapists and three psychologists. For categories in which the MCO has fewer than three providers, the MCO must allow workers to seek treatment outside the MCO from providers in those categories, consistent with the MCO's treatment and utilization standards;
  - (f) Access medical providers, including attending physicians, within a reasonable distance from the worker's place of employment, considering the normal patterns of travel. For purposes of this rule, 30 miles (one way) in urban areas and 60 miles (one way) in rural areas will be considered a reasonable distance;
  - (g) Receive treatment by a non-MCO medical service provider when the enrolled worker resides outside the MCO's geographical service area. Such a worker may only select non-MCO providers if they practice closer to the worker's residence than an MCO provider of the same category, and if they agree to the MCO's terms and conditions;
  - (h) Receive services that meet quality, continuity, and other treatment standards which will provide all medical and health care services in a manner that is timely, effective, and convenient for the worker;
  - (i) Receive specialized medical services the MCO is not otherwise able to provide; and
  - (j) Receive treatment that is consistent with MCO treatment standards and protocols.
- (5) The plan must provide a procedure that allows workers to receive compensable medical treatment from a primary care physician or authorized nurse practitioner who is not a member of the MCO and has received authorization under OAR 436-015-0070.
- (6) The plan must include:
  - (a) A copy of the standard provider agreement that is used by the MCO when a provider is credentialed as a panel provider. If there are variations from the standard provider agreement, those must be identified when the plan is submitted for director approval.
  - (b) A list of the names, addresses, and specialties of the individuals who will provide services under the managed care plan. This list must indicate which medical service providers will act as attending physicians in each GSA.
- (7) The plan must provide:
  - (a) An adequate number of medical service providers from each provider category. For purposes of these rules, the categories include acupuncturist, chiropractic physician, dentist, naturopathic physician, optometric physician, osteopathic physician, medical physician, and podiatric physician, as listed in ORS 676.110. The plan must meet this section's requirements unless the MCO establishes that there is not an adequate num-

ber of providers in a given category able or willing to become members of the MCO.

- (b) A process that allows workers to select a nurse practitioner authorized to provide compensable medical services under ORS 656.245 and OAR 436-010. If the MCO has fewer than three authorized nurse practitioners from which workers can choose within a GSA, the MCO must allow workers to seek treatment outside the MCO from authorized nurse practitioners, consistent with the MCO's treatment and utilization standards. Treatment must also be consistent with ORS 656.245(2)(b)(D), which limits the authorization of treatment of the worker by a nurse practitioner to 90 days and authorization of payment of temporary disability benefits for a period not to exceed 60 days from the date of the first visit to any authorized nurse practitioner on the initial claim. Such authorized nurse practitioners are not themselves bound by the MCO's treatment and utilization standards; however, workers are subject to those standards.

- (c) A program that specifies the criteria for selection and de-selection of physicians and the process for peer review. The processes for terminating a physician and peer review must provide adequate notice and hearing rights for any physician.

- (8) The plan must provide adequate methods for monitoring and reviewing contract matters between providers and the MCO to ensure appropriate treatment and to prevent inappropriate or excessive treatment including:

- (a) A program of peer review and utilization review to prevent inappropriate or excessive treatment including the following:

- (A) A pre-admission review program of elective admissions to the hospital and of elective surgeries;

- (B) Individual case management programs, which identify ways to provide appropriate care at a lower cost for cases that are likely to prove very costly;

- (C) Physician profile analysis which may include such information as each physician's total charges, number and costs of related services provided, time loss of claimant, and total number of visits in relation to care provided by other physicians to patients with the same diagnosis. A physician's profile must not be released to anyone outside the MCO without the physician's specific written consent, except that the physician's profile must be released to the director without the necessity of obtaining such consent;

- (D) Concurrent review programs, that periodically review the worker's care after treatment has begun, to determine if continued care is medically necessary;

- (E) Retrospective review programs, that examine the worker's care after treatment has ended, to determine if the treatment rendered was excessive or inappropriate;

- (F) Second surgical opinion programs that allow workers to obtain the opinion of a second physician when elective surgery is recommended.

- (b) A quality assurance program that includes:

- (A) A system for monitoring and resolving problems and complaints, including problems and complaints of workers and medical service providers;

- (B) Physician peer review, which must be conducted by a group designated by the MCO or the director, and which must include members of the same healing art in which the physician practices;

- (C) A standardized medical record keeping system designed to facilitate quality assurance.

- (c) A program that meets the requirements of ORS 656.260(4) for monitoring and reviewing other contract matters not covered under peer review, service utilization review, dispute resolution, and quality assurance.

- (9) The plan must include:

- (a) A procedure for internal dispute resolution to resolve complaints by enrolled workers, medical providers, and insurers in accordance with OAR 436-015-0110. The internal dispute resolution procedure must include a provision allowing the waiver of the time period to appeal a decision to the MCO upon a showing of good cause; and

- (b) A description of how the MCO will ensure the worker continues to receive appropriate care in a timely, effective, and convenient manner throughout the dispute resolution process.

- (10) The plan must include a summary of the process the MCO uses to develop and review treatment standards, protocols, and guidelines. This summary must include:

- (a) A description of the medical expertise or specialties of the clinicians involved;

- (b) A description regarding what the protocols and guidelines are based on;

- (c) The criteria the MCO uses in selecting the conditions for which the MCO implements treatment protocols and guidelines;



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(d) A description of the criteria the MCO uses to determine when it needs to review or revise its treatment standards, protocols, and guidelines;

(e) How the MCO makes the standards, protocols, and guidelines available to its panel providers and how it notifies them of any changes; and

(f) A description of a process that provides sufficient flexibility to allow treatment outside the standards, protocols, and guidelines if such treatment is supported by persuasive professional medical judgment and reasoning.

(11) The plan must provide other programs that meet the requirements of ORS 656.260(4), including:

(a) A program involving cooperative efforts by the workers, the employer, the insurer, and the MCO to promote early return to work for enrolled workers; and

(b) A program involving cooperative efforts by the workers, the employer, and the MCO to promote workplace safety and health consultative and other services. The program must include:

(A) Identification of how the MCO will promote such services;

(B) A method by which the MCO will report to the insurer within 30 days of knowledge of occupational injuries and illnesses involving serious physical harm as defined by OAR 437-001, occupational injury and illness trends as observed by the MCO, and any observations that indicate an injury or illness was caused by a lack of diligence of the employer;

(C) A method by which the MCO's knowledge of needed loss control services will be communicated to the insurer for determining the need for services as detailed in OAR 437-001;

(D) A provision that all notifications to the insurer from the MCO will be considered as a request to the insurer for services as detailed in OAR 437-001; and

(E) A provision that the MCO will maintain complete files of all notifications for a period of three years following the date that notification was given by the MCO.

(12) The MCO must establish one place of business in Oregon where it administers the plan and keeps membership records and other records as required by OAR 436-015-0050.

(13) The plan must include a procedure for timely and accurate reporting to the director of necessary information regarding medical and health care service costs and utilization in accordance with OAR 436-015-0040 and OAR 436-009.

(14) The MCO must designate an in-state communication liaison for the department and the insurers at the MCO's established in-state location. The responsibilities of the liaison include:

(a) Coordinating and channeling all outgoing correspondence and medical bills;

(b) Unless otherwise provided by the MCO contract, providing centralized receipt and distribution of all reimbursements back to the MCO members and primary care physicians; and

(c) Serving as a member on the quality assurance committee.

(15) The plan must describe the reimbursement procedures for all services provided.

(16) The plan must include a process for developing financial incentives directed toward reducing service costs and utilization, without sacrificing quality of service.

(17) The plan must describe how the MCO will provide insurers with information that will inform workers of all choices of medical service providers. The plan must also describe how workers can access those providers. The plan must provide a procedure for regular, periodic updating of the MCO panel provider listings, with published updates being available electronically no less frequently than every 30 days.

(18) Within 45 days of receipt of all information required for certification, the director will notify the applicant if the certification is approved, the effective date of the certification, and the initial GSA of the MCO. If the certification is denied, the director will provide the applicant with the reason for the denial.

(19) The director will not certify an MCO if the plan does not meet the requirements of these rules.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260 (OL 2007 Ch. 423)

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; 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 6-28-03; WCD 6-2004, f. 6-14-04, cert. ef. 6-29-04; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 4-2006(Temp), f. 5-11-06 thru 11-27-06, cert. ef. 6-1-06; WCD 7-2006, f. 10-19-06, cert. ef. 11-28-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-015-0050

### Notice of Place of Business in State; Records MCO Must Keep in Oregon

(1) Every MCO shall give the division notice of one in-state location and mailing address where the MCO keeps records of the following:

(a) Updated membership listings of all MCO members;

(b) Records of any sanctions or punitive actions taken by the MCO against its members;

(c) Records of actions taken by the MCO's peer review committee;

(d) Records of utilization reviews performed in accordance with the requirements of utilization and treatment standards pursuant to ORS 656.260 showing cases reviewed, the issues involved, and the action taken;

(e) A profile analysis of each provider in the MCO listed by the International Classifications of Disease-9-Clinical Manifestations (ICD-9-CM) diagnosis;

(f) A record of those enrolled injured workers receiving treatment by non-panel primary care physicians or authorized nurse practitioners authorized to treat pursuant to OAR 436-015-0070; and

(g) All other records as necessary to ensure compliance with the certification requirements in accordance with OAR 436-015-0030.

(2) Records retained as required by section (1) of this rule must be maintained at the authorized in-state location for three full calendar years.

(3) If the MCO/insurer contract is canceled for any reason, all MCO records, as identified in section (1), relating to treatment provided to workers within the MCO must be forwarded to the insurer upon request. The records included in subsections (1)(b), (c), (d), and (e) of this rule are confidential in accordance with ORS 656.260(6) through (10).

(4) Individual MCO providers must maintain claimant medical records as provided by OAR 436-010-0240.

(5) Nothing in this section is intended to otherwise limit the number of locations the MCO may maintain to carry out the provisions of these rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 2-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; 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 6-28-03; WCD 6-2004, f. 6-14-04, cert. ef. 6-29-04; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-015-0075

### Worker Examinations

When the MCO schedules a worker examination that includes a psychological evaluation, the appointment letter must:

(1) Inform the worker that a psychological evaluation is part of the examination, and

(2) State the reason for the psychological examination.

Stat. Auth.: ORS 656.260, 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-015-0080

### Suspension; Revocation

(1) Pursuant to ORS 656.260, the certification of a managed care organization issued by the director may be suspended or revoked if:

(a) The director finds a serious danger to the public health or safety;

(b) The MCO is providing services not in accordance with the terms of the certified MCO plan;

(c) There is a change in legal entity of the MCO which does not conform to the requirements of these rules;

(d) The MCO fails to comply with ORS chapter 656, OAR 436-009, 436-010, 436-015, or orders of the director.

(e) The MCO or any of its members commits any violation for which a civil penalty could be assessed under ORS 656.254 or 656.745;

(f) Any false or misleading information is submitted by the MCO or any member of the organization;

(g) The MCO continues to utilize the services of a health care practitioner whose license has been suspended or revoked by the licensing board; or

(h) The director determines that the MCO was or is formed, owned, or operated by an insurer or by an employer other than a health care provider or medical service provider as defined in these rules.

(2) The director shall provide the MCO written notice of an intent to suspend the MCO's certification.

(a) The notice shall:

(A) Describe generally the acts of the MCO and the circumstances that would be grounds for suspension;

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(B) Advise the MCO of their right to participate in a show cause hearing and the date, time, and place of the hearing.

(b) The notice shall be served upon the MCO's designated in-state communication liaison and to the registered agent or other officer of the corporation upon whom legal process may be served at least 30 days prior to the scheduled date of the hearing.

(3) The show cause hearing on the suspension shall be conducted as provided in OAR 436-015-0008 (5).

(4) An order of suspension shall suspend the MCO's authority to enter into new contracts with insurers for a specified period of time up to a maximum of one year. During the suspension, the MCO may continue to provide services in accordance with the contracts in effect at the time of the suspension.

(a) A suspension may be set aside prior to the end of the suspension period if the director is satisfied of the MCO's current compliance, ability, and commitment to comply with ORS chapter 656, OAR 436-009, 436-010, 436-015, orders of the director, and the certified MCO plan.

(b) Prior to the end of the suspension period the division shall determine if the MCO is in compliance with ORS chapter 656, OAR 436-009, 436-010, 436-015, orders of the director, and the certified MCO plan. If the MCO is in compliance the suspension will terminate on its designated date. If the MCO is not in compliance the suspension may be extended beyond one year without further hearing or revocation proceedings may be initiated.

(5) The process for revocation of a MCO shall be as follows:

(a) The director shall provide the MCO with notice of an order of revocation. The order shall:

(A) Describe generally the acts of the MCO and the circumstances that are grounds for revocation; and

(B) Advise the MCO that the revocation shall become effective within 10 days after service of such notice upon the MCO unless within such period of time the MCO corrects the grounds for the revocation to the satisfaction of the director or files an appeal as provided in OAR 436-015-0008(5).

(b) The order shall be served upon the MCO's designated in-state communication liaison and to the registered agent or other officer of the corporation upon whom legal process may be served.

(c) A show cause hearing on the revocation shall be conducted as provided in OAR 436-015-0008(5).

(d) If revocation is affirmed, the revocation is effective 10 days after service of the order upon the MCO unless the MCO appeals.

(6) After revocation of an MCO's authority to provide services under these rules has been in effect for three years or longer, it may petition the director to restore its authority by making application as provided in these rules.

(7) Notwithstanding section (5) of this rule, in any case where the director finds a serious danger to the public health or safety and sets forth specific reasons for such findings, the director may immediately revoke the certification of an MCO without providing the MCO a show-cause hearing. Such order shall be final, unless the MCO requests a hearing. The process for review shall be as provided in OAR 436-015-0008(5).

(8) Insurer contractual obligations to allow a managed care organization to provide medical services for injured workers are null and void upon revocation of the MCO certification by the director.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 4-1991, f. & cert. ef. 6-14-91; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

## 436-015-0110

### Dispute Resolution/Complaints of Rule Violation

(1) Disputes which arise between any party and an MCO must first be processed through the dispute resolution process of the MCO.

(2) The MCO must promptly provide a written summary of the MCO's dispute resolution process to anyone who requests it, or to any party or their representative disputing any action of the MCO or affected by a dispute. The written summary must include at least the following:

(a) The title, address, and telephone number of the contact person at the MCO who is responsible for the dispute resolution process;

(b) The types of issues the MCO will consider in its dispute resolution process;

(c) A description of the procedures and time frames for submission, processing, and decision at each level of the dispute resolution process

including the right of an aggrieved party to request administrative review by the director if the party disagrees with the final decision of the MCO; and

(d) A statement that absent a showing of good cause, failure to timely appeal to the MCO shall preclude appeal to the director.

(3) The MCO must notify the worker and the worker's attorney when the MCO:

(a) Receives any complaint or dispute under this rule; or

(b) Issues any decision under this rule.

(4) Whenever an MCO denies a service, or a party otherwise disputes a decision of the MCO, the MCO must send written notice of its decision to all parties that can appeal the decision. If the MCO provides a dispute resolution process for the issue, the notice must include the following paragraph, in bold text:

**NOTICE TO THE WORKER AND ALL OTHER PARTIES:** If you want to appeal this decision, you must notify us in writing within 30 days of the mailing date of this notice. Send a written request for review to: {MCO name and address}. If you have questions, contact {MCO contact person and phone number}. If you do not notify us in writing within 30 days, you will lose all rights to appeal the decision. If you appeal timely, we will review the disputed decision and notify you of our decision within 60 days of your request. Thereafter, if you continue to disagree with our decision, you may appeal to the director of the Department of Consumer and Business Services (DCBS) for further review. If you fail to seek dispute resolution through us, you will lose your right to appeal to the director of DCBS.

(5) If an MCO receives a complaint or dispute that is not included in the MCO dispute resolution process, the MCO must, within seven days from the date of receiving the complaint, notify the parties in writing of their right to request review by the director under OAR 436-015-0008. The notice must include the following paragraph, in bold text:

**NOTICE TO THE WORKER AND ALL OTHER PARTIES:** The issue you have raised is not a matter that we handle. To pursue this issue, you must request administrative review of the issue by the director of the Department of Consumer and Business Services (DCBS). Send written requests for review to: DCBS, Workers' Compensation Division, Medical Section, 350 Winter Street NE, PO Box 14480, Salem, OR 97309-0405. If you do not notify DCBS in writing within 60 days of the mailing date of this notice, you will lose all rights to appeal the decision. For assistance, you may call the Workers Compensation Division's toll-free hotline at 1-800-452-0288 and ask to speak with a Benefit Consultant.

(6) The time frame for resolution of the dispute by the MCO may not exceed 60 days from the date the MCO receives the dispute to the date it issues its final decision. After the MCO resolves a dispute under ORS 656.260(14), the MCO must notify all parties to the dispute in writing, including the worker's attorney where written notification has been provided by the attorney with an explanation of the reasons for the decision. This notice must inform the parties of the next step in the process, including the right of an aggrieved party to request administrative review by the director under OAR 436-015-0008. The notice must include the following paragraph, in bold text:

**NOTICE TO THE WORKER AND ALL OTHER PARTIES:** If you want to appeal this decision, you must notify the director of the Department of Consumer and Business Services (DCBS) in writing within 60 days of the mailing date of this notice. Send written requests for review to: Department of Consumer and Business Services, Workers' Compensation Division, Medical Section, 350 Winter Street NE, PO Box 14480, Salem, OR 97309-0405. If you do not notify DCBS in writing within 60 days, you will lose all rights to appeal the decision. For assistance, you may call the Workers Compensation Division's toll-free hotline at 1-800-452-0288 and ask to speak with a Benefit Consultant.

(7) If the MCO fails to issue a decision within 60 days, the MCO's initial decision is automatically deemed affirmed. The parties may immediately proceed as though the MCO had issued an order affirming the MCO decision. The MCO must notify the parties of the next step in the process, including the right of an aggrieved party to request administrative review by the director under OAR 436-015-0008 including the appeal rights provided in (6) above.

(8) The director may assist in resolution of a dispute before the MCO. The director may issue an order to further the dispute resolution process. Any of the parties also may request in writing that the director assist in resolution if the dispute cannot be resolved by the MCO.

(9) Complaints pertaining to violations of these rules must be directed to the division.

(10) The division may investigate the alleged rule violation. The investigation may include, but will not be limited to, request for and review of pertinent medical treatment and payment records, interviews with the parties to the complaint, or consultation with an appropriate committee of the medical provider's peers, chosen in the same manner as provided in OAR 436-010-0330.

(11) If the division determines upon completion of the investigation that there has been a rule violation, the division may issue penalties pursuant to ORS 656.745 and OAR 436-015-0120.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.260

Hist.: WCD 11-1990(Temp), f. 6-19-90, cert. ef. 7-1-90; WCD 33-1990, f. 12-12-90, cert. ef. 12-26-90; WCD 14-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 13-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 12-1998, f. 12-16-98, cert. ef. 1-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02;

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WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12

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## Department of Corrections Chapter 291

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

**Adm. Order No.:** DOC 4-2012

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12

**Notice Publication Date:** 11-1-2011

**Rules Amended:** 291-062-0110, 291-062-0140

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

**Rules Coordinator:** Janet R. Worley—(503) 945-0933

### 291-062-0110

#### Definitions

(1) Alternative Incarceration Program (AIP): A highly structured corrections program that includes intensive interventions, rigorous personal responsibility and accountability, physical labor, and service to the community.

(2) Custody Cycle: The time period during which an offender begins incarceration with the Department of Corrections and is under the supervision of community corrections until discharge from all Department of Corrections and community corrections incarceration and supervision.

(3) Other charges: Any criminal or civil accusatory instrument that alleges wrong doing and for which a person may be imprisoned or incarcerated.

(4) Short-Term Transitional Leave/Non-Prison Leave: A leave for a period not to exceed 90 days preceding an established release date that allows an inmate opportunity to secure appropriate transitional support when necessary for successful reintegration into the community. Short-term transitional leave/non-prison leave is granted in accordance with ORS 421.148, ORS 421.510 and the Department's rule on Short-Term Transitional Leave, Emergency Leaves and Supervised Trips (OAR 291-063). For purposes of these rules, short-term transitional leave is non-prison leave.

(5) Term of Incarceration: The period of commitment to the legal and physical custody of the Department imposed by a sentencing court in a judgment. For purposes of these administrative rules, "term of Incarceration" includes pre-sentence incarceration credit granted to an inmate by the Department under ORS 137.370(2)(a), as well as any time an inmate spends on short-term transitional/non-prison leave under 421.510.

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

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

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09; DOC 20-2011(Temp), f. & cert. ef. 10-17-11 thru 4-13-12; DOC 4-2012, f. & cert. ef. 3-1-12

### 291-062-0140

#### Inmate Selection

(1) The Department in its discretion may accept eligible inmates into an alternative incarceration program based on its determination that the inmate's participation in such a program is consistent with the safety of the community, the welfare of the applicant, the program objectives and the rules of the Department.

(2) The functional unit manager or designee of each facility that has an alternative incarceration program shall appoint a committee that is responsible for making recommendations to the functional unit manager or designee on the placement of inmates in the program based on treatment readiness.

(3) An inmate will not be accepted into an alternative incarceration program unless the inmate submits a written request to participate.

(a) The request must contain a statement signed by the inmate applicant providing that he/she:

(A) Is physically and mentally able to withstand the rigors of the program; and

(B) Has reviewed the alternative incarceration program descriptions provided by the Department and agrees to comply with each of the requirements.

(b) Otherwise eligible inmate applicants with a physical or mental disability will be evaluated individually by the Department to determine whether the inmate may successfully participate in the fundamental components of an alternative incarceration program.

(c) The Department shall make the final determination regarding an inmate's physical or mental ability to withstand the rigors of the program.

(4) Inmates who score a six or higher on the Static 99 risk assessment tool (Exhibits AI and AII) will not be accepted into an AIP.

(5) Inmates with a predatory sex offender designation will not be accepted into an AIP.

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

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

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

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 7-2007, f. & cert. ef. 10-9-07; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09; DOC 12-2009, f. & cert. ef. 7-13-09; DOC 20-2011(Temp), f. & cert. ef. 10-17-11 thru 4-13-12; DOC 4-2012, f. & cert. ef. 3-1-12

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

**Adm. Order No.:** DOC 5-2012

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12

**Notice Publication Date:** 11-1-2011

**Rules Amended:** 291-082-0105, 291-082-0110

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

**Rules Coordinator:** Janet R. Worley—(503) 945-0933

### 291-082-0105

#### Definitions

(1) Agency Work Crew: One or more inmates assigned to work on an on-site or community crew.

(2) Agency Work Crew Supervisor: An employee or agent of the local, state or federal governmental agency or private non-profit and private entities who may supervise inmates assigned to an agency work crew pursuant to an intergovernmental agreement entered into by the agency and the Department of Corrections.

(3) Corrections Information System (CIS): A computer system dedicated to tracking information critical to the management of inmates and offenders under the custody, supervision or both of the Department of Corrections.

(4) Custody Level: One of five levels of supervision assigned to an inmate through initial and classification procedures in accordance with the DOC rule on Classification (Inmate) (OAR 291-104).

(a) Level 5: An inmate assigned at this custody level meets one of the following criteria:

(A) Has demonstrated behaviors causing serious management concerns, or has demonstrated behaviors that in the judgment of the Department present a threat sufficient to require special security housing on intensive management status.

(B) Has been committed to the Oregon Department of Corrections with a sentence of death.

(b) Level 4: An inmate assigned at this custody level presents a serious risk of escape or institutional violence, or has extensive time remaining.

(c) Level 3: An inmate assigned at this custody level presents a moderate risk of escape, or has demonstrated behavior causing moderate management concern.

(d) Level 2: An inmate assigned at this custody level presents a limited risk of escape, or has demonstrated behavior causing limited management concern.

(e) Level 1: An inmate assigned at this custody level presents a minimal risk of escape and has demonstrated behavior causing minimal management concern.



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(5) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(6) Department of Corrections Employee: Any person employed full-time, part-time, or under any temporary appointment by the Department of Corrections; any person under contractual agreement to provide services to the Department; any person employed by private or public sector agencies who is serving under Department-sanctioned special assignment to provide services or support to the Department programs. An agreement entered into under this section requires that the person exercising custodial supervision over inmates receive security training approved and provided by the Department of Corrections.

(7) Designator: Information, alerts or statutory designations important for sentence computation and crucial to determining work crew eligibility, unfenced housing assignment, and the management of inmates and offenders both in institutions and in the community.

(8) Direct Supervision: The responsibility of authorized supervisors to ensure the on-site presence of an inmate while outside the institution secure perimeter, and to immediately report any authorized absence or departure.

(9) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(10) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(11) Institution Work Program Coordinator: A Department of Corrections employee that is responsible for overseeing daily planning and coordination of inmate work assignments.

(12) Protection/Restraining Order: Any valid court order intended to protect one person from another and restraining one person from any form of contact with another person.

(13) Stalking Conviction: Any court conviction for stalking as described in ORS 163.732 and 163.750.

(14) Stalking Order: Any court order prohibiting one person from stalking another as described in ORS 163.732 and 163.750.

(15) Unfenced Housing Assignment: A housing assignment to a Department of Corrections facility that does not have a secure perimeter fence.

(16) WHALE Work Assignment Levels:

(a) Inside: A work assignment restricted to inside the perimeter fence of a Department of Corrections facility.

(b) On-Site: A work assignment on the grounds of the facility in which an inmate is housed, but outside the perimeter fence of the facility.

(c) Community: A work assignment located outside the perimeter fence and off the grounds of the Department of Corrections facility in which an inmate is housed.

(17) Work Housing Assignment Level Evaluation (WHALE): The automated assessment program in the Corrections Information System (CIS) used by the Department of Corrections to determine an inmate's work assignment levels and unfenced housing assignment.

[ED. NOTE: Forms referenced are available from the agency.]  
Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075  
Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075  
Hist.: CD 29-1997(Temp), f. & cert. ef. 12-12-97 thru 6-11-98; DOC 13-1998, f. & cert. ef. 6-10-98; DOC 3-2002, f. & cert. ef. 1-16-02; DOC 1-2005(Temp), f. & cert. ef. 1-7-05 thru 7-6-05; Administrative correction 7-20-05; DOC 10-2005, f. & cert. ef. 8-1-05; Renumbered from 291-082-0020, DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 21-2011(Temp), f. & cert. ef. 10-17-11 thru 4-13-12; DOC 5-2012, f. & cert. ef. 3-1-12

## 291-082-0110

### Work Housing Assignment Level Evaluation (WHALE) Eligibility

(1) All inmates at custody Level 1 or 2 are minimally eligible for an inside work assignment.

(2) Community Work Assignment: An inmate must meet the following criteria to be considered for a community work assignment:

- (a) Served more than 60 days in DOC custody.
- (b) No conviction for Arson I or Attempted Arson I.
- (c) No conviction of a sex offense or a crime with a sexual element.
- (d) No active protection/restraining order(s).
- (e) No conviction for Stalking offense.
- (f) No active court Stalking Order.
- (g) Not found in violation of Sexual Assault or Sexual Coercion as described in OAR 291-105-0015, Rules of Misconduct.

(h) Minimal escape risk as defined in the Custody Classification Guide and the rule on Classification (Inmate) (OAR 291-104).

(i) No felony detainer(s) that are untried or expire after the inmate's projected release date.

(j) No multiple misdemeanor detainees that expire after the inmate's projected release date.

(k) No designators on file disqualifying community assignment.

(3) Unfenced Housing: An inmate must meet the following criteria to be considered for an unfenced housing assignment:

(a) Custody Classification Level 1.

(b) Meets all community work assignment criteria.

(c) No conviction for Arson II, Attempted Arson II, Reckless Burning or other related arson crimes, including attempts.

(d) No escape history.

(e) No misdemeanor detainees that are untried.

(f) No consecutive misdemeanor detainer that expires one year or less from the inmate's projected release date.

(4) On-Site Work Assignment: An inmate must meet the following criteria to be considered for an on-site work assignment:

(a) Served more than 60 days in DOC custody,

(b) No predatory sex offender designation in Oregon or any other state, and

(c) Scores six or higher on the Static 99 risk assessment tool (Exhibits AI and AII).

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

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

Stats. Implemented: ORS 179.040, 421.425, 423.020, 423.030 & 423.075

Hist.: DOC 10-2008(Temp), f. 5-8-08, cert. ef. 5-13-08 thru 11-7-08; DOC 27-2008, f. & cert. ef. 11-7-08; DOC 21-2011(Temp), f. & cert. ef. 10-17-11 thru 4-13-12; DOC 5-2012, f. & cert. ef. 3-1-12

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## Department of Energy Chapter 330

**Rule Caption:** Implements new incentive program created by HB 3672 for renewable energy production systems.

**Adm. Order No.:** DOE 3-2012(Temp)

**Filed with Sec. of State:** 2-22-2012

**Certified to be Effective:** 2-22-12 thru 8-17-12

**Notice Publication Date:**

**Rules Adopted:** 330-200-0000, 330-200-0010, 330-200-0020, 330-200-0030, 330-200-0040, 330-200-0050, 330-200-0060, 330-200-0070, 330-200-0080, 330-200-0090, 330-200-0150

**Subject:** House Bill 3672 (2011) created a new renewable energy development grant program within the Department of Energy. These rules provide the operating framework for the program, including application process, prioritization of applications within funding limits, issuance of grants and compliance activities.

**Rules Coordinator:** Kathy Stuttaford—(503) 373-2127

### 330-200-0000

#### Applicability of Rules in OAR 330, Division 200

These rules implement the grant program for renewable energy development established by House Bill 3672 (2011). The rules provide procedures for submission, agency review and selection of systems for potential grant award, the development of performance agreements and the disbursement of grant funds. These rules apply to all applicants for renewable energy development grants, as governed by ORS 469B.250 to 469B.265.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

### 330-200-0010

#### Definitions

For the purposes of this division, the following definitions apply:

(1) "Applicant" means a person who has applied for a renewable energy development grant.

(2) "Cost" has the meaning given in ORS 469B.250, the actual cost of the acquisition, construction and installation of the renewable energy production system paid by the applicant for the system, before considering utility incentives.

(3) "Department" means the Oregon Department of Energy.

(4) "Director" means the director of the department.

(5) "Energy" means electrical energy.

(6) "Grantee" means a person that has received an award of a renewable energy development grant.

(7) "Installation or construction" means the process of physical assembly of a system or supporting infrastructure at its operating location.

# ADMINISTRATIVE RULES

(8) "Opportunity period" means the timeframe specified in an Opportunity Announcement for the department to accept applications for renewable energy development grants.

(9) "Person" has the meaning given in ORS 469.020.

(10) "Renewable Energy Development Grant" means a grant awarded as described in these rules.

(11) "Renewable Energy Production System" has the meaning given in ORS 469B.250, a system that uses biomass, solar, geothermal, hydro-electric, wind, landfill gas, biogas or wave, tidal or ocean thermal energy technology to produce energy.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

## 330-200-0020

### Opportunity Announcement

(1) The department will announce the availability of renewable energy development grants by issuing an Opportunity Announcement.

(2) The department will continually monitor the allocation of grants to ensure that the total amount of grants awarded does not exceed the amounts available in the Renewable Energy Development subaccount within the Clean Energy Deployment Fund.

(3) If the cumulative total of all grants awarded under the Opportunity Announcement is less than the total amount of funding available, the department may reallocate the balance to a future Opportunity Announcement.

(4) The Opportunity Announcement will include the following information:

- (a) Objectives for the opportunity period;
- (b) The amount of grant funds available;
- (c) Application requirements;
- (d) Dates of the application opportunity period;
- (e) Instructions and directions to the required application forms and materials;
- (f) Minimum technical standards;
- (g) The criteria to be applied in prioritizing applications for grant awards, as described in OAR 330-200-0060;
- (h) Guidance on submitting an acceptable resource assessment; and
- (i) Other information the department considers necessary.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

## 330-200-0030

### Grant Application

(1) Any person may apply for a grant by submitting a complete grant application. The application must meet requirements provided by applicable statutes, these rules and the current Opportunity Announcement.

(a) The application must be in the form specified in the Opportunity Announcement and these rules.

(b) An applicant must submit a complete application during the opportunity period. For the purposes of this rule, the department considers an application "submitted" when the department receives the application. The department will not process applications received outside of an opportunity period.

(2) The application must be accompanied by the application fee specified in these rules. The department will not process applications received without fee payment.

(3) The department will not accept amendments to applications during the opportunity period. An applicant may withdraw an application and submit a replacement application during the opportunity period. The department will not process fees for applications withdrawn before the end of the opportunity period.

(4) The application must include the following information, unless the department specifies otherwise in the Opportunity Announcement.

(a) The name of the applicant.

(A) If the applicant is a partnership, joint venture or association, the application must include the names of each person participating in the partnership, joint venture or association.

(B) If the applicant is a corporation or limited liability company, the application must include the name of the corporation or LLC and its parent corporations, members and any close affiliates or subsidiaries.

(C) If the applicant is a public or government entity, the application must include written authorization from the entity's governing body allowing submission of the application.

(b) The name, address, email address and telephone number of the responsible party for the applicant.

(c) A statement verifying that the applicant will be the owner, contract purchaser or lessee of the renewable energy production system at the time of installation or construction of the system.

(d) If the applicant has previously received tax credits or grants issued by the department, the application must contain a statement about the operational status of the systems awarded such grants or tax credits.

(e) A detailed description of the renewable energy production system that includes the following:

(A) The nameplate capacity of the system;

(B) The projected amount of net energy the system will generate, in kWh per year;

(C) The proposed location of the system and an assessment of the suitability of the site;

(D) The expected operational life of the system;

(E) Technical specifications including manufacturer's information for the selected technology and all major system equipment; and

(F) A description of the operation of the system, including information that demonstrates the system will operate for at least five years.

(f) A resource assessment demonstrating adequate resource supply for the proposed system operations. The resource assessment must describe the type of resource available, explain how the applicant evaluated the resource and describe how the system will access the resource.

(g) A statement of compliance with applicable state and local regulations and that the applicant will obtain required licenses and permits.

(h) The number and type of jobs that will be created by the system and the number of jobs sustained throughout the construction, installation and operation of the system. Job estimates should be submitted in hours. These hours must directly relate to the system.

(i) The anticipated system cost.

(j) The amount of anticipated or received incentives directly related to the system.

(k) A description of the applicant's installation or construction financing plan.

(l) Pro-forma financial statements for the proposed system, including the balance sheet at system commissioning and balance sheet, cash flow statement and income statement for three years. The application must include a clear and explicit statement of the assumptions used in preparing the pro-forma.

(m) A project management plan that contains the following required elements:

(A) A detailed project schedule with major milestones during development, construction and operation, including the target operational date of the system.

(B) A description of how the following will be managed:

(i) Installation and construction.

(ii) Verification of system construction and start-up. If the applicant has developed a commissioning plan, the application must describe the plan.

(iii) Operations and maintenance requirements.

(n) The amount of grant requested by the applicant.

(o) If the applicant has already started installation or construction of the system, a written description of the special circumstances that rendered the filing of an application prior to the start of installation or construction unreasonable.

(p) Other information the department considers necessary.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

## 330-200-0040

### Fees

The department adopts the following schedule of fees as provided by ORS 469B.259 for applicants. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants must submit a fee of \$200 with their initial application.

(2) Applicants selected for technical review will be required to pay an additional technical review fee prior to that review. The fee amount is equal to the qualifying system cost multiplied by 1.05 percent.

(3) Applicants requesting amendments must submit a fee of \$300 with their amendment request.

(4) If the department is unable to complete a scheduled inspection due to actions by the applicant, the department will require the applicant to pay a re-inspection fee of \$400 before rescheduling the inspection.

(5) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

# ADMINISTRATIVE RULES

## 330-200-0050

### Completeness Review

(1) Following the opportunity period, the department will review all applications to determine whether:

- (a) All sections of the application are complete.
- (b) The applicant has submitted the required fee.
- (c) The system meets the definition of a renewable energy production system.

(d) The applicant intends to begin construction within 12 months of award.

(e) The applicant is applying prior to the installation or construction of the system.

(A) If the applicant applies after installation or construction of the system has started, the department will deny the application unless a written explanation of the special circumstances is received and approved by the director.

(B) Failing to submit a timely application or not being selected for a grant or tax credit under this or prior department programs does not constitute special circumstances.

(f) The system is located in Oregon.

(g) Other requirements described in the Opportunity Announcement have been met.

(2) If the department finds that the application is complete, the application will move into the competitive review process and the department will notify the applicant in writing.

(3) The department will deny all incomplete applications and notify applicants in writing of the reason for denial of the application.

(4) The department considers the completeness review a test; the decision to deny an incomplete application is not an action subject to review under ORS 183.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

## 330-200-0060

### Competitive Review

(1) The department will conduct a competitive review of all applications that pass completeness review.

(2) Through competitive review, the department's internal review team will prioritize applications for grants according to the criteria described in the rules and detailed in the Opportunity Announcement. Depending on the Opportunity Announcement objectives, the department may give greater or lesser weight to each of the criteria listed in rules.

(3) In the Opportunity Announcement the department will list the evaluation criteria for the competitive review. The criteria the department may consider include:

(a) The internal rate of return of the system, calculated using the formula provided by the department.

(b) The number of jobs created by the system and the number of jobs sustained throughout the construction, installation and operation of the system.

(c) The strength of the financial plan of the system.

(d) The amount of net energy generated.

(e) The use of the energy generated.

(f) Integration into broader energy goals.

(g) The geographic diversity of the renewable energy production systems compared with the other systems for which grants have been requested in the current opportunity announcement.

(h) The technology or resource diversity of the renewable energy production systems compared with the other systems for which grants have been requested in the current opportunity announcement.

(i) If the applicant has previously received any Renewable Energy Development Grants or Business Energy Tax Credits, the operational status of the system for which such grants or tax credits was awarded.

(j) The feasibility of the system.

(4) The department's internal review team will recommend to the director which systems to advance to technical review based on the competitive review results. The director will review and then amend or approve the recommendations.

(5) The department will notify applicants of the competitive review's outcome. The department may place systems not advanced to the technical review phase on a supplemental list, pending the technical reviews of selected systems. The department will retain the supplemental list until the technical review for selected systems is complete. The supplemental list will only apply to the Opportunity Announcement from which it was created.

(6) If an applicant has not started installation or construction of the system, an applicant may apply again for the same system in a future opportunity period by submitting a new application and fee. The department will not apply fees or applications submitted in response to a previous Opportunity Announcement to future Opportunity Announcements.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

## 330-200-0070

### Technical Review

(1) Once the applicant has paid the technical review fee, the department will conduct a technical review of systems advanced from the competitive review process. If the applicant does not submit the required payment to the department within 14 calendar days of notification of the advancement to technical review, the department may deny the application.

(2) The department will review the information provided in the application against industry standards to determine whether the system is technically feasible and should operate in accordance with the representations made by the applicant.

(3) To be eligible, the renewable energy production system must meet the following requirements:

(a) The system must meet the requirements of the statutes, these rules and the Opportunity Announcement.

(b) The applicant must be the owner, contract purchaser or system lessee at the time of the system's installation or construction.

(c) The applicant must be a trade, business or rental property owner with a business site in Oregon or be an Oregon non-profit organization, tribe or public entity. The applicant may not restrict membership, sales or service on the basis of race, color, creed, religion, national origin, sexual preference or gender.

(d) A system located at a residential property must be rental property. A rental property must meet the requirements of the state building codes and contain a dwelling unit or rooming unit with permanent living facilities. Living facilities include facilities for sleeping, eating, cooking and sanitation, for one or more persons, other than the property owner, which is subject to a rental agreement that provides for meaningful compensation to the owner and which compensation is subject to Oregon income or excise tax.

(e) The applicant must demonstrate the ability to begin construction within 12 months from the date the department awards the grant.

(f) The applicant may not receive funding for the system from the Feed-In Tariff program under ORS 757.365.

(4) The department will review renewable energy production system costs for eligibility. The application must document cost by providing a list of itemized costs.

(a) Eligible system costs include:

(A) The cost of components of the proposed system.

(B) Materials and supplies required for the construction and installation of the proposed system.

(C) Shipping.

(D) Design or engineering expenses related to system components.

(E) Cost of work performed by employees or independent contractors of the applicant, based on the following conditions:

(i) Employees or contractors must be certified, accredited, licensed or otherwise qualified to complete the work;

(ii) The work must be associated with the acquisition, installation or construction of the proposed system;

(iii) Project management and similar costs may only account for up to 15 percent of total eligible system costs; and

(iv) Costs for employees' or contractors' work on the renewable energy system must be detailed and documented as to specific tasks, hours worked and compensation costs.

(F) Other costs the department determines should be included.

(b) Eligible system costs do not include:

(A) Costs paid by a person other than the applicant.

(B) Interest and warranty charges.

(C) Litigation or other legal fees and court costs.

(D) Patent searches, application and filing payments.

(E) Costs to maintain, operate or repair the system.

(F) Administrative costs to apply for grants, loans, tax credits or other funding for a system including, but not limited to, the renewable energy development grant fees.

(G) Training or education expenses.



# ADMINISTRATIVE RULES

(H) Costs that are incurred to bring a host building up to building code standards or otherwise repair the building in order to install the system, including design or engineering expenses.

(I) Costs for a system or portion thereof, that has previously received a tax credit under ORS 469 or 469B.

(J) Donated, in-kind or volunteer labor and materials.

(K) Other costs the department determines should be excluded.

(c) If a system is built under a lease or contract purchase, the applicant must provide system cost information. System cost may be demonstrated by providing a declaration of representative market value for the system that includes the anticipated cost of supply and installation. Such a declaration must include a list of primary system components and their costs.

(d) An applicant may incur qualifying costs prior to the submission of an application, but may not begin installation or construction.

(5) The department will determine whether the system is a single renewable energy production system or is part of a larger system in combination with other applications.

(a) The department considers a single renewable production system as one or more electrical energy production devices that are applied for within the same Opportunity Announcement, use the same renewable resource and are owned or controlled by the same person.

(b) For the purposes of this subsection, "same person" includes subsidiary corporations and companies, other subsidiary business organizations or other entities owned or controlled by the same parent corporation but excludes equity-only financing partners.

(c) The department may reduce the potential grant award or deny the application if the department finds that the proposed system is part of another renewable energy production system that has applied for or received a renewable energy production grant.

(6) If an application does not include all information needed to complete the technical review, the department may notify the applicant in writing, requesting additional information. If the department does not receive the requested information within 30 calendar days, the department may deny the application.

(7) During the review the department may inspect the proposed location of a system. The department will schedule inspections during normal working hours, following reasonable notice to the applicant.

(8) The department will notify the applicant in writing if the department denies the application during the technical review.

(9) If the technical review determines that information reviewed during the competitive review process was inaccurate, the department may deny the application.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

## 330-200-0080

### Performance Agreement

(1) The department may offer a performance agreement to the applicant if it determines that the renewable energy production system is technically feasible and capable of operating in accordance with the representations made by the applicant. The offer will include a copy of the performance agreement and a deadline for acceptance.

(2) The performance agreement will be based on information provided by the applicant.

(3) The department may offer a grant that is less than the amount requested in the application, pursuant to statute and applicable rules.

(4) Applicants will have 30 calendar days from the date of the notice to accept the performance agreement. An applicant's failure to accept the offer of a performance agreement by the deadline will constitute rejection of the renewable energy development grant.

(5) The department may select alternative applicants from the supplemental list, in order of their ranking and complete technical review in place of applicants who do not enter into a performance agreement within 30 calendar days of the department's offer.

(6) The performance agreement must include the following terms and may include additional terms.

(a) The maximum amount of the renewable energy development grant and the entity to which funds will be disbursed.

(b) A listing of the documentation that the grantee must provide to the department prior to the disbursement of grant funds including, but not limited to:

(A) An account of system costs.

(B) Proof that the owner or owners of the system location are current on their property taxes for that location, if appropriate.

(c) The amount by which the department may reduce the grant amount in response to changes in actual system cost.

(d) The maximum duration of the performance agreement.

(e) The requirement that the grantee install or construct the renewable energy production system substantially as described in the renewable energy development grant application.

(f) The requirement that installation or construction of the system begin within 12 months after the date that the performance agreement is signed by all parties. If construction does not begin within 12 months, the performance agreement and grant are void. The performance agreement must include details of the work that must be completed within 12 months to meet this standard.

(g) The requirement that the grantee be the owner, contract purchaser or lessee of the system at the time of installation or construction of the system.

(h) The requirement that the system be located in Oregon.

(i) The grantee must make periodic reports to the department on the status of the system during system development and during installation or construction of the system.

(j) The requirement that the applicant obtain all applicable licenses, permits or other authorizations that are required within the jurisdiction of the system and must comply with applicable federal, state and local laws and regulations.

(k) The requirement that the grantee allow the department to inspect the system or its proposed location at any time during construction to verify compliance with the performance agreement. The department will schedule inspections during normal working hours, following reasonable notice to the applicant.

(l) The terms under which the performance agreement may be transferred, upon notification and agreement of the department.

(m) Reporting requirements during the operational period of the grant.

(n) A provision allowing the performance agreement to be terminated for reasons stated in the agreement and subject to terms described in the agreement.

(o) A provision that if the director determines that the applicant has violated the provisions of the performance agreement or ORS 469B.250 to 469B.265, the applicant will be liable to the department for all grant monies disbursed to the applicant.

(7) The department may require a legal sufficiency review of a performance agreement by the Oregon Department of Justice prior to completion.

(8) The renewable energy development grant will be awarded upon signature of the performance agreement by all parties. The grant funds will be disbursed upon verification that the applicant has complied with the applicable terms of the performance agreement including completion and commissioning, if required, of the system.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

## 330-200-0090

### Amendments

(1) The grantee must submit a written amendment request to the director to amend a performance agreement or change any aspect of the renewable energy production system.

(2) The grantee must describe the proposed change to the performance agreement or renewable energy production system and the reasons for the change.

(3) The grantee must demonstrate that the system, with the proposed change, would continue to be technically feasible, would operate as represented and would remain in operation for at least five years. The grantee has the responsibility to provide an amendment request with complete technical documentation that will support a case for the proposed amendment. The department may deny amendments submitted without such justification.

(4) If an amendment request does not include all information needed to complete the review, the department may provide the grantee a written request for additional information. If the grantee does not provide the requested information to the department within 30 calendar days, the department may deny the request.

(5) Requests for amendments must include payment of the appropriate fee. The department may accept non-substantive changes, such as change of contact information, without payment of the fee.

# ADMINISTRATIVE RULES

(6) The department will evaluate amendments to determine if the change would have affected the outcome of competitive review, which may result in denial of the amendment request.

(7) Within 60 calendar days after the date the department receives the amendment request, the department will decide whether to approve the request. If the department does not approve the amendment request within 60 calendar days, it is considered denied.

(a) If approved, the department will draft an amended performance agreement, which may contain new or amended conditions and requirements. The amended performance agreement will become effective upon signature by all parties.

(b) If denied, the department will notify the grantee in writing. The notice will include the reasons for the denial of the amendment request.

(c) The grantee may accept the denial of the amendment request and comply with the terms of the performance agreement or the grantee may terminate the performance agreement according to its terms and return any grant funds previously disbursed.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

## 330-200-0150

### Compliance

All participants in this program are subject to OAR 330-230-0000 through 330-230-0060.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12

## Department of Fish and Wildlife

### Chapter 635

**Rule Caption:** Willamette River Recreational Sturgeon Retention Fishery Downstream of Willamette Falls Closes.

**Adm. Order No.:** DFW 17-2012(Temp)

**Filed with Sec. of State:** 2-22-2012

**Certified to be Effective:** 2-23-12 thru 4-30-12

**Notice Publication Date:**

**Rules Amended:** 635-017-0095

**Rules Suspended:** 635-017-0095(T)

**Subject:** Amended rule closes the recreational white sturgeon retention fishery in the lower Willamette River downstream of Willamette Falls, including Multnomah Channel and the Gilbert River effective February 23, 2012 due to anticipation of the harvest guideline being met. Revisions are consistent with action taken February 22, 2012 by the State of Oregon.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-017-0095

### Sturgeon Season

(1) The 2012 Oregon Sport Fishing Regulations provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2012 Oregon Sport Fishing Regulations.

(2) The Willamette River downstream of Willamette Falls (including Multnomah Channel and the Gilbert River) is open to the retention of white sturgeon two days per week, Friday and Saturday during the following period: February 17 and 18 or until the harvest guideline is met.

(3) Bank angling is prohibited from the east shore of the Willamette River the entire year in the area beginning west of Highway 99E, at the northern-most extent of the parking area near the intersection of 8th Street and Highway 99E in Oregon City, approximately 290 feet downstream of the Oregon City/West Linn bridge (Hwy 43) and extending upstream approximately 1715 feet to the retaining wall extending into the Willamette River at the NW corner of the Blue Heron Paper Mill.

(4) Only white sturgeon with a fork length of 38-54 inches may be retained. Retention of green sturgeon is prohibited all year in all areas.

(5) Angling for sturgeon, including catch-and-release, is prohibited seven days per week during May 1 through August 31 from Willamette Falls downstream to the I-205 Bridge.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: DFW 2-2005(Temp), f. & cert. ef. 1-21-05 thru 7-19-05; DFW 55-2005, f. & cert. ef. 6-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-

1-07; DFW 74-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 7-2008, f. & cert. ef. 2-11-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 90-2010(Temp), f. 6-29-10, cert. ef. 7-5-10 thru 12-31-10; DFW 154-2010(Temp), f. & cert. ef. 11-8-10 thru 12-31-10; DFW 163-2010(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 10-2011(Temp), f. 2-10-11, cert. ef. 2-17-11 thru 6-29-11; DFW 22-2011(Temp), f. 3-16-11, cert. ef. 3-17-11 thru 6-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 9-2012(Temp), f. 2-6-12, cert. ef. 2-17-12 thru 4-30-12; DFW 17-2012(Temp), f. 2-22-12, cert. ef. 2-23-12 thru 4-30-12

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**Rule Caption:** Treaty Indian Winter Commercial Fisheries In the Columbia River Modified.

**Adm. Order No.:** DFW 18-2012(Temp)

**Filed with Sec. of State:** 2-28-2012

**Certified to be Effective:** 2-29-12 thru 6-15-12

**Notice Publication Date:**

**Rules Amended:** 635-041-0045, 635-041-0065

**Rules Suspended:** 635-041-0045(T), 635-041-0065(T)

**Subject:** These rule amendments modify allowable sales of fish caught in Treaty winter commercial fisheries in the Columbia River above Bonneville Dam and the Treaty fisheries downstream of Bonneville Dam allowed under state agreements. Effective 6:00 p.m. Wednesday February 29, 2012 Chinook salmon caught in these fisheries may not be sold but may be retained for subsistence. Effective 6:00 p.m. Thursday March 1, 2012 the winter commercial gillnet fishery in the John Day Pool will close. Fish caught in the platform/hook-and-line fishery may not be sold, but may be kept for subsistence purposes.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-041-0045

### Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

(1) All Oregon tributaries of the Columbia River.

(2) The Columbia River westerly and downstream of the Bridge of the Gods except:

(a) Fisheries conducted by the Yakama, Warm Springs, Nez Perce and Umatilla tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington are open until further notice.

(A) Allowable sales include Chinook, steelhead, sockeye, coho, wall-eye, shad, yellow perch, bass and carp. Sturgeon caught in the tribal fisheries below Bonneville Dam may not be retained or sold. Fish may not be sold on USACE property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(B) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line.

(C) Salmon, steelhead, walleye, shad, carp, bass, catfish and yellow perch landed during an open treaty commercial fishing period may be sold at any time.

(D) Effective 6:00 p.m. Wednesday, February 29, 2012 Chinook salmon may not be sold but may be retained for subsistence purposes.

(b)(A) Platform and hook-and-line fisheries from the Bridge of the Gods downstream to the subsistence fishing deadline as described in OAR 635-041-0020(1) are open to commercial sales whenever sales are authorized for platform and hook-and-line fisheries in the remainder of Bonneville Pool.

(B) Effective 6:00 p.m. Wednesday, February 29, 2012 Chinook salmon may not be sold but may be retained for subsistence purposes.

(3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.

(4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below The Dalles Dam, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam east fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing

# ADMINISTRATIVE RULES

seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25-September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1 1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 149(Temp), f. & ef. 9-21-77 thru 1-18-78; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & ef. 1-28-80; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 4-1984, f. & ef. 1-31-84; FWC 55-1985(Temp), f. & ef. 9-6-85; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 25-1986(Temp), f. & ef. 6-25-86; FWC 42-1986, f. & ef. 8-15-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & ef. 3-4-88; FWC 54-1989 (Temp), f. & ef. 8-7-89; FWC 90-1989, f. & ef. 9-6-89; FWC 80-1990(Temp), f. & ef. 8-8-90; DFW 142-2008, f. & ef. 11-21-08; DFW 23-2011, f. & ef. 3-21-11; DFW 40-2011(Temp), f. & ef. 5-5-11 thru 10-31-11; DFW 43-2011(Temp), f. & ef. 5-10-11 thru 10-31-11; DFW 60-2011(Temp), f. & ef. 6-2-11, cert. ef. 6-6-11 thru 10-31-11; DFW 63-2011(Temp), f. & ef. 6-8-11, cert. ef. 6-9-11 thru 10-31-11; DFW 66-2011(Temp), f. & ef. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 88-2011(Temp), f. & ef. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 119-2011(Temp), f. & ef. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 5-2012(Temp), f. & ef. 1-30-12, cert. ef. 2-1-12; DFW 18-2012(Temp), f. & ef. 2-28-12, cert. ef. 2-29-12 thru 6-15-12

## 635-041-0065 Winter Season

(1) Salmon, steelhead, shad, white sturgeon, walleye, catfish, bass, yellow perch and carp may be taken for commercial purposes from the

Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21, 2012.

(2) Effective 6:00 p.m. Wednesday, February 29, 2012 Chinook salmon may not be sold but may be retained for subsistence purposes.

(3) Effective 6:00 p.m. Thursday, March 1, 2012 the winter gillnet fishery in the John Day pool is closed to sale of all fish species. Fish caught in the platform hook-and-line fishery may not be sold, but may be kept for subsistence purposes.

(4) There are no mesh size restrictions.

(5) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(6) White sturgeon between 43–54 inches fork length in The Dalles and white sturgeon between 38–54 inches fork length in the Bonneville Pool may be sold or kept for subsistence use.

(7) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. & ef. 1-21-83, cert. ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. & cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. & cert. ef. 2-9-90; FWC 20-1990, f. & cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. & cert. ef. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. & cert. ef. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. & cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. & cert. ef. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. & cert. ef. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. & cert. ef. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. & cert. ef. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. & cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. & cert. ef. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. & cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. & cert. ef. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. & cert. ef. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. & cert. ef. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. & cert. ef. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. & cert. ef. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. & cert. ef. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. & cert. ef. 3-5-09, cert. ef. 3-6-09 thru 7-31-09; Administrative correction 8-21-09; DFW 9-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10; DFW 12-2010(Temp), f. & cert. ef. 2-10-10, cert. ef. 2-11-10 thru 8-1-10; DFW 18-2010(Temp), f. & cert. ef. 2-24-10, cert. ef. 2-26-10 thru 4-1-10; DFW 24-2010(Temp), f. & cert. ef. 3-2-10, cert. ef. 3-3-10 thru 4-1-10; Administrative correction 4-21-10; DFW 8-2011(Temp), f. & cert. ef. 1-31-11, cert. ef. 2-1-11 thru 4-1-11; DFW 9-2011(Temp), f. & cert. ef. 2-9-11, cert. ef. 2-10-11 thru 4-1-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 5-2012(Temp), f. & cert. ef. 1-30-12, cert. ef. 2-1-12; DFW 18-2012(Temp), f. & cert. ef. 2-28-12, cert. ef. 2-29-12 thru 6-15-12

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**Rule Caption:** Treaty Indian Winter Commercial Fisheries in the Bonneville Pool Modified.

**Adm. Order No.:** DFW 19-2012(Temp)

**Filed with Sec. of State:** 3-2-2012

**Certified to be Effective:** 3-5-12 thru 6-15-12

**Notice Publication Date:**

**Rules Amended:** 635-041-0065

**Rules Suspended:** 635-041-0065(T)

**Subject:** The rule amendments modify allowable sales of fish caught in Treaty winter commercial fisheries in the Bonneville Pool. Effective 6:00 p.m. Monday, March 5, 2012 the winter commercial gillnet fishery in the Bonneville Pool will close. Fish caught in the platform/hook-and-line fishery may not be sold, but may be kept for subsistence purposes. Modifications are consistent with action taken March 1, 2012 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

**Rules Coordinator:** Therese Kucera—(503) 947-6033



# ADMINISTRATIVE RULES

## 635-041-0065 Winter Season

(1) Salmon, steelhead, shad, white sturgeon, walleye, catfish, bass, yellow perch and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21, 2012.

(2) Effective 6:00 p.m. Wednesday, February 29, 2012 Chinook salmon may not be sold but may be retained for subsistence purposes.

(3) Effective 6:00 p.m. Thursday, March 1, 2012 the winter gillnet fishery in the John Day Pool is closed to sale of all fish species. Fish caught in the platform hook-and-line fishery may not be sold, but may be kept for subsistence purposes.

(4) Effective 6:00 p.m. Monday, March 5, 2012 the winter gillnet fishery in the Bonneville Pool is closed to sale of all fish species. Fish caught in the platform hook-and-line fishery may not be sold, but may be kept for subsistence purposes.

(5) There are no mesh size restrictions.

(6) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(7) White sturgeon between 43-54 inches fork length in The Dalles Pool may be sold or kept for subsistence use.

(8) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 thru 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 7-31-09; Administrative correction 8-21-09; DFW 9-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10; DFW 12-2010(Temp), f. 2-10-10, cert. ef. 2-11-10 thru 8-1-10; DFW 18-2010(Temp), f. 2-24-10, cert. ef. 2-26-10 thru 4-1-10; DFW 24-2010(Temp), f. 3-2-10, cert. ef. 3-3-10 thru 4-1-10; Administrative correction 4-21-10; DFW 8-2011(Temp), f. 1-31-11, cert. ef. 2-1-11 thru 4-1-11; DFW 9-2011(Temp), f. 2-9-11, cert. ef. 2-10-11 thru 4-1-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 5-2012(Temp), f. 1-30-12, cert. ef. 2-1-12; DFW 18-2012(Temp), f. 2-28-12, cert. ef. 2-29-12 thru 6-15-12; DFW 19-2012(Temp), f. 3-2-12, cert. ef. 3-5-12 thru 6-15-12

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**Rule Caption:** Bonneville Pool Treaty Indian Winter Commercial Fisheries Closure Postponed.

**Adm. Order No.:** DFW 20-2012(Temp)

**Filed with Sec. of State:** 3-5-2012

**Certified to be Effective:** 3-5-12 thru 6-15-12

**Notice Publication Date:**

**Rules Amended:** 635-041-0065

**Rules Suspended:** 635-041-0065(T)

**Subject:** Rule amendments postpone the closure date and time for Treaty Indian winter commercial fisheries in Bonneville Pool from 6:00 p.m. Monday, March 5 until 12:00 noon Tuesday, March 6, 2012. Modifications are in response to a Treaty Tribes request for

more time to remove their gear from the Bonneville Pool, due to current high wind and weather conditions in the Bonneville Pool. Modifications are consistent with action taken March 5, 2012 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-041-0065

### Winter Season

(1) Salmon, steelhead, shad, white sturgeon, walleye, catfish, bass, yellow perch and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21, 2012.

(2) Effective 6:00 p.m. Wednesday, February 29, 2012 Chinook salmon may not be sold but may be retained for subsistence purposes.

(3) Effective 6:00 p.m. Thursday, March 1, 2012 the winter gillnet fishery in the John Day Pool is closed to sale of all fish species. Fish caught in the platform hook-and-line fishery may not be sold, but may be kept for subsistence purposes.

(4) Effective 12:00 noon Tuesday, March 6, 2012 the winter gillnet fishery in the Bonneville Pool is closed to sale of all fish species. Fish caught in the platform hook-and-line fishery may not be sold, but may be kept for subsistence purposes.

(5) There are no mesh size restrictions.

(6) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(7) White sturgeon between 43-54 inches fork length in The Dalles Pool may be sold or kept for subsistence use.

(8) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 thru 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 7-31-09; Administrative correction 8-21-09; DFW 9-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10; DFW 12-2010(Temp), f. 2-10-10, cert. ef. 2-11-10 thru 8-1-10; DFW 18-2010(Temp), f. 2-24-10, cert. ef. 2-26-10 thru 4-1-10; DFW 24-2010(Temp), f. 3-2-10, cert. ef. 3-3-10 thru 4-1-10; Administrative correction 4-21-10; DFW 8-2011(Temp), f. 1-31-11, cert. ef. 2-1-11 thru 4-1-11; DFW 9-2011(Temp), f. 2-9-11, cert. ef. 2-10-11 thru 4-1-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 5-2012(Temp), f. 1-30-12, cert. ef. 2-1-12; DFW 18-2012(Temp), f. 2-28-12, cert. ef. 2-29-12 thru 6-15-12; DFW 19-2012(Temp), f. 3-2-12, cert. ef. 3-5-12 thru 6-15-12

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**Rule Caption:** Corrections to 2012 Oregon Sport Fishing Regulations.

**Adm. Order No.:** DFW 21-2012

**Filed with Sec. of State:** 3-12-2012

**Certified to be Effective:** 3-12-12

# ADMINISTRATIVE RULES

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 635-017-0090, 635-018-0090

**Subject:** The amended rules correct unintended errors printed in the 2012 Oregon Sport Fishing Regulations booklet. Two critical errors effecting the Sandy and Hood rivers regulations were made in the angling regulations development process and printing of the 2012 angling regulations. House-keeping and technical corrections to the regulations were made to ensure rule consistency.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-017-0090

### Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2012 Oregon Sport Fishing Regulations.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-01301(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) Sandy River (Multnomah/Clackamas Co.) Mainstem and tributaries upstream from ODFW markers at the mouth of the Salmon River, including the Salmon River:

(a) Open for adipose fin-clipped steelhead and non-adipose fin-clipped steelhead harvest July 1-August 31.

(b) Angling restricted to artificial flies and lures with a single point hook no larger than 1/2 inch gap (size 1) and multiple point hook no larger than 3/8 inch gap (size 4).

(c) No limit on size or number of brook trout taken. Catch limits on other trout species do not apply to brook trout.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02 cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-

2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-10-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 96-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-10-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-31-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12

## 635-018-0090

### Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations**.

(2) Hood River Basin (Hood River Co.) mainstem and tributaries not listed:

(a) Note: Chinook salmon angling closed entire river. Emergency regulations opening Chinook angling may be adopted after the printing of the **2012 Oregon Sport Fishing Regulations**. Up-to-date changes can be obtained by calling 1-503-947-6000 or at our internet site: [www.dfw.state.or.us/resources/fishing/reg\\_changes/central.asp](http://www.dfw.state.or.us/resources/fishing/reg_changes/central.asp).

(b) Open for adipose fin-clipped coho salmon and adipose fin-clipped steelhead entire year, from mouth to mainstem confluence with the East Fork and the West Fork from the confluence with the mainstem upstream to the angling deadline 200 feet downstream of Punchbowl Falls.

(c) Catch and release only for trout, May 26-Oct. 31.

(d) Restricted to artificial flies and lures when angling for trout in all tributaries and in mainstem Hood River upstream from the confluence with the West Fork.

(e) Use of bait allowed for salmon and steelhead.

(f) All other catch limits and restrictions remain unchanged from those listed for Hood River in the 2012 Oregon Sport Fishing Regulations.

Stat. Auth.: ORS 496.138, 496.146, 497.121 and 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 and 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 111-1996(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. 5-27-97, 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. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; 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;

# ADMINISTRATIVE RULES

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

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**Rule Caption:** Amend rules relating to Western Oregon and Rocky Mountain Elk, emergency and controlled hunt regulations.

**Adm. Order No.:** DFW 22-2012

**Filed with Sec. of State:** 3-14-2012

**Certified to be Effective:** 4-1-12

**Notice Publication Date:** 9-1-2011

**Rules Amended:** 635-060-0023, 635-070-0000, 635-071-0000, 635-078-0011

**Subject:** Establish the 2012 season dates, bag limits, areas and restrictions for Western Oregon elf and Rocky Mountain elk as set out in the 2012 Big Game Regulations. Amend emergency hunting regulations and controlled hunt regulations modified preference point system.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-060-0023

### Modified Preference Point System

(1) The Modified Preference Point System separates the tags for each controlled game mammal hunt into two groups:

(a) Seventy-five percent of the tags will be issued through the preference point system;

(b) The remaining 25 percent of the tags will be issued by the equal-probability computer drawing.

(2) Applicants shall accrue no more than one preference point per hunt number series per year. Valid applicants who did not receive controlled hunt tags for their first choice hunt number in the 100, 200, 400, 600, or 700 series hunts during the controlled hunt drawing shall receive one preference point applicable to subsequent controlled hunt drawings for the respective hunt number series, except as excluded in OAR 635-060-0008(4).

(3) A preference point will automatically accrue within each controlled hunt series when an applicant's first choice is as follows:

- (a) Hunt number 199: controlled buck deer;
- (b) Hunt number 299: controlled elk;
- (c) Hunt number 499: controlled pronghorn antelope;
- (d) Hunt number 699: controlled antlerless deer;
- (e) Hunt number 799: controlled black bear.

(4) Youth nine years of age or older are eligible to apply for automatic Preference Points as described in (3) provided they have a social security number, a Hunter/Angler ID number issued by ODFW, and purchase the appropriate (resident or nonresident) juvenile or adult hunting license.

(5) The Modified Preference Point System will group controlled hunt applicants by the number of preference points they have accrued for each hunt number series. Applicants with the highest number of preference points for each hunt number will be drawn first. Applicants having the next highest number of preference points per hunt number will be drawn next. This tag issuance process will continue through descending numbers of preference points until 75 percent of the tags authorized for the hunt have been issued, unless all qualified applicants with preference points have been issued tags prior to that point. Any tags remaining following the issuance of preference point tags will be issued through the equal-probability computer drawing. Applicants unsuccessful in the preference point tag issuance procedure and those applicants without preference points will be placed in the equal-probability computer drawing for the remaining tags.

(6) Applicants, except for those with a Pioneer Angling/Hunting License, successful in drawing their first choice hunt except numbers ending in 99 within a hunt number series shall have zero preference points

when they next apply for a tag in that hunt number series. Successful Applicants with a Pioneer Angling/Hunting License shall have one preference point when they apply for a tag in that hunt number series.

(7) Beginning in 2008 applicants will not forfeit preference points accumulated for a hunt number series when they do not apply for that hunt number series for two consecutive years.

(8) Applicants who have their hunting license suspended or revoked by legal action will forfeit all preference points.

(9) Party applicant preference points shall be determined by totaling the preference points of all party members and then calculating the average of this total. Party preference points will be rounded up from x.51 (e.g. 3.51 to 4, 3.50 to 3) to the next whole number.

(10) Department records are final to determine accrued preference points for controlled hunt applicants.

(11) Each applicant's preference point accrual record will be linked to his or her permanent identification number. Preference point applicants shall use the permanent identification number each time they apply for a controlled hunt tag. Failure to do so shall place the applicant in the equal-probability drawing for his or her hunt number series and preference points will not be accrued together.

(12) Applicants will receive no preference points when:

(a) Their application is not received by the appropriate application date; however, a hunter may purchase one preference point for the current year, for each series (100, 200, 400, 600, and 700) from July 1 through November 30 if they did not apply during the controlled hunt drawing for that series.

(b) They request their controlled hunt application be withdrawn prior to the controlled hunt drawing;

(c) The controlled hunt application has been falsified.

(13) The Modified Preference Point System shall apply to 100, 200, 400, 600, and 700 series hunts.

(14) In 2005, 800 series points will be converted into 600 series points

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 6-1994, f. & cert. ef. 1-26-94; FWC 13-1994(Temp), f. & cert. ef. 3-1-94; FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 124-2007, f. 11-28-07, cert. ef. 12-1-07; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12

## 635-070-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2011 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 070 by reference.

(3) OAR chapter 635, division 070 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled "2012 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2012 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[ED. NOTE: Tables referenced are available from the agency.]  
[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 119-2003, f. 12-4-03, cert. ef. 4-1-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 8-2004(Temp), f. & cert. ef. 2-2-04 thru 7-31-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 31-2009, f. 3-23-09, cert. ef. 4-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 22-2010, f. 3-1-10, cert. ef. 4-1-10; DFW 31-2010, f. 3-12-10, cert. ef. 4-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12



# ADMINISTRATIVE RULES

## 635-071-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2011 are listed in Tables 1 and 2 and are adopted and incorporated in OAR chapter 635, division 071 by reference.

(3) OAR chapter 635, division 071 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled "2012 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2012 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

[Publications: Publications referenced are available from the agency.]

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

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

Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 1-2004(Temp), f. & cert. ef. 1-13-04 thru 7-9-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04, Administrative correction 11-22-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 31-2009, f. 3-23-09, cert. ef. 4-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 22-2010, f. 3-1-10, cert. ef. 4-1-10; DFW 31-2010, f. 3-12-10, cert. ef. 4-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12

## 635-078-0011

### Determining Eligibility

(1) The method of determining who shall be eligible to participate in the emergency hunts set forth in section (1) of this rule shall be as follows:

(a) Hunters who wish to be eligible for emergency hunts shall have their names placed on the emergency hunt list for the county in which they wish to hunt: the list is to be effective for one year. Each hunter less than 18 years of age shall have an adult hunting license and be accompanied by a responsible adult (21 years of age or older) when hunting. Applications will be accepted and kept on file at the headquarters office of the Department of Fish and Wildlife, 3406 Cherry Ave, NE, Salem, OR, 97303. Beginning July 1 of each year, the hunter's name will be placed on the eligible list. No fee is required for applicants to be placed on the emergency hunt list. Applications may be made on a form available at department offices and up to two hunters may apply on the form as a party. Each applicant shall list their name, address and telephone number where they can be contacted and the county for which they are applying.

(b) At such time as the department determines that a need for such emergency hunt exists, those numbers of hunters for which permits are available shall be notified to obtain their permits from regional or district office of the department. Hunt lists will be prioritized by a random sort of the applications received during July of each year. Certified Master Hunters applying during July shall be randomized and moved to the top of the emergency hunt list. Applications received after July 31 each year will be prioritized as received.

(2) It is unlawful to take game mammals or wild turkey in and during the emergency hunt set forth in section (1) of this rule without having an emergency hunt permit/tag authorized for the species, area, and season on one's person.

(3) Upon killing a game mammal or wild turkey pursuant to these rules, the hunter shall immediately notify the local ODFW representative (or designee), and pay the appropriate fee for the tag required. Unfilled tags must be returned to the issuing office within five business days after the closing date of the hunt printed on the tag.

(4) Eligibility and fees for such tags shall be the same as the tag fees established by species in ORS 497.112.

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

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

Hist.: DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12

**Rule Caption:** Amend rules to delist the Bald Eagle from State List of Threatened and Endangered Species.

**Adm. Order No.:** DFW 23-2012

**Filed with Sec. of State:** 3-14-2012

**Certified to be Effective:** 3-14-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 635-100-0125

**Subject:** This rule amendment would remove the Bald eagle (*Haliaeetus leucocephalus*) from the State List of Threatened and Endangered Species.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-100-0125

### State List of Threatened and Endangered Species

The state list of threatened and endangered species is as follows:

[Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 496.004, 496.171, 496.172, 496.182, 496.192 & 498.026

Stats. Implemented: ORS 496.004, 496.171, 496.172, 496.182, 496.192 & 498.026

Hist.: FWC 50-1988, f. & cert. ef. 6-24-88; FWC 108-1988, f. & cert. ef. 12-29-88; FWC 40-1989, f. 6-20-89, cert. ef. 7-1-89; FWC 46-1991, f. 5-1-91, cert. ef. 5-6-91; FWC 130-1991, f. & cert. ef. 11-4-91; FWC 132-1991, f. 11-19-91, cert. ef. 11-20-91; FWC 69-1993, f. & cert. ef. 11-1-93; FWC 44-1995, f. & cert. ef. 5-30-95; FWC 93-1995, f. & cert. ef. 12-8-95; Administrative Correction 3-10-98; DFW 18-1999(Temp), f. 3-12-99, cert. ef. 4-1-99 thru 9-27-99; DFW 24-1999(Temp), f. 4-14-99, cert. ef. 5-1-99 thru 10-27-99; DFW 33-1999(Temp), f. 5-7-99, cert. ef. 6-1-99 thru 11-27-99; DFW 44-1999(Temp), f. & cert. ef. 7-1-99 thru 12-27-99; DFW 49-1999(Temp), f. 7-13-99, cert. ef. 8-1-99 thru 1-27-00; DFW 51-1999, f. & cert. ef. 7-22-99; DFW 54-1999(Temp), f. 8-10-99, cert. ef. 9-1-99 thru 2-27-00; DFW 63-1999(Temp), f. 9-10-99, cert. ef. 10-1-99 thru 3-28-00; DFW 80-1999(Temp), f. 10-11-99, cert. ef. 11-1-99 thru 4-27-00; DFW 91-1999(Temp), f. 12-2-99, cert. ef. 1-1-00 thru 6-28-00; DFW 2-2000(Temp), f. & cert. ef. 2-1-00 thru 7-28-00; DFW 5-2000, f. 2-3-00, cert. ef. 2-4-00; DFW 66-2005(Temp), f. & cert. ef. 7-1-05 thru 12-12-05; DFW 93-2005, f. & cert. ef. 8-19-05; DFW 26-2007, f. & cert. ef. 4-19-07; DFW 23-2012, f. & cert. ef. 3-14-12

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**Rule Caption:** Commercial Gillnet Fishery for Youngs Bay Select Area of the Columbia River Modified.

**Adm. Order No.:** DFW 24-2012(Temp)

**Filed with Sec. of State:** 3-15-2012

**Certified to be Effective:** 3-18-12 thru 7-31-12

**Notice Publication Date:**

**Rules Amended:** 635-042-0145

**Rules Suspended:** 635-042-0145(T)

**Subject:** Amended rule modifies the start time, fishing period length and fishing area boundaries authorized for the March 18, 2012 commercial gillnet fishery in the Youngs Bay Select Area of the Columbia River. Modifications are consistent with the action taken March 15, 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:

(i) 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), and 3:00 p.m. until 7:00 p.m. Sunday March 18 (4 Hours).

(ii) Upstream of old Youngs Bay Bridge: 6:00 p.m. until midnight Sunday March 25 (6 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:

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(A) From February 12 through March 16 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).

(B) On March 25 the fishing area extends from the old Youngs Bay Bridge upstream to the upper boundary markers at the confluence of the Youngs and Klaskanine rivers.

(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. & ef. 8-19-88; FWC 55-1989(Temp), f. & ef. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. & ef. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. & ef. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & ef. 10-21-91; FWC 30-1992(Temp), f. & ef. 4-27-92; FWC 35-1992(Temp), f. & ef. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. & ef. 10-09-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & ef. 4-26-93; FWC 48-1993, f. & ef. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. & ef. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. & ef. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. & ef. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & ef. 9-20-94; FWC 27-1995, f. & ef. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & ef. 6-5-95; FWC 66-1995, f. & ef. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. & ef. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. & ef. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. & ef. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & ef. 8-12-96; FWC 45-1996(Temp), f. & ef. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & ef. 9-23-96; FWC 4-1997, f. & ef. 1-30-97; FWC 47-1997, f. & ef. 8-15-97; DFW 8-1998(Temp), f. & ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & ef. 3-3-98; DFW 18-1998(Temp), f. & ef. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & ef. 8-24-98; DFW 10-1999, f. & ef. 2-26-99; DFW 52-1999(Temp), f. & ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & ef. 8-12-99; DFW 9-2000, f. & ef. 2-25-00; DFW 42-2000, f. & ef. 8-3-00; DFW 3-2001, f. & ef. 2-6-01; DFW 66-2001(Temp), f. & ef. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. & ef. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & ef. 2-14-03; DFW 17-2003(Temp), f. & ef. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & ef. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & ef. 2-13-04; DFW 19-2004(Temp), f. & ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & ef. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & ef. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & ef. 2-14-05; DFW 15-2005(Temp), f. & ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. & ef. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. & ef. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. & ef. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. & ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & ef. 2-15-06; DFW 14-2006(Temp), f. & ef. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. & ef. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & ef. 6-28-06 thru 7-27-06;

DFW 73-2006(Temp), f. & ef. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. & ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. & ef. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & ef. 2-14-07; DFW 13-2007(Temp), f. & ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. & ef. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. & ef. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. & ef. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. & ef. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & ef. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. & ef. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & ef. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. & ef. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. & ef. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. & ef. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. & ef. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. & ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & ef. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. & ef. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. & ef. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & ef. 4-28-10 thru 7-29-11; DFW 46-2011(Temp), f. & ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. & ef. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. & ef. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. & ef. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. & ef. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. & ef. 3-15-12, cert. ef. 3-18-12 thru 7-31-12

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

**Rule Caption:** Restructuring Use of Authorized Designees and Contact Persons Conducting Background Checks to Qualified Entity Designees.

**Adm. Order No.:** DHSD 2-2012(Temp)

**Filed with Sec. of State:** 2-27-2012

**Certified to be Effective:** 2-27-12 thru 8-24-12

**Notice Publication Date:**

**Rules Adopted:** 407-007-0215

**Rules Amended:** 407-007-0200, 407-007-0210, 407-007-0220, 407-007-0230, 407-007-0240, 407-007-0250, 407-007-0275, 407-007-0280, 407-007-0290, 407-007-0300, 407-007-0315, 407-007-0320, 407-007-0325, 407-007-0330, 407-007-0335, 407-007-0340, 407-007-0350, 407-007-0370

**Subject:** The Background Check Unit (BCU) is implementing the use of the Criminal Records Information Management System (CRIMS). To protect the security of the background check process, CRIMS is being implemented to use qualified entity designees (QEDs), with BCU making all preliminary fitness determinations requiring a weighing test and all final fitness determinations. Once CRIMS is implemented in full, ADs and CPs will no longer be authorized to conduct background checks. The definitions for the Department of Human Services' Criminal Records Check Rules for Providers (OAR 407-007-0200 to 407-007-0370) are being amended to align with ORS 443.004 and required changes made in other Department program administrative rules. Without immediate amendment of these rules, there would exist inconsistencies between Oregon statutes, program rules, and the criminal records check rules which jeopardize the integrity of the criminal records check process and the identification of who is required to be checked.

**Rules Coordinator:** Jennifer Bittel—(503) 947-5250

**407-007-0200**

**Purpose and Scope**

(1) The purpose of these rules, OAR 407-007-0200 to 407-007-0370, is to provide for the reasonable screening under ORS 181.534, 181.537, and 409.027 of subject individuals to determine if they have a history of criminal or abusive behavior such that they should not be allowed to work, volunteer, be employed, reside, or otherwise perform in positions covered by these rules.

(2) These rules apply to evaluating criminal records and potentially disqualifying conditions of a subject individual when conducting fitness

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determinations based upon such information. The fact that a subject individual is approved does not guarantee employment or placement. These rules do not apply to individuals subject to OAR 407-007-0000 to 407-007-0100.

(3) Providers for the Department of Human Services (Department) and the Oregon Health Authority (Authority) are subject to criminal and abuse checks. The Authority authorizes the Department to act on its behalf in carrying out criminal and abuse checks associated with the administration of programs or activities administered by the Authority. References in these rules to the Department or Authority shall be construed to be references to either or both agencies.

Stat. Auth.: ORS 181.534, 181.537, 183.459, 409.025, 409.027, 409.050, 410.020, 411.060, 411.122, 418.016, 418.640, 441.055, 443.730, 443.735 & 678.153

Stats. Implemented: ORS 181.534, 181.537, 183.459, 409.010, 409.025, 409.027, 411.060, 411.122 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; Renumbered from 410-007-0200, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0210

### Definitions

As used in OAR 407-007-0200 to 407-007-0370, unless the context of the rule requires otherwise, the following definitions apply:

(1) "Abuse" has the meaning given in the administrative rules promulgated by the Department or Authority corresponding to the setting in which the abuse was alleged or investigated.

(2) "Abuse check" means obtaining and reviewing abuse allegations, abuse investigation reports, and associated exhibits and documents for the purpose of determining whether a subject individual has a history as a perpetrator of potentially disqualifying abuse (a potentially disqualifying condition) as described in OAR 407-007-0290(11).

(3) "Abuse investigation report" means a written report completed after an investigation into suspected abuse and retained by the Department or the Authority pursuant to ORS 124.085, 419B.030, or 430.757, or a similar report filed in another state agency or by another state.

(4) "Appointing authority" means the individual designated by the qualified entity (QE) who is responsible for appointing QE designees. Examples include but are not limited to human resources staff with the authority to offer and terminate employment, business owners, a member of the board of directors, a director, or a program administrator.

(5) "Approved" means that a subject individual, following a final fitness determination, is fit to work, volunteer, be employed, or otherwise perform in the position listed on the background check request.

(6) "Approved with restrictions" means an approval in which some restriction is made including but not limited to the subject individual, the subject individual's environment, the type or number of clients for whom the subject individual may provide care, or the information to which the subject individual has access.

(7) "Authority" means the Oregon Health Authority.

(8) "Authorized designee (AD)" means an individual designated by the Department, the Authority, or an approved qualified entity authorized by the Department or Authority to receive and process background check requests from subject individuals and criminal records information from the Background Check Unit.

(9) "Background check" means a criminal records check and an abuse check under these rules.

(10) "Background Check Unit (BCU)" means the Background Check Unit performing background checks for the Department and the Authority.

(11) "Care" means the provision of care, treatment, education, training, instruction, supervision, placement services, recreation, or support to children, the elderly, or individuals with disabilities (see ORS 181.537).

(12) "Children, Adults and Families Division (CAF)" means the Department's Children, Adults and Families Division.

(13) "Client" means any individual who receives services, care, or funding for care through the Department or Authority.

(14) "Closed case" means a background check request that has been closed without a final fitness determination.

(15) "Contact person (CP)" means an individual who is designated by the Department, the Authority, or an approved qualified entity to receive and process background check requests from subject individuals, but who is not authorized to receive criminal records information or abuse investigation reports, associated exhibits, or documents.

(16) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal records information.

(b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information resources located in, or regarding, a state or jurisdiction outside Oregon.

(17) "Criminal Information Management System (CRIMS)" means the electronic records system used to process and maintain background check records under these rules.

(18) "Criminal offender information" means records, including fingerprints and photographs, received, compiled, and disseminated by OSP for purposes of identifying criminal offenders and alleged offenders and maintained as part of an individual's records of arrest, the nature and disposition of criminal charges, sentencing, confinement, and release, but does not include the retention by OSP of records of transfer of inmates between penal institutions or other correctional facilities. It also includes the OSP Computerized Criminal History System (see OAR 257-010-0015).

(19) "Denied" means, that a subject individual:

(a) Following a fitness determination including a weighing test, is not fit to work, volunteer, be employed, reside, or otherwise hold the position listed on the background check request.

(b) If determined to be a subject individual under OAR 407-007-0275, is not eligible to hold the position at or through the QE listed on the background check request due to a conviction for one or more crimes listed in OAR 407-007-0275.

(20) "Department" means the Department of Human Services.

(21) "Fitness determination" means the decision in a case that is not closed and includes:

(a) The decision regarding a background check request and preliminary review (a preliminary fitness determination); or

(b) The decision regarding a background check request, completed background check, including gathering other information as necessary, and a final review by an AD or BCU. (a final fitness determination).

(22) "Founded or substantiated" has the meaning given in the Department's or Authority's administrative rules corresponding to the setting in which the abuse was alleged or investigated.

(23) "Good cause" means a valid and sufficient reason for not complying with established time frames during the background check process or contested case hearing process that includes but is not limited to an explanation of circumstances beyond a subject individual's reasonable control.

(24) "Hearing representative" means a Department employee representing the Department in a contested case hearing.

(25) "Hired on a preliminary basis" means a condition in which a qualified entity allows a subject individual to work, volunteer, be trained, or reside in an environment following the submission of a completed background check request. Hired on a preliminary basis may also be called probationary status.

(26) "Office of Investigation and Training (OIT)" means the Office of Investigation and Training, a shared service of the Department and Authority.

(27) "Other criminal records information" means information obtained and used in the criminal records check process that is not criminal offender information from OSP. Other criminal records information includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.



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(28) "Position" means the position listed on the background check request which determines whether the individual is a subject individual under these or Department program rules.

(29) "Qualified entity (QE)" means a community mental health or developmental disability program, local health department, or an individual, business, or organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care, including a business or organization that licenses, certifies, or registers others to provide care (see ORS 181.537).

(30) "QE designee (QED)" means an individual appointed by the QE's appointing authority to handle background checks on behalf of the QE.

(31) "Subject individual (SI)" means an individual on whom the Department may conduct a criminal records check and an abuse check, and from whom the Department may require fingerprints for the purpose of conducting a national criminal records check.

(a) An SI includes any of the following:

(A) An individual who is licensed, certified, registered, or otherwise regulated or authorized for payment by the Department and who provides care.

(B) An employee, contractor, temporary worker, or volunteer who provides care, or has access to clients, client information, or client funds within any entity or agency licensed, certified, registered, or otherwise regulated by the Department.

(C) Any individual who is paid directly or indirectly with public funds who has or will have contact with recipients of:

(i) Services within an adult foster home (defined in ORS 443.705); or  
(ii) Services within a residential facility (defined in ORS 443.400).

(D) Any direct care staff secured by any residential care facility or assisted living facility through the services of a personnel services or staffing agency who works in the facility.

(E) Any direct care staff secured by any nursing facility through the services of a personnel services or staffing agency who works in the facility.

(F) Except as excluded in section (31)(b)(C) and (D) of this rule, an individual who lives in a facility that is licensed, certified, registered, or otherwise regulated by the Department to provide care. The position of this SI includes but is not limited to resident manager, household member, or boarder.

(G) An individual working or volunteering for a private licensed child caring agency or system of care contractor providing child welfare services pursuant to ORS chapter 418.

(H) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a personal care services provider, or an independent provider employed by a Department client who provides care to the client if the Department helps pay for the services.

(I) A child care provider and their employees reimbursed through the Department's child care program and other individuals in child care facilities that are exempt from certification or registration by the Child Care Division of the Oregon Employment Department (OED). This includes all individuals who reside in or who are frequent visitors to the residence or facility where the child care services are provided and who may have unsupervised access to the children (see OAR 461-165-0180).

(J) An appointing authority, AD, CPQED associated with any entity or agency licensed, certified, registered, otherwise regulated by the Department, or subject to these rules.

(K) An individual providing on the job certified nursing assistant classes to staff within a long term care facility.

(L) A student enrolled in a long term care facility nursing assistant training program for employment at the facility.

(M) Any individual serving as an owner, operator, or manager of a room and board facility pursuant to OAR chapter 411, division 68.

(N) An employee providing care to Department Seniors and People with Disabilities Division clients who works for an in-home care agency as defined by ORS 443.305 which has a contract with the Department Seniors and People with Disabilities Division.

(O) Any individual who is required to complete a criminal records check pursuant to other Department program rules or a contract with the Department or if the requirement is within the Department's statutory authority. Specific statutory authority or reference to these rules and the positions under the contract subject to a criminal records check must be specified in the contract. The exceptions in section (31)(b) do not apply to these SIs.

(b) An SI does not include:

(A) Any individual under 16 years of age.

(B) An individual receiving training in a Department-licensed or Department-certified QE as part of the required curriculum through any college, university, or other training program and who is not an employee in the QE in which training is provided. The individual may not be considered a volunteer under these rules. QE's must ensure that all students or interns have passed a substantially equivalent background check process through the training program or are:

(i) Actively supervised at all times as defined in OAR 407-007-0315; and

(ii) Not allowed to have unsupervised access to vulnerable individuals.

(C) Department clients or QE clients. The only circumstance in which the Department shall allow a check to be performed on a client pursuant to this paragraph is if the client falls within the definition of "subject individual" as listed in sections (31)(a)(A)-(E) and (31)(a)(G)-(N) of this rule, or if the facility is dually licensed for different populations of vulnerable individuals.

(D) Individuals working in child care facilities certified or registered by the OED.

(E) Individuals employed by a private business that provides services to clients and the general public and is not regulated by the Department.

(F) Individuals employed by a business that provides appliance or structural repair for clients and the general public, and who are temporarily providing these services in an environment regulated by the Department. The QE shall ensure active supervision of these individuals while on QE property and the QE may not allow unsupervised contact with QE clients or residents. This exclusion does not apply to a business that receives funds from the Department for care provided by an employee of the business.

(G) Individuals employed by a private business in which a client of the Department is working as part of a Department-sponsored employment service program. This exclusion does not apply to an employee of a business that receives funds from the Department for care provided by the employee.

(H) Employees and volunteers working in hospitals, ambulatory surgical centers, special inpatient care facilities, outpatient renal dialysis facilities, and freestanding birthing centers as defined in ORS 442.015.

(I) Volunteers, who are not under the direction and control of any entity licensed, certified, registered, or otherwise regulated by the Department.

(J) Individuals employed or volunteering in a Medicare-certified health care business which is not subject to licensure or certification by the State of Oregon.

(K) Individuals working in restaurants or at public swimming pools.

(L) Hemodialysis technicians.

(M) Employees, contractors, temporary workers, or volunteers who provide care, or have access to clients, client information, or client funds of an alcohol and drug program that is certified, licensed, or approved by the Department's Addictions and Mental Health Division to provide prevention, evaluation, or treatment services. This exclusion does not apply to programs specifically required by other Department rules to conduct criminal records checks in accordance with these rules.

(N) Individuals working for a transit service provider which conducts background checks pursuant to ORS 267.237.

(O) Individuals being certified by the Department as interpreters pursuant to ORS 409.623. This exclusion does not apply to Department-certified interpreters when being considered for a specific position.

(P) Provider group categories that were authorized for payment by the Department for care if the provider group categories were not covered by a Department criminal record check process prior to 2004.

(Q) Emergency medical technicians and first responders certified by the Department's Emergency Medical Services and Trauma Systems program.

(R) Employees, contractors, temporary workers, or volunteers of continuing care retirement communities registered under OAR chapter 411, division 67.

(32) "Weighing test" means a process in which BCU considers available information to make a fitness determination when an SI has potential disqualifying convictions or conditions.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0210, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 8-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

# ADMINISTRATIVE RULES

## 407-007-0215

### Implementation of CRIMS to QEs

(1) QEs shall use CRIMS to input background check requests through CRIMS once the QE staff are approved to use CRIMS. Approved QE users of CRIMS are called QEDs and the QEs may no longer have ADs or CPs.

(2) All QEs shall have QEDs no later than July 1, 2012. ADs may continue to make final fitness determinations under OAR 407-007-0320 until they are approved as QEDs under this rule.

(3) Once a QE has QEDs, the BCU shall make all preliminary fitness determinations requiring a weighing test and all final fitness determinations for the QE.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0220

### Background Check Required

(1) BCU 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 is necessary, OSP shall provide BCU results of national criminal records checks conducted pursuant to ORS 181.534, including fingerprint identification, through the FBI.

(3) BCU shall conduct abuse checks using available abuse investigation reports and associated documents.

(4) An SI is required to have a background check in the following circumstances:

(a) An individual who becomes an SI on or after the effective date of these rules.

(b) The SI changes employers to a different QE.

(c) Except as provided in section (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, the Authority, or the QE have reason to believe that a background check is justified.

(f) A background check is required by federal or state laws or regulations, other Department or Authority administrative rules, or by contract with the Department or Authority.

(g) When BCU or QE 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, Department program rules, or Authority program rules require an SI to report any new arrests, charges, or convictions, the QE or BCU may determine if 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, personal support worker, personal care services provider, Lifespan Respite or other respite care provider, or an independent provider paid with Department or Authority funds who changes or adds clients within the same QE, Department, or Authority district, and the prior, documented criminal records check or abuse check conducted within the previous 24 months through the Department or Authority has been approved without restrictions.

(b) The SI is a child care provider as described in OAR 461-165-0180 who has been approved without restrictions and who changes or adds clients.

(c) The SI remains with a QE in the same position listed on the background check request while the QE merges with or is sold to another QE, or changes names. The changes may be noted in documentation attached to the notice of fitness determination but do not warrant a background check.

(7) A QED 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. 10-12-11 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

## 407-007-0230

### Qualified Entity

(1) A QE and its appointing authorities must be approved in writing by the Department or Authority pursuant to these rules in order to appoint QEDs. Unless specifically indicated otherwise in these rules, all QEs and appointing authorities discussed in these rules are considered approved.

(2) Except as provided in section (3) of this rule, all QEs shall ensure the completion of background checks for SIs who are the QE's employees, volunteers, or other SIs under the direction or control of the QE.

(3) The QE's appointing authorities shall appoint QEDs as needed to remain in compliance with these rules and shall communicate any changes to BCU. If for any reason a QE no longer has a QED, the QE or appointing authority shall:

(a) Ensure the confidentiality and security of background check records by immediately providing all background check related documents to BCU or to another QE as determined by BCU.

(b) I ensure that new QEDs are appointed within 30 calendar days from the date of no longer having QEDs.

(4) BCU shall provide QEs with periodic training and on-going technical assistance.

(5) Any decisions made by BCU in regard to these rules are final and may not be overturned by any QE.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 85-2004(Temp), f. & cert. ef. 11-4-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0230, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0240

### QE Designees

(1) All requirements in this section must be completed within 90 calendar days. To receive Department approval, all QEDs must meet the following requirements:

(a) QEDs must be one of the following:

(A) Employed by the agency for which they will handle criminal records check information.

(B) Contracted with the QE to perform as a QED.

(C) Employed by another similar QE or a parent QE (e.g., assisted living facility QED helping another assisted living facility).

(b) QEDs must have work-related access to the internet and e-mail for the processing of background checks and entering background check requests into CRIMS.

(c) QEDs must complete a certification program and successfully pass any BCU required testing.

(d) An appointing authority must appoint a QED in writing on a form provided by BCU. The applicant QED shall complete and submit the form to BCU for processing and registration.

(e) BCU shall conduct an abuse check, an Oregon criminal records check, a national criminal records check, and if necessary, a state-specific criminal records check. The QED must have:

(A) No conviction for a potentially disqualifying permanent review crime;

(B) No convictions for any other crime in the past 15 years;

(C) No potentially disqualifying conditions; and

(D) With consideration of OAR 407-007-0290(11), no determination that the QED was found responsible for potentially disqualifying abuse of a vulnerable person.

(2) BCU shall deny the individual's status as a QED if the individual does not meet the requirements. Once denied, the individual may no longer perform the duties of a QED. There are no exceptions for individuals who fail to meet the QED requirements.

(3) Approved QEDs shall have the following responsibilities:

(a) Demonstrate understanding of and adherence to these rules in all actions pertaining to the background check process.

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(b) Act as the Department's designee in any action pursuant to these rules and the background check process. The QED may not advocate for an SI during any part of the background check process, including contesting a fitness determination.

(c) Ensure that adequate measures are taken to protect the confidentiality of the records and documents required by these rules. A QED may not view criminal offender information, abuse investigation reports and associated abuse investigation exhibits or documents as part of the background check process.

(d) The QED shall verify the SI's identity or ensure that the same verification requirements are understood by each individual responsible for verifying identity.

(A) If conducting a background check on the SI for the first time or at rehire of the SI, the QED shall verify identity by using methods which include but are not limited to reviewing the SI's current and valid government-issued photo identification and confirming the information on the photo identification with the SI, the information written on the background check request, and the information written on the fingerprint card if a national criminal records check is conducted.

(B) If a QED is verifying the identity of an SI who is being rechecked, review of government-issued photo identification may not be necessary, but the QED shall verify the SI's name, current address, and any aliases or previous names.

(e) Ensure that an SI is not permitted to work, volunteer, reside, or otherwise hold any position covered by these rules before the completion of a preliminary fitness determination and submission of the background check request to BCU along with a fingerprint card if the SI discloses out-of-state criminal records or residency.

(f) Ensure that when an SI is hired on a preliminary basis, the need for active supervision is understood by each individual responsible for providing active supervision.

(g) Ensure that if an SI is removed from working on a preliminary basis, the SI is immediately removed from the position and remains removed until the completion of a final fitness determination or unless BCU reinstates hired on a preliminary basis.

(h) Notify BCU of any changes regarding an SI who still has a background check being processed, including but not limited to address or employment status changes.

(i) Monitor the status of background check applications and investigate any delays in processing.

(j) Ensure that documentation required by these rules is processed and maintained in accordance with these rules.

(k) Notify BCU immediately if arrested, charged, or convicted of any crime, or if found responsible for abuse by the Department.

(4) A QED may make preliminary fitness determinations with the following limitations:

(a) The QED may review the SI's completed background check request to ensure completeness of the form, verify identity, and to determine if the SI has any disclosed criminal history.

(b) If the SI indicates any criminal history occurring within the five year period from the date the SI manually or electronically signed the background check request:

(A) The QED may allow the SI to be hired on a preliminary basis if the criminal history has the outcome of "dismissed," "no complaint filed" or "expunged."

(B) The QED may not allow the SI to be hired on a preliminary basis if the history has an outcome of "pending outcome," "diversion or conditional discharge," "convicted," "on probation," "juvenile adjudication," or "unknown."

(c) The QED shall submit the background check request to BCU for processing. If the SI has adverse criminal history within the five year period from the date the SI manually or electronically signed the background check request, the QED may request in writing that BCU make a preliminary fitness determination requiring a weighing test if there is a documented immediate staffing need.

(5) BCU may change QED status which include but are not limited to the following circumstances:

(a) BCU shall inactivate QED status when the position with the QE ends or when the QE terminates the appointment. The QE shall notify BCU immediately upon the end of the position or termination of the appointment.

(b) BCU or QE shall suspend or revoke the appointment if a QED fails to comply with responsibilities or fails to continue to meet the requirements for QED status, as applicable. After suspending or revoking the

appointment, the QE must immediately notify the BCU in writing. If BCU takes the action, it must immediately notify the QE in writing.

(c) BCU shall revoke QED status if the QED fails to recertify.

(6) Any changes to QED status are not subject to appeal rights unless the denial or termination results in immediate loss of employment or position. QEDs losing employment or position have the same hearing rights as other SIs under these rules.

(7) If a QED leaves employment with the QE for any reason, BCU shall inactivate QED status. If the individual finds employment with another QE, a new appointment, application, and registration must be completed.

(8) BCU shall review and recertify appointments of QEDs, up to and including a new application, background check, and additional training, under the following circumstances:

(a) Every three years; or

(b) Any time BCU has reason to believe the individual no longer meets the QED requirements including but not limited to indication of criminal or abusive behavior or indication of noncompliance with these rules.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0240, DHS 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHS 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHS 2-2009, f. & cert. ef. 4-1-09; DHS 7-2009, f. & cert. ef. 10-1-09; DHS 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHS 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHS 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHS 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHS 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHS 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0250

### Background Check Process

(1) A QE and SI shall use the background check request or CRIMS to request a background check which shall include the following information:

(a) Name and aliases;

(b) Date of birth;

(c) Address and recent residency information;

(d) Driver license or identification card information;

(e) Position for which the SI is completing the background check request;

(f) Disclosure of all criminal history;

(A) The SI must disclose all arrests, charges, and convictions regardless of outcome or when the arrests, charges, or convictions occurred.

(B) The disclosed crimes and the dates must reasonably match the SI's criminal offender information and other criminal records information, as determined by the Department.

(g) Disclosure of other information to be considered in the event of a weighing test.

(2) The background check request shall include the following notices:

(a) A notice regarding disclosure of Social Security number indicating that:

(A) The SI's disclosure is voluntary; and

(B) The Department requests the Social Security number solely for the purpose of positively identifying the SI during the criminal records check process.

(b) A notice that the SI may be subject to fingerprinting as part of a criminal records check.

(c) A notice that BCU shall conduct an abuse check on the SI. The SI is not required to disclose any history of potentially disqualifying abuse, but may provide BCU with mitigating or other information.

(3) BCU shall review each background check request received for completeness and timeliness. If BCU rejects the background check request, the QED shall immediately remove the SI from the position. If the QE still plans to hire the SI, the QED shall resolve the reasons for rejection and re-submit the form.

(4) Using identifying information submitted on the background check request, BCU shall conduct an abuse check to determine if the subject individual has potentially disqualifying abuse.

(5) BCU shall conduct an Oregon criminal records check after a completed background check request is received. Using information submitted on the background check request, BCU may obtain criminal offender information from LEDS and may request other criminal records information as needed.

(6) BCU shall handle criminal offender information in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 257, division 15).

(7) The BCU may conduct a fingerprint-based national criminal records check.

(a) A fingerprint-based national criminal records check may be completed under any of the following circumstances:



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(A) The SI has been outside Oregon:

(i) For 60 or more consecutive days during the previous 18 months and the SI is a child care provider or other individual included in OAR 461-165-0180.

(ii) For 60 or more consecutive days during the previous five years for all other SIs.

(B) The LEDS check, SI disclosures, or any other criminal records information obtained by BCU indicate there may be criminal records outside of Oregon.

(C) The SI has an out-of-state driver license or out-of-state identification card.

(D) The Department has reason to question the identity or criminal record of the SI.

(E) A fingerprint-based criminal records check is required by federal or state laws or regulations, other Department or Authority rules, or by contract with the Department or Authority.

(F) The SI is a QED.

(G) BCU has reason to believe that fingerprints are needed to make a final fitness determination.

(b) BCU must receive consent from the parent or guardian to obtain fingerprints from an SI under 18 years of age.

(c) The SI shall complete and submit a fingerprint card when requested by BCU. BCU shall send the request to the QE and the QED shall notify the SI.

(A) The SI shall use a fingerprint card provided by BCU. BCU shall give the SI notice regarding the Social Security number as set forth in OAR 407-007-0250(2)(a).

(B) The SI shall submit the fingerprint card to BCU within 21 calendar days of the request.

(i) BCU shall close the application, making it a closed case, if the fingerprint card is not received within 21 calendar days. When a case is closed, the SI may not be allowed to work, volunteer, be employed, or otherwise perform in positions covered by these rules, and shall be immediately terminated and removed from the position.

(ii) BCU may extend the time allowed for good cause provided by the SI or QE.

(C) BCU may require new fingerprint cards if previous cards are rejected by OSP or the FBI.

(8) BCU may also conduct a state-specific criminal records check instead of or in addition to a national criminal records check. Reasons for a state-specific criminal records check include but are not limited to:

(a) When BCU has reason to believe that out-of-state criminal records may exist and a national criminal records check may not be accomplished.

(b) When BCU has been unable to complete a national criminal records check due to illegible fingerprints.

(c) When the national criminal records check results show incomplete information about charges or criminal records without final disposition.

(d) When there is indication of residency or criminal records in a state that does not submit all criminal records to the FBI.

(e) When, based on available information, BCU has reason to believe that a state-specific criminal records check is necessary.

(9) In order to complete a background check and fitness determination, BCU may require additional information from the SI including but not limited to additional criminal, judicial, other background information, or proof of identity.

(10) BCU may conduct a background check in situations of imminent danger.

(a) If the Department or Authority determines there is indication of criminal or abusive behavior that could more likely than not pose an immediate risk to vulnerable individuals, BCU shall conduct a new criminal records check on an SI without the completion of a new background check request.

(b) If BCU determines that a fitness determination based on the new background check would be adverse to the SI, BCU shall provide the SI, if available, the opportunity to disclose criminal records, potentially disqualifying conditions, and other information as indicated in OAR 407-007-0300 before completion of the fitness determination.

(11) All criminal records checks conducted under this rule shall be documented.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0250, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0275

### Disqualifying Crimes Under ORS 443.004

(1) This section applies to subject individuals defined under OAR 407-007-0210(31)(a)(C), 407-007-0210(31)(a)(D), 407-007-0210(31)(a)(H), 407-007-0210(31)(a)(N), or as specified under relevant Department program administrative rules.

(a) Individuals who are employees and hired prior to July 28, 2009 are exempt from section (3) of this rule provided that the employee remains in the same position working for the same employer after July 28, 2009. This exemption is not applicable to licensees.

(b) 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) In the last 10 years of a crime involving the delivery or manufacture of a controlled substance; or

(B) Of any of the following crimes:

(i) ORS 163.095, Aggravated murder

(ii) ORS 163.115, Murder

(iii) ORS 163.118, Manslaughter I

(iv) ORS 163.125, Manslaughter II

(v) ORS 163.145, Criminally negligent homicide

(vi) ORS 163.149, Aggravated vehicular homicide

(vii) ORS 163.165, Assault III

(viii) ORS 163.175, Assault II

(ix) ORS 163.185, Assault I

(x) ORS 163.187, Strangulation

(xi) ORS 163.200, Criminal mistreatment II

(xii) ORS 163.205, Criminal mistreatment I

(xiii) ORS 163.225, Kidnapping II

(xiv) ORS 163.235, Kidnapping I

(xv) ORS 163.263, Subjecting another person to involuntary servitude

## II

(xvi) ORS 163.264, Subjecting another person to involuntary servitude I

(xvii) ORS 163.266, Trafficking in persons

(xviii) ORS 163.275, Coercion

(xix) ORS 163.355, Rape III

(xx) ORS 163.365, Rape II

(xxi) ORS 163.375, Rape I

(xxii) ORS 163.385, Sodomy III

(xxiii) ORS 163.395, Sodomy II

(xxiv) ORS 163.405, Sodomy I

(xxv) ORS 163.408, Unlawful sexual penetration II

(xxvi) ORS 163.411, Unlawful sexual penetration I

(xxvii) ORS 163.415, Sexual abuse III

(xxviii) ORS 163.425, Sexual abuse II

(xxix) ORS 163.427, Sexual abuse I

(xxx) 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

(xxxi) 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

(xxxii) ORS 163.435, Contributing to the sexual delinquency of a minor

(xxxiii) ORS 163.445, Sexual misconduct, if the offender is at least 18 years of age

(xxxiv) ORS 163.465, Public indecency

(xxxv) ORS 163.467, Private indecency

(xxxvi) ORS 163.525, Incest with a child victim

(xxxvii) ORS 163.535, Abandonment of a child

(xxxviii) ORS 163.537, Buying or selling a person under 18 years of age

(xxxix) ORS 163.670, Using a child in display of sexually explicit conduct

(xL) ORS 163.680, Paying for viewing a child's sexually explicit conduct

(xLi) ORS 163.684, Encouraging child sexual abuse I

(xLii) ORS 163.686, Encouraging child sexual abuse II

(xLiii) ORS 163.687, Encouraging child sexual abuse III

(xLiv) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I

(xLv) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II

(xLvi) ORS 163.700, Invasion of personal privacy

(xLvii) ORS 164.055, Theft I

# ADMINISTRATIVE RULES

(xLviii) ORS 164.057, Aggravated theft I  
(xLix) ORS 164.098, Organized retail theft  
(L) ORS 164.125, Theft of services, if charged as a felony  
(Li) ORS 164.215, Burglary II  
(Lii) ORS 164.225, Burglary I  
(Liii) ORS 164.325, Arson I  
(Liv) ORS 164.377, Computer crime, if charged with a felony  
(Lv) ORS 164.405, Robbery II  
(Lvi) ORS 164.415, Robbery I  
(Lvii) ORS 165.022, Criminal possession of a forged instrument I  
(Lviii) ORS 165.032, Criminal possession of a forgery device  
(Lix) ORS 165.800, Identity theft  
(Lx) ORS 165.803, Aggravated identity theft  
(Lxi) ORS 167.012, Promoting prostitution  
(Lxii) ORS 167.017, Compelling prostitution  
(Lxiii) ORS 167.054, Furnishing sexually explicit material to a child  
(Lxiv) ORS 167.057, Luring a minor  
(Lxv) 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 (1)(b)(B) of this rule; or

(D) Of a crime in another jurisdiction that is substantially equivalent to a crime described in section (1)(b)(B) of this rule.

(2) This section applies to subject individuals who are mental health or substance abuse treatment providers 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 (2)(a) of this rule; or

(3) BCU may conduct a weighing test under ORS 181.534 on applicable individuals convicted of any crime in section (1) or (2) of this rule. However, the preclusive effect of ORS 443.004 shall outweigh all other factors described in OAR 407-007-0300.

Stat. Auth.: ORS 181.534 & 409.050

Stats. Implemented: ORS 181.534 & 443.004

Hist.: DHS 3-2010(Temp), f. & cert. ef. 5-5-10 thru 10-31-10; DHS 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHS 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0280

### Potentially Disqualifying Convictions

A conviction of any of the following crimes is potentially disqualifying. Offenses or convictions that are classified as less than a misdemeanor, such as violations or infractions, are not potentially disqualifying (see ORS 161.505 to 161.565).

(1) The crimes listed in this section are permanent review crimes which require that a fitness determination be completed regardless of date of conviction.

(a) ORS 162.155, Escape II

(b) ORS 162.165, Escape I

(c) ORS 162.285, Tampering with a witness

(d) ORS 162.325, Hindering prosecution

(e) ORS 163.005, Criminal homicide

(f) ORS 163.095, Aggravated murder

(g) ORS 163.115, Murder

(h) ORS 163.118, Manslaughter I

(i) ORS 163.125, Manslaughter II

(j) ORS 163.145, Criminally negligent homicide

(k) ORS 163.149, Aggravated vehicular homicide

(L) ORS 163.160, Assault IV

(m) ORS 163.165, Assault III

(n) ORS 163.175, Assault II

(o) ORS 163.185, Assault I

(p) ORS 163.187, Strangulation

(q) ORS 163.190, Menacing

(r) ORS 163.200, Criminal mistreatment II

(s) ORS 163.205, Criminal mistreatment I

(t) ORS 163.207, Female genital mutilation

(u) ORS 163.208, Assault of public safety officer

(v) ORS 163.213, Unlawful use of an electrical stun gun, tear gas, or mace I

(w) ORS 163.225, Kidnapping II

(x) ORS 163.235, Kidnapping I

(y) ORS 163.245, Custodial interference II

(z) ORS 163.257, Custodial interference I

(aa) ORS 163.263, Subjecting another person to involuntary servitude in the second degree

(bb) ORS 163.264, Subjecting another person to involuntary servitude in the first degree

(cc) ORS 163.266, Trafficking in persons

(dd) ORS 163.275, Coercion

(ee) ORS 163.355, Rape III

(ff) ORS 163.365, Rape II

(gg) ORS 163.375, Rape I

(hh) ORS 163.385, Sodomy III

(ii) ORS 163.395, Sodomy II

(jj) ORS 163.405, Sodomy I

(kk) ORS 163.408, Unlawful sexual penetration II

(LL) ORS 163.411, Unlawful sexual penetration I

(mm) ORS 163.415, Sexual abuse III

(nn) ORS 163.425, Sexual abuse II

(oo) ORS 163.427, Sexual abuse I

(pp) ORS 163.432, Online sexual corruption of a child in the second degree

(qq) ORS 163.433, Online sexual corruption of a child in the first degree

(rr) ORS 163.435, Contributing to the sexual delinquency of a minor

(ss) ORS 163.445, Sexual misconduct

(tt) ORS 163.452, Custodial sexual misconduct I

(uu) ORS 163.454, Custodial sexual misconduct II

(vv) ORS 163.465, Public indecency

(ww) ORS 163.467, Private indecency

(xx) ORS 163.476, Unlawfully being in a location where children regularly congregate

(yy) ORS 163.479, Unlawful contact with a child

(zz) ORS 163.515, Bigamy

(aaa) ORS 163.525, Incest

(bbb) ORS 163.535, Abandonment of a child

(ccc) ORS 163.537, Buying or selling a person under 18 years of age

(ddd) ORS 163.545, Child neglect II

(eee) ORS 163.547, Child neglect I

(fff) ORS 163.555, Criminal nonsupport

(ggg) ORS 163.575, Endangering the welfare of a minor

(hhh) ORS 163.670, Using child in display of sexually explicit conduct

(iii) ORS 163.680, Paying for viewing a child's sexually explicit conduct

(jjj) ORS 163.684, Encouraging child sexual abuse I

(kkk) ORS 163.686, Encouraging child sexual abuse II

(LLL) ORS 163.687, Encouraging child sexual abuse III

(mmm) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I

(nnn) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II

(ooo) ORS 163.693, Failure to report child pornography

(ppp) ORS 163.700, Invasion of personal privacy

(qqq) ORS 163.732, Stalking

(rrr) ORS 163.750, Violating court's stalking protective order

(sss) ORS 164.055, Theft I

(ttt) ORS 164.057, Aggravated theft I

(uuu) ORS 164.075, Theft by extortion

(vvv) ORS 164.085, Theft by deception

(www) ORS 164.098, Organized retail theft

(xxx) ORS 164.125, Theft of services

(yyy) ORS 164.135, Unauthorized use of a vehicle

(zzz) ORS 164.170, Laundering a monetary instrument

(aaaa) ORS 164.215, Burglary II

(bbbb) ORS 164.225, Burglary I

(cccc) ORS 164.315, Arson II

(dddd) ORS 164.325, Arson I

(eeee) ORS 164.365, Criminal mischief I

(ffff) ORS 164.377, Computer crime

(gggg) ORS 164.395, Robbery III

(hhhh) ORS 164.405, Robbery II

# ADMINISTRATIVE RULES

- (iiii) ORS 164.415, Robbery I  
(jjjj) ORS 165.013, Forgery I  
(kkkk) ORS 165.022, Criminal possession of a forged instrument I  
(LLLL) ORS 165.032, Criminal possession of a forgery device  
(mmmm) ORS 165.055, Fraudulent use of a credit card  
(nnnn) ORS 165.065, Negotiating a bad check  
(oooo) ORS 165.581, Cellular counterfeiting I  
(pppp) ORS 165.800, Identity theft  
(qqqq) ORS 165.803, Aggravated identity theft  
(rrrr) ORS 165.810, Unlawful possession of a personal identification device  
(ssss) ORS 166.005, Treason  
(tttt) ORS 166.070 Aggravated harassment  
(uuuu) ORS 166.085, Abuse of corpse II  
(vvvv) ORS 166.087, Abuse of corpse I  
(wwww) ORS 166.155, Intimidation II  
(xxxx) ORS 166.165, Intimidation I  
(yyyy) ORS 166.220, Unlawful use of weapon  
(zzzz) ORS 166.270, Possession of weapons by certain felons  
(aaaa) ORS 166.272, Unlawful possession of machine guns, certain short-barreled firearms and firearm silencers  
(bbbb) ORS 166.275, Possession of weapons by inmates of institutions  
(cccc) ORS 166.370, Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school  
(dddd) ORS 166.382, Possession of destructive device prohibited  
(eeee) ORS 166.384, Unlawful manufacture of destructive device  
(ffff) ORS 166.429, Firearms used in felony  
(gggg) ORS 166.450 Obliteration or change of identification number on firearms  
(hhhh) ORS 166.720, Racketeering activity unlawful  
(iiii) ORS 167.012, Promoting prostitution  
(jjjj) ORS 167.017, Compelling prostitution  
(kkkk) ORS 167.054, Furnishing sexually explicit material to a child  
(LLLL) ORS 167.057, Luring a minor  
(mmmm) ORS 167.062, Sadomasochistic abuse or sexual conduct in live show  
(nnnn) ORS 167.075, Exhibiting an obscene performance to a minor  
(oooo) ORS 167.080, Displaying obscene materials to minors  
(pppp) ORS 167.212, Tampering with drug records  
(qqqq) ORS 167.262, Adult using minor in commission of controlled substance offense  
(rrrr) ORS 167.315, Animal abuse II  
(ssss) ORS 167.320, Animal abuse I  
(tttt) ORS 167.322, Aggravated animal abuse I  
(uuuu) ORS 167.333, Sexual assault of animal  
(vvvv) ORS 167.339, Assaulting law enforcement animal  
(wwww) ORS 181.594, Sex crimes including transporting child pornography into the state  
(xxxx) ORS 181.599, Failure to report as sex offender  
(yyyy) ORS 433.010, Spreading disease (willfully) prohibited  
(zzzz) ORS 475.525, Sale of drug paraphernalia prohibited  
(aaaa) ORS 475.805, Providing hypodermic device to minor prohibited  
(bbbb) ORS 475.840, Prohibited acts generally (regarding drug crimes formerly ORS 475.992)  
(cccc) ORS 475.846, Unlawful manufacture of heroin  
(dddd) ORS 475.848, Unlawful manufacture of heroin within 1,000 feet of school  
(eeee) ORS 475.850, Unlawful delivery of heroin  
(ffff) ORS 475.852, Unlawful delivery of heroin within 1,000 feet of school  
(gggg) ORS 475.854, Unlawful possession of heroin  
(hhhh) ORS 475.856, Unlawful manufacture of marijuana  
(iiii) ORS 475.858, Unlawful manufacture of marijuana within 1,000 feet of school  
(jjjj) ORS 475.860, Unlawful delivery of marijuana  
(kkkk) ORS 475.862, Unlawful delivery of marijuana within 1,000 feet of school  
(LLLL) ORS 475.864, Unlawful possession of marijuana  
(mmmm) ORS 475.866, Unlawful manufacture of 3,4-methylenedioxymethamphetamine  
(nnnn) ORS 475.868, Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school  
(oooo) ORS 475.870, Unlawful delivery of 3,4-methylenedioxymethamphetamine  
(pppp) ORS 475.872, Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school  
(qqqq) ORS 475.874, Unlawful possession of 3,4-methylenedioxymethamphetamine  
(rrrr) ORS 475.876, Unlawful manufacture of cocaine  
(ssss) ORS 475.878, Unlawful manufacture of cocaine within 1,000 feet of school  
(tttt) ORS 475.880, Unlawful delivery of cocaine  
(uuuu) ORS 475.882, Unlawful delivery of cocaine within 1,000 feet of school  
(vvvv) ORS 475.884, Unlawful possession of cocaine  
(wwww) ORS 475.886, Unlawful manufacture of methamphetamine  
(xxxx) ORS 475.888, Unlawful manufacture of methamphetamine within 1,000 feet of school  
(yyyy) ORS 475.890, Unlawful delivery of methamphetamine  
(zzzz) ORS 475.892, Unlawful delivery of methamphetamine within 1,000 feet of school  
(aaaa) ORS 475.894, Unlawful possession of methamphetamine  
(bbbb) ORS 475.904, Unlawful delivery of controlled substance within 1,000 feet of school  
(cccc) ORS 475.906, Penalties for distribution to minors  
(dddd) ORS 475.908, Causing another person to ingest a controlled substance  
(eeee) ORS 475.910, Application of controlled substance to the body of another person  
(ffff) ORS 475.914, Prohibited acts for registrants (with the Oregon State Board of Pharmacy)  
(gggg) ORS 475.967, Possession of precursor substance with intent to manufacture controlled substance  
(hhhh) ORS 475.990, Commercial drug offense  
(iiii) ORS 475.992 Prohibited acts generally (regarding drug crimes; renumbered to ORS 475.840 in 2005)  
(jjjj) ORS 677.080, Prohibited acts (regarding the practice of medicine)  
(kkkk) ORS 685.990, Penalties (pertaining to naturopathic medicine)  
(LLLL) ORS 689.527 Prohibited practices; rules (pertaining to pharmacy technicians and practitioners)  
(mmmm) Any federal crime  
(nnnn) Any U.S. military crime  
(oooo) Any unclassified felony defined in Oregon Revised Statutes not listed in this rule  
(pppp) Any other felony in Oregon Revised Statutes not listed in this rule that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by BCU.  
(qqqq) Any felony in a jurisdiction outside Oregon that is not the substantial equivalent of any of the Oregon crimes listed in this section but that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by BCU.  
(rrrr) Any crime of attempt, solicitation, or conspiracy to commit a crime listed in this section pursuant to ORS 161.405, 161.435, or 161.450, including any crime based on criminal liability for conduct of another pursuant to ORS 161.155  
(ssss) Any crime in any other jurisdiction that is the substantial equivalent of any of the Oregon crimes listed in section (1) of this rule, as determined by BCU.  
(tttt) Any crime that is no longer codified in Oregon or other jurisdiction but that is the substantial equivalent of any of the crimes listed in section (1) of this rule, as determined by BCU.  
(2) The crimes listed in this section are ten-year review crimes which require that a fitness determination be completed if the date of conviction is within ten years of the date the background check request was manually or electronically signed by the SI or the date BCU conducted a criminal records check due to imminent risk.  
(a) ORS 033.045, Contempt of court  
(b) ORS 109.311, Prohibited fees-adoption  
(c) ORS 133.076, Failure to appear on criminal citation  
(d) ORS 133.310(3), Violation of restraining order  
(e) ORS 135.290, Punishment by contempt of court (violation of release agreement)  
(f) ORS 162.015, Bribe giving  
(g) ORS 162.025, Bribe receiving



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- (h) ORS 162.065, Perjury
- (i) ORS 162.075, False swearing
- (j) ORS 162.117, Public investment fraud
- (k) ORS 162.145, Escape III
- (L) ORS 162.175, Unauthorized departure
- (m) ORS 162.185, Supplying contraband
- (n) ORS 162.195, Failure to appear II
- (o) ORS 162.205, Failure to appear I
- (p) ORS 162.247, Interfering with a peace officer
- (q) ORS 162.257, Interfering with a firefighter or emergency medical technician
- (r) ORS 162.265, Bribing a witness
- (s) ORS 162.275, Bribe receiving by a witness
- (t) ORS 162.295, Tampering with physical evidence
- (u) ORS 162.305, Tampering with public records
- (v) ORS 162.315, Resisting arrest
- (w) ORS 162.335, Compounding
- (x) ORS 162.355, Simulating legal process
- (y) ORS 162.365, Criminal impersonation
- (z) ORS 162.367, Criminal impersonation of peace officer
- (aa) ORS 162.369, Possession of false law enforcement identification card
- (bb) ORS 162.375, Initiating a false report
- (cc) ORS 162.385, Giving false information to police officer for a citation
- (dd) ORS 162.405, Official misconduct II
- (ee) ORS 162.415, Official misconduct I
- (ff) ORS 162.425, Misuse of confidential information
- (gg) ORS 163.195, Recklessly endangering another person
- (hh) ORS 163.196, Aggravated driving while suspended or revoked
- (ii) ORS 163.212, Unlawful use of an electrical stun gun, tear gas, or mace II
- (jj) ORS 164.043, Theft III
- (kk) ORS 164.045, Theft II
- (LL) ORS 164.095, Theft by receiving
- (mm) ORS 164.138, Criminal possession of a rented or leased motor vehicle
- (nn) ORS 164.140, Criminal possession of rented or leased personal property
- (oo) ORS 164.162, Mail theft or receipt of stolen mail
- (pp) ORS 164.235, Possession of a burglary tool or theft device
- (qq) ORS 164.255, Criminal trespass I
- (rr) ORS 164.265, Criminal trespass while in possession of firearm
- (ss) ORS 164.272, Unlawful entry into motor vehicle
- (tt) ORS 164.354, Criminal mischief II
- (uu) ORS 165.007, Forgery II
- (vv) ORS 165.017, Criminal possession of a forged instrument II
- (ww) ORS 165.037, Criminal simulation
- (xx) ORS 165.042, Fraudulently obtaining a signature
- (yy) ORS 165.070, Possessing fraudulent communications device
- (zz) ORS 165.074, Unlawful factoring of credit card transaction
- (aaa) ORS 165.080, Falsifying business records
- (bbb) ORS 165.085, Sports bribery
- (ccc) ORS 165.090, Sports bribe receiving
- (ddd) ORS 165.095, Misapplication of entrusted property
- (eee) ORS 165.100, Issuing a false financial statement
- (fff) ORS 165.102, Obtaining execution of documents by deception
- (ggg) ORS 165.540, Obtaining contents of communication
- (hhh) ORS 165.543, Interception of communications
- (iii) ORS 165.570, Improper use of 9-1-1 emergency reporting system
- (jjj) ORS 165.572, Interference with making a report
- (kkk) ORS 165.577, Cellular counterfeiting III
- (LLL) ORS 165.579, Cellular counterfeiting II
- (mmm) ORS 165.692, Making false claim for health care payment
- (nnn) ORS 166.015, Riot
- (ooo) ORS 166.023, Disorderly conduct I
- (ppp) ORS 166.025, Disorderly conduct II
- (qqq) ORS 166.065, Harassment
- (rrr) ORS 166.076, Abuse of a memorial to the dead
- (sss) ORS 166.090, Telephonic harassment
- (ttt) ORS 166.116, Interfering with public transportation
- (uuu) ORS 166.180, Negligently wounding another
- (vvv) ORS 166.190, Pointing firearm at another
- (www) ORS 166.240, Carrying of concealed weapon
- (xxx) ORS 166.250, Unlawful possession of firearms
- (yyy) ORS 166.470, Limitations and conditions for sales of firearms
- (zzz) ORS 166.480, Sale or gift of explosives to children
- (aaaa) ORS 166.649, Throwing an object off an overpass II
- (bbbb) ORS 166.651, Throwing an object off an overpass I
- (cccc) ORS 166.660, Unlawful paramilitary activity
- (dddd) ORS 167.007, Prostitution
- (eeee) ORS 167.090, Publicly displaying nudity or sex for advertising purposes
- (ffff) ORS 167.122, Unlawful gambling in the second degree
- (gggg) ORS 167.127, Unlawful gambling in the first degree
- (hhhh) ORS 167.167, Cheating
- (iiii) ORS 167.222, Frequenting a place where controlled substances are used
- (jjjj) ORS 167.325, Animal neglect II
- (kkkk) ORS 167.330, Animal neglect I
- (LLLL) ORS 167.337, Interfering with law enforcement animal
- (mmmm) ORS 167.340, Animal abandonment
- (nnnn) ORS 167.352, Interfering with assistance, search and rescue or therapy animal
- (oooo) ORS 167.355, Involvement in animal fighting
- (pppp) ORS 167.365, Dogfighting
- (qqqq) ORS 167.370, Participation in dogfighting
- (rrrr) ORS 167.428, Cockfighting
- (ssss) ORS 167.431, Participation in cockfighting
- (tttt) ORS 167.820, Concealing the birth of an infant
- (uuuu) ORS 192.865, Criminal penalty (pertaining to Address Confidentiality Program)
- (vvvv) ORS 314.075, Evading requirements of law prohibited (tax evasion)
- (wwww) ORS 411.630, Unlawfully obtaining public assistance
- (xxxx) ORS 411.640, Unlawfully receiving public assistance
- (yyyy) ORS 411.675, Submitting wrongful claim or payment (e.g., public assistance)
- (zzzz) ORS 411.840, Unlawfully obtaining or disposing of food stamp benefits
- (aaaaa) ORS 412.074, Unauthorized use and custody of records of temporary assistance for needy families program
- (bbbbb) ORS 412.099, Sharing assistance prohibited
- (ccccc) ORS 417.990, Penalty for placement of children in violation of compact
- (dddd) ORS 471.410, Providing liquor to persons under 21 or to intoxicated persons; allowing consumption by minor on property
- (eeeee) ORS 475.912, Unlawful delivery of imitation controlled substance
- (ffff) ORS 475.916, Prohibited acts involving records and fraud
- (ggggg) ORS 475.918, Falsifying drug test results
- (hhhhh) ORS 475.950, Failure to report precursor substances transaction
- (iiiiii) ORS 475.955, Failure to report missing precursor substances
- (jjjjj) ORS 475.960, Illegally selling drug equipment
- (kkkkk) ORS 475.965, Providing false information on precursor substances report
- (LLLLL) ORS 803.230, Forging, altering or unlawfully producing or using title or registration
- (mmmmm) ORS 807.620, Giving false information to police officer
- (nnnnn) ORS 811.060, Vehicular assault of bicyclist or pedestrian
- (ooooo) ORS 811.140, Reckless driving
- (ppppp) ORS 811.540, Fleeing or attempting to elude police officer
- (qqqqq) ORS 811.700, Failure to perform duties of driver when property is damaged
- (rrrrr) ORS 811.705, Failure to perform duties of driver to injured persons
- (sssss) ORS 819.300, Possession of a stolen vehicle
- (ttttt) ORS 830.475, Failure to perform the duties of an operator (boat)
- (uuuuu) Any unclassified misdemeanor defined in Oregon Revised Statutes not listed elsewhere in this rule
- (vvvvv) Any other misdemeanor in Oregon Revised Statutes not listed in this rule that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by BCU.
- (wwwww) Any misdemeanor in a jurisdiction outside Oregon that is not the substantial equivalent of any of the Oregon crimes listed in section (2) of this rule but that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by BCU. If a misdemeanor in a jurisdiction outside Oregon is similar to a violation in

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Oregon, then it may not be considered potentially disqualifying under this section.

(xxxxx) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this section pursuant to ORS 161.405 or 161.435, including any conviction based on criminal liability for conduct of another pursuant to ORS 161.155

(yyyyy) Any crime in any other jurisdiction which is the substantial equivalent of any of the Oregon crimes listed in section (2) of this rule, as determined by BCU

(zzzzz) Any crime which is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in section (2) of this rule, as determined by BCU

(3) The crimes listed in this section are five-year review crimes which require that a fitness determination be completed if the date of conviction is within five years of the date the background check request was manually or electronically signed by the SI or the date BCU conducted a criminal records check due to imminent risk.

(a) ORS 162.085, Unsworn falsification

(b) ORS 162.235, Obstructing governmental or judicial administration

(c) ORS 164.245, Criminal trespass II

(d) ORS 164.335, Reckless burning

(e) ORS 164.345, Criminal mischief III

(f) ORS 165.555, Unlawful telephone solicitation of contributions for charitable purposes

(g) ORS 165.813, Unlawful possession of fictitious identification

(h) ORS 166.075, Abuse of venerated objects

(i) ORS 166.095, Misconduct with emergency telephone calls

(j) ORS 811.182, Criminal driving while suspended or revoked

(k) ORS 813.010, Driving under the influence of intoxicants (DUII)

(L) ORS 830.315, Reckless operation of a boat

(m) ORS 830.325, Operating boat while under influence of intoxicating liquor or controlled substance

(n) ORS 830.730, False information to peace officer or Oregon State Marine Board

(o) Any conviction for attempt, solicitation or conspiracy to commit a crime listed in this section pursuant to ORS 161.405 or 161.435, including any conviction based on criminal liability for conduct of another pursuant to ORS 161.155

(p) Any crime in any other jurisdiction which is the substantial equivalent of any of the Oregon crimes listed in section (3) of this rule, as determined by BCU

(q) Any crime which is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in section (3) of this rule, as determined by BCU

(4) Evaluations of crimes may be based on Oregon laws and laws in other jurisdictions in effect at the time of the fitness determination, regardless of the jurisdiction in which the conviction occurred.

(5) An SI may not be denied under these rules due to the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.262.

(6) An SI may not be denied under these rules due to the existence or contents of an adult record that has been set aside pursuant to ORS 137.225.

Stat. Auth.: ORS 181.537 & 409.050

Stats. Implemented: ORS 181.534, 181.537 & 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0280, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0290

### Other Potentially Disqualifying Conditions

The following are potentially disqualifying conditions:

(1) The SI makes a false statement to the QE or Department, including the provision of materially false information, false information regarding criminal records, or failure to disclose information regarding criminal records. Nondisclosure of violation or infraction charges may not be considered a false statement.

(2) The SI is a registered sex offender in any jurisdiction. There is a rebuttable presumption that an SI is likely to engage in conduct that would pose a significant risk to vulnerable individuals if the SI has been designated a predatory sex offender in any jurisdiction under ORS 181.585 or found to be a sexually violent dangerous offender under ORS 144.635 (or similar statutes in other jurisdictions).

(3) The SI has an outstanding warrant for any crime in any jurisdiction.

(4) The SI has a deferred sentence, conditional discharge, or is participating in a diversion program for any crime in any jurisdiction.

(5) The SI is currently on probation, parole, or post-prison supervision for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date).

(6) The SI has been found in violation of post-prison supervision, parole, or probation for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date), within five years from the date the background check request was signed or the date the Department conducted a criminal records check due to imminent danger.

(7) The SI has an unresolved arrest, charge, or a pending indictment for any crime in any jurisdiction.

(8) The SI has been arrested in any jurisdiction as a fugitive from another state or a fugitive from justice, regardless of the date of arrest.

(9) The SI has an adjudication in a juvenile court in any jurisdiction, finding that the SI was responsible for a potentially disqualifying crime that would result in a conviction if committed by an adult. Subsequent adverse rulings from a juvenile court, such as probation violations, shall also be considered potentially disqualifying if within five years from the date the background check request was signed or the date BCU conducted a criminal records check due to imminent danger.

(10) The SI has a finding of "guilty except for insanity," "guilty except by reason of insanity," "not guilty by reason of insanity," "responsible except for insanity," "not responsible by reason of mental disease or defect," or similarly worded disposition in any jurisdiction regarding a potentially disqualifying crime, unless the local statutes indicate that such an outcome is considered an acquittal.

(11) Potentially disqualifying abuse as determined from abuse investigation reports which have an outcome of founded, substantiated, or valid and in which the SI is determined to have been responsible for the abuse.

(a) For SIs associated with child foster homes for children with developmental disabilities, child foster homes licensed through a private licensed child caring agency, or adoptive families through a private licensed child caring agency, potentially disqualifying abuse includes:

(A) Child protective services history held by the Department regardless of the date of initial report or outcome;

(B) Child protective services history reviewed pursuant to the federal Adam Walsh Act requirements, determined by BCU to be potentially disqualifying; and

(C) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the Office of Investigation and Training and the Seniors and People with Disabilities Division based on severity.

(b) For staff and volunteers of a private licensed child caring agency:

(A) Child protective services history held by the Department regardless of the date of initial report or outcome; and

(B) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the Office of Investigation and Training and the Seniors and People with Disabilities Division based on severity.

(c) For child care providers and associated subject individuals defined in OAR 407-007-0210(30)(a)(H);

(A) Child protective services history held by the Department regardless of the date of initial report, date of outcome, and considered potentially disqualifying pursuant to OAR 461-165-0420; and

(B) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the Office of Investigation and Training and the Seniors and People with Disabilities Division based on severity.

(d) For all other SIs, potentially disqualifying abuse includes founded or substantiated adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to the BCU by the Office of Investigation and Training and the Seniors and People with Disabilities Division based on severity.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0290, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

# ADMINISTRATIVE RULES

## 407-007-0300

### Weighing Test

When making a fitness determination, BCU shall consider any of the following factors if an SI has potentially disqualifying convictions or conditions as disclosed by the SI or which is otherwise known:

(1) Circumstances regarding the nature of potentially disqualifying convictions and conditions including but not limited to:

(a) The details of incidents leading to the charges of potentially disqualifying convictions or resulting in potentially disqualifying conditions.

(b) Age of the SI at time of the potentially disqualifying convictions or conditions.

(c) Facts that support the convictions or potentially disqualifying conditions.

(d) Passage of time since commission of the potentially disqualifying convictions or conditions.

(e) Consideration of state or federal laws, regulations, or rules covering the position, facility, employer, or QE regarding the potentially disqualifying convictions or conditions.

(2) If applicable, circumstances regarding the nature of potentially disqualifying abuse including but not limited to:

(a) Circumstances leading to the incident of abuse;

(b) The nature and type of abuse; and

(c) Other information gathered during the scope of the abuse investigation.

(d) The date of the abuse incident and abuse investigation, and the age of the SI at the time of the abuse.

(e) The quality of the abuse investigation including, if applicable, any exhibits and related documents with consideration taken into account regarding completeness, objectivity, and sufficiency.

(f) Due process provided to the SI after the abuse investigation.

(g) Required action resulting from the founded or substantiated abuse including but not limited to training, counseling, corrective or disciplinary action, and the SI's compliance.

(3) Other factors when available including but not limited to:

(a) Other information related to criminal activity including charges, arrests, pending indictments, and convictions. Other behavior involving contact with law enforcement may also be reviewed if information is relevant to other criminal records or shows a pattern relevant to criminal history.

(b) Periods of incarceration.

(c) Status of and compliance with parole, post-prison supervision, or probation.

(d) Evidence of alcohol or drug issues directly related to criminal activity or potentially disqualifying conditions.

(e) Evidence of other treatment or rehabilitation related to criminal activity or potentially disqualifying conditions.

(f) Likelihood of repetition of criminal behavior or behaviors leading to potentially disqualifying conditions including but not limited to patterns of criminal activity or behavior.

(g) Information from the Department's or Authority's protective services, abuse, or other investigations in which the investigator documented behavior or conduct by the SI that would pose a risk to or jeopardize the safety of vulnerable individuals.

(h) Changes in circumstances subsequent to the criminal activity or disqualifying conditions including but not limited to:

(A) History of high school, college, or other education related accomplishments.

(B) Work history (employee or volunteer).

(C) History regarding licensure, certification, or training for licensure or certification.

(D) Written recommendations from current or past employers, including Department client employers.

(i) Indication of the SI's cooperation, honesty, or the making of a false statement during the criminal records check process, including acknowledgment and acceptance of responsibility of criminal activity and potentially disqualifying conditions.

(4) BCU shall consider the relevancy of the SI's criminal activity or potentially disqualifying conditions to the paid or volunteer position, or to the environment in which the SI will reside, work, or visit.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0300, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0315

### Hired on a Preliminary Basis

(1) A preliminary fitness determination is required to determine if an SI may work, volunteer, be employed, or otherwise perform in the position listed on the background check request prior to a final fitness determination. The SI may not be hired on a preliminary basis prior to the completion of a preliminary fitness determination.

(2) An SI may be hired on a preliminary basis, only during the period of time prior to a final fitness determination, into the position listed on the background check request and be allowed to participate in training, orientation, and position activities

(3) The SI must complete required information on a background check request and the QED must review the form.

(4) The QED shall make one of the following determinations:

(a) If the SI indicates any criminal history occurring within the five year period from the date the SI manually or electronically signed the background check request:

(A) The QED may allow the SI to be hired on a preliminary basis if the criminal history has the outcome of "dismissed," "no complaint filed" or "expunged."

(B) The QED may not allow the SI to be hired on a preliminary basis if the history has an outcome of "pending outcome," "diversion or conditional discharge," "convicted," "on probation," "juvenile adjudication," or "unknown."

(5) The QED shall submit the background check request to BCU immediately upon verification of the SI's identity and the SI's completion of the background check request.

(6) If requested by the QED, BCU may conduct a preliminary fitness determination with a weighing test. The SI may be hired on a preliminary basis only if, based on information available at the time, BCU determines that more likely than not, the SI poses no potential threat to vulnerable individuals.

(7) The QE may not hire a SI on a preliminary basis under any of the following circumstances:

(a) Being hired on a preliminary basis or probationary status is not allowed under program rules.

(b) The SI has disclosed potentially disqualifying convictions or conditions and BCU has not completed a preliminary fitness determination resulting in the QE being allowed to hire the SI on a preliminary basis.

(c) The QE or BCU determines that:

(A) More likely than not, the SI poses a potential threat to vulnerable individuals, based on a preliminary fitness determination and weighing test;

(B) The SI's most recent background check under these rules or other Department or Authority criminal records check rules or abuse check rules resulted in a denial; or

(C) The SI is currently involved in contesting a background check under these or other Department or Authority criminal records check rules or abuse check rules.

(d) An outcome of not hiring on a preliminary basis may only be overturned by BCU.

(8) An SI hired on a preliminary basis shall be actively supervised at all times.

(a) The individual providing active supervision at all times shall do the following:

(A) Be in the same building as the SI or, if outdoors of QE buildings or any location off the QE property, be within line-of-sight and hearing, except as provided in section (8)(b)(B) of this rule;

(B) Know where the SI is and what the SI is doing; and

(C) Periodically observe the actions of the SI.

(b) The individual providing the active supervision may be either:

(A) An SI who has been approved without restrictions pursuant to these rules or previous Department or Authority criminal records check rules; or

(B) The adult client, an adult client's adult relation, the client's legal representative, or a child's parent or guardian. Active supervision by these individuals is appropriate in situations where care is given directly to clients usually in a home such as but not limited to in-home care, home health, or care by home care workers, personal care assistants, or child care providers.

(i) The adult client may actively supervise a homecare worker, personal care services provider, independent provider, or an employee of an in-home care agency or home health agency if the client makes an informed decision to employ the provider. Someone related to the client may also provide active supervision if the relative has been approved by the Department, the Authority, the QED, or the private-pay client receiving services through an in-home care or home health agency.



# ADMINISTRATIVE RULES

(ii) A child client's parent or guardian shall be responsible for providing active supervision in the case of child care providers. The supervision is not required to be performed by someone in the same building as the child.

(9) An SI approved without restrictions within the previous 24 months through a documented criminal records check or abuse check pursuant to these rules or prior Department criminal records check rules or abuse check rules may be hired on a preliminary basis without active supervision. Twenty-four months is calculated from date of previous approval to the date of hire in the new position. This exemption from active supervision is not allowed in any of the following situations:

(a) If the SI cannot provide documented proof that he or she worked continuously under the previous approval for at least one year.

(b) If there is evidence of criminal activity or potentially disqualifying abuse within the previous 24 months.

(c) If, as determined by the QE or BCU, the job duties in the new position are so substantially different from the previous position that the previous fitness determination is inadequate for the current position.

(10) Revocation of hired on a preliminary basis is not subject to hearing or appeal. The QE or BCU may immediately revoke hired on a preliminary basis for any of the following reasons:

(a) There is any indication of falsification of application.

(b) The SI fails to disclose convictions for any potentially disqualifying crimes, any arrests that did not result in convictions or any out of state arrests or convictions.

(c) The QE or Department determines that allowing the SI to be hired on a preliminary basis is not appropriate, based on the application, criminal record, position duties, or Department program rules.

(11) Nothing in this rule is intended to require that an SI who is eligible to be hired on a preliminary basis be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request prior to a final fitness determination.

(12) Preliminary fitness determinations must be documented in writing, including any details regarding a weighing test, if required.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0320

### Final Fitness Determinations

The AD or BCU shall make a final fitness determination after all necessary background checks have been received and a weighing test, if necessary, has been completed. The AD or BCU may obtain and consider additional information as necessary to complete the final fitness determination. ADs may continue to make final fitness determinations under this rule until they are approved as QEDs under OAR 407-007-0215.

(1) The final fitness determination results in one of the following outcomes:

(a) The AD or BCU may approve an SI if:

(A) The SI has no potentially disqualifying convictions or potentially disqualifying conditions; or

(B) The SI has potentially disqualifying convictions or potentially disqualifying conditions and, after a weighing test, the AD or BCU determines that more likely than not, the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals.

(b) The AD or BCU may approve an SI with restrictions if the AD or BCU determines that more likely than not, the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals, if certain restrictions are placed on the SI. Restrictions may include but are not limited to restrictions to one or more specific clients, job duties, or environments. A new background check and fitness determination shall be completed on the SI before removing a restriction.

(c) The AD or BCU shall deny an SI whom the AD or BCU determines, after a weighing test, more likely than not poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(2) BCU shall make all final fitness determinations in the following situations:

(a) A national or state-specific criminal records check has been completed on the SI;

(b) BCU determines that the SI has potentially disqualifying abuse as described in OAR 407-007-0290(11). Only ADs employed by the Department or Authority are authorized to receive abuse investigation reports, associated exhibits, or documents from the Department or Authority for the purposes of determining potentially disqualifying abuse,

or conducting fitness determinations or weighing tests in accordance with these rules.

(c) If Oregon laws or program administrative rules governing the QE or the position require that the Department makes the final fitness determination;

(d) The SI has the following history regarding criminal records checks or abuse checks:

(A) The SI's most recent criminal records check or abuse check under these rules or other Department rules resulted in a denial; or

(B) The SI's most recent criminal records check or abuse check under these or other Department rules required a weighing test which was completed by the Department.

(e) If, after conducting a criminal records check or abuse check, BCU determines that, based on the presence of a potentially disqualifying crime or condition, there is a potential for imminent danger to vulnerable individuals;

(f) If the QE requests BCU to make the final fitness determination because the QE is temporarily unable to provide an AD to conduct a fitness determination;

(g) Upon request of an AD, BCU may provide technical assistance or make the final fitness determination;

(h) If BCU has reason to believe a final fitness determination has not been conducted in compliance with these rules, the Department may repeat the background check and make a final fitness determination; or

(i) If the QE or AD is under investigation regarding compliance with these rules and the status of all ADs have been suspended during the investigation.

(3) BCU may review final fitness determinations made by local ADs and make a new final fitness determination at its discretion.

(4) Upon completion of a final fitness determination, the Department or AD making the decision shall provide written notice to the SI.

(a) The notice shall be in a Department-approved format.

(b) If approved, BCU shall provide written notice to the QE. The QE shall provide the SI a copy of the notice.

(c) If the final fitness determination is a denial based on potentially disqualifying abuse under OAR 407-007-0290(11)(d) and there are no other potentially disqualifying convictions or conditions, BCU shall issue a Notice of Intent to Deny and provide the SI hearing rights under OAR 407-007-0335.

(d) Except as required by section (4)(c) of this rule, if denied or approved with restrictions, the notice of fitness determination provided to the SI shall include the potentially disqualifying convictions or conditions that the outcome was based upon, information regarding appeal rights and the notice becoming a final order in the event of a withdrawal or failure to appear at the hearing.

(A) If the final fitness determination is completed by the Department, the Department shall issue the SI the notice of fitness determination and a copy of the background check request. The Department shall provide the QE with a copy of the background check request to the QE with notification of the final fitness determination being either denied or approved with restrictions.

(B) If the final fitness determination is completed by the local AD, the local AD shall issue the SI the notice of fitness determination and a copy of the background check request after the AD completes the background check request.

(e) The notice of fitness determination shall be mailed or hand-delivered to the SI within 14 calendar days after the final fitness determination has been completed. The effective date of action shall be recorded on the notice.

(5) When an SI is denied, the SI shall not be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request. A denial applies only to the position and application in question. A denial shall result in immediate termination, dismissal, or removal of the SI.

(6) When an SI is approved with restrictions, the SI shall only be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request and only under the stated restrictions. A restricted approval applies only to the position and application in question. A restricted approval shall result in immediate implementation of the restrictions.

(7) Final fitness determinations must be documented in writing, including any details including but not limited to the potentially disqualifying convictions or conditions, the factors considered during weighing test, and restrictions in a restricted approval. BCU shall also maintain any documents obtained during the fitness determination, such as written state-

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ments and certificates from the subject individual, police reports, or court records.

(8) BCU shall make new fitness determinations for each application. The outcome of previous fitness determinations does not set a precedent for subsequent fitness determinations.

Stat. Auth.: ORS 181.537, 409.027 & 409.050  
Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004  
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0320, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; 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

## 407-007-0325

### Closed Case

If the SI discontinues the application or fails to cooperate with the criminal records check or fitness determination process, the application is considered incomplete and may be closed.

(1) Discontinuance or failure to cooperate includes but is not limited to the following circumstances:

(a) The SI fails to disclose all criminal history on the background check request.

(b) The SI refuses to be fingerprinted when required by these rules.

(c) The SI fails to respond within a stated time period to a request for corrections to the application, fingerprints, or any other information necessary to conduct a criminal records check or an abuse check and there is not enough information available to make a fitness determination.

(d) The SI withdraws the application, leaves the position prior to completion of the background check, or the Department cannot locate or contact the subject individual.

(e) The SI is determined to be ineligible for the position for reasons other than the background check.

(2) When the application is closed without a final fitness determination, the SI does not have a right to contest the closure.

(3) When a case is closed, the SI shall not be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the background check request. A closed case applies only to the position in question. A closed case shall result in immediate termination, dismissal, or removal of the SI.

(4) BCU shall document the reasons for a closed case, and shall provide that information to the SI.

Stat. Auth.: ORS 181.537, 409.027 & 409.050  
Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004  
Hist.: DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; 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

## 407-007-0330

### Contesting a Fitness Determination

(1) A final fitness determination of denied or restricted approval is considered an adverse outcome. An SI with an adverse outcome may contest that fitness determination unless already granted contested case hearing rights under OAR 407-007-0335.

(2) If an SI is denied, the SI may not hold the position, provide services or be employed, licensed, certified, or registered, or otherwise perform in positions covered by these rules. An SI appealing a restricted approval may only work under the terms of the restriction during the appeal.

(3) If an adverse outcome is changed at any time during the appeal process, the change does not guarantee employment or placement.

(4) An SI may challenge the accuracy or completeness of information provided by the OSP, the FBI, or other agencies reporting information to the Department, by appealing to the entity providing the information. These challenges are not subject to the Department's appeal process.

(5) An SI has the right to represent him or herself or have legal representation during the appeal process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative.

(a) An SI who is appealing an adverse outcome regarding the position of homecare worker as defined in ORS 410.600 or personal support worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay person.

(c) An SI may contest an adverse fitness determination by requesting a contested case hearing. The contested case hearing process is conducted in accordance with ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(a) To request a contested case hearing, the SI shall complete and sign the Hearing Request form.

(b) The completed and signed form must be received by the Department within 45 calendar days after the effective date of action listed on the notice of the fitness determination.

(c) BCU shall accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing.

(d) In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(e) BCU may refer an untimely request to the OAH for a hearing on the issue of timeliness.

(7) BCU may conduct an administrative review before referring the appeal to OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by BCU within a specified amount of time.

(b) The administrative review is not open to the public.

(8) BCU may conduct additional criminal records checks or abuse checks during the contested case hearing process to update or verify the SI's potentially disqualifying convictions or conditions and factors to consider in the weighing test. If needed, BCU shall amend the notice of fitness determination while still maintaining the original hearing rights and deadlines.

(9) BCU shall be represented by a hearing representative in contested case hearings. The Department may also be represented by the Office of the Attorney General.

(a) BCU shall provide the administrative law judge and the SI a complete copy of available information used during the background checks and fitness determinations. The notice of contested case and prehearing summary and other documents may be mailed by regular first class mail or provided electronically.

(b) An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without a protective order limiting further disclosure of the information.

(A) A protective order issued pursuant to this section must be issued by an administrative law judge as provided for in OAR 137-003-0570(8) or by a court of law.

(B) In conjunction with a protective order issued pursuant to this section, individually identifying information relating to clients, witnesses, and other persons identified in abuse investigation reports or other records collected or developed during the abuse check process shall be redacted prior to disclosure, except for the information identifying the SI.

(c) The contested case hearing is not open to the public.

(d) The administrative law judge shall make a new fitness determination based on evidence and the contested case hearing record.

(e) The only remedy an administrative law judge may grant is a fitness determination that the subject individual is approved, approved with restrictions, or denied. Under no circumstances shall BCU or the QE be required to place an SI in any position, nor shall BCU or the QE be required to accept services or enter into a contractual agreement with an SI.

(f) A hearing pursuant to these rules may be conducted in conjunction with a licensure or certification hearing for the SI.

(10) The notice of fitness determination issued is final as if the SI never requested a hearing in the following situations:

(a) The SI failed to request a hearing in the time allotted in this rule. No other document will be issued after the notice of fitness determination.

(b) The SI withdraws the request for hearing at any time during the appeal process.

(11) BCU may make an informal disposition based on the administrative review. BCU shall issue a final order and new notice of fitness determination. If the resulting fitness determination is an adverse outcome, the appeal shall proceed to a contested case hearing.

(12) BCU shall issue a dismissal order in the following situations:

(a) The SI may withdraw a hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by BCU or the OAH. The SI may cancel the withdrawal in writing within 14 calendar days after the date of withdrawal.

(b) BCU shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review. BCU shall

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review a good cause request to reinstate hearing rights if received in writing by BCU within 14 calendar days.

(c) BCU shall dismiss a hearing request when the SI fails to appear at the time and place specified for the contested case hearing. The order is effective on the date scheduled for the hearing. BCU shall review a good cause request to reinstate hearing rights if received in writing by BCU within 14 calendar days of the order.

(13) After a hearing, the administrative law judge shall issue a proposed and final order.

(a) If no written exceptions are received by BCU within 14 calendar days after the service of the proposed and final order, the proposed and final order becomes the final order.

(b) If timely written exceptions to the proposed and final order are received by BCU, the Department's Director or designee, or the Authority's Director or designee shall consider the exceptions and serve a final order, or request a written response or a revised proposed and final order from the administrative law judge.

(14) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

(15) BCU may provide the QED with the results of the appeal.

Stat. Auth.: ORS 181.537, 183.459, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 183.459, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0330, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0335

### Decision and Hearing Rights for Potentially Disqualifying Abuse

(1) This rule applies only to:

(a) Background checks in which an SI has potentially disqualifying abuse under OAR 407-007-0290(11)(d) with no other potentially disqualifying convictions or conditions; and

(b) After a weighing test under OAR 407-007-0300, BCU determines that more likely than not, SI poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(2) BCU shall provide the SI a Notice of Intent to Deny in writing.

(a) BCU shall indicate on the Notice of Intent to Deny the date the final fitness determination was made and the date of the intended action if the SI fails to request an expedited hearing.

(b) BCU shall mail the Notice of Intent to Deny to the SI using the e-mail or mailing address provided by the SI by the next business day after the date of the final fitness determination.

(c) BCU shall include a copy of the background check request and an Expedited Hearing Request form with the Notice of Intent to Deny.

(3) An SI may contest a Notice of Intent to Deny by requesting an expedited hearing. The expedited hearing process is conducted in accordance with ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(4) To request an expedited hearing, the SI must submit a completed and signed Expedited Hearing Request form. The request for an expedited hearing must be received by the Department within 10 calendar days after the date of the final fitness determination.

(a) BCU shall accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing.

(b) In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(5) An SI has the right to represent him or herself or have legal representation during the expedited hearing process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative if the SI has provided BCU with the information.

(a) An SI who is appealing a Notice of Intent to Deny regarding the position of homecare worker as defined in ORS 410.600 or personal support worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay person.

(6) If the SI fails to request an expedited hearing under this rule within the allowed time, BCU shall issue a Notice of Denial to the SI and to the QE. The SI shall have no further hearing rights under OAR 407-007-0330.

(7) If the SI requests an expedited hearing in a timely manner, the SI shall remain in the same status made in a preliminary fitness determination under OAR 407-007-0315 until the date of a final order or the Notice of Denial.

(8) BCU may conduct an administrative review before referring the appeal to OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by the BCU within a specified amount of time.

(b) The administrative review is not open to the public.

(c) BCU may make an informal disposition based on the administrative review. BCU shall issue a final order and a notice of fitness determination.

(9) BCU shall be represented by a hearing representative in expedited hearings. BCU may also be represented by the Office of the Attorney General.

(a) BCU shall provide the administrative law judge and the SI a complete copy of available information used during the background checks and fitness determinations. The SI is entitled to reasonable notice of all hearing documents either through personal service, electronically, regular mail, or certified mail.

(b) An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without a protective order limiting further disclosure of the information.

(A) A protective order issued pursuant to this section must be issued by an administrative law judge as provided for in OAR 137-003-0570(8) or by a court of law.

(B) In conjunction with a protective order issued pursuant to this section, individually identifying information relating to clients, witnesses, and other persons identified in abuse investigation reports or other records collected or developed during the abuse check process shall be redacted prior to disclosure, except for the information identifying the SI.

(10) The expedited hearing shall be conducted by the OAH by telephone within 10 business days from the receipt of the completed and signed Expedited Hearing Request form.

(a) The expedited hearing is not open to the public.

(b) The administrative law judge shall make a new fitness determination based on evidence and the record.

(c) The only remedy an administrative law judge may grant is a fitness determination that the subject individual is approved, approved with restrictions, or denied. Under no circumstances shall BCU or the QE be required to place an SI in any position, nor shall BCU or the QE be required to accept services or enter into a contractual agreement with an SI.

(11) BCU shall issue a dismissal order in the following situations:

(a) The SI may withdraw an expedited hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by BCU or the OAH. The SI may cancel the withdrawal in writing within four calendar days after the date of withdrawal.

(b) BCU shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The Order is effective on the due date for participation in the administrative review.

(c) BCU shall dismiss a hearing request when the SI fails to appear at the time specified for the expedited hearing. The Order is effective on the date scheduled for the hearing.

(12) After an expedited hearing, the administrative law judge shall issue a final order within three business days.

(a) If the final order maintains BCU's intent to deny, BCU shall issue a Notice of Denial by the next business day after the date of the final order. The SI shall have no further hearing rights under OAR 407-007-0330.

(b) If the final order reverses BCU's intent to deny to an approval or a restricted approval, the Department shall issue a Notice of Fitness Determination by the next business day after the date of the final order unless BCU formally stays the final order.

(13) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

Stat. Auth.: ORS 181.537, 183.459, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 183.459, 409.010, 409.027 & 443.004

Hist.: 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



# ADMINISTRATIVE RULES

## 407-007-0340

### Record Keeping, Confidentiality

(1) All LEADS reports are confidential and the Department shall maintain the reports in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 257, division 15).

(a) LEADS reports are confidential and may only be shared within BCU if there is a need to know consistent with these rules.

(b) The LEADS report and any photocopies may not be shown or given to the SI.

(2) The results of a national criminal records check provided by the FBI or the OSP are confidential and may not be disseminated by BCU unless:

(a) If a fingerprint-based criminal records check was conducted on the SI, the SI shall be provided a copy of the results if requested.

(b) The state and national criminal offender information shall be provided as exhibits during the contested case hearing.

(3) The results of an abuse check are confidential and may not be disseminated by BCU except in compliance with confidentiality statutes and guidelines of BCU. An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without a protective order limiting further disclosure of the information during the contested case hearing process.

(4) All completed background check requests, other criminal records information, and other records collected or developed during the background check or contested case process shall be kept confidential and disseminated only on a need-to-know basis.

(5) BCU shall retain and destroy all criminal records check documents pursuant to federal law and records retention schedules published by Oregon State Archives.

(6) Documents may be requested and reviewed by BCU and the OSP for the purposes of determining and ensuring compliance with these rules.

(7) BCU may not re-create past notices of fitness determinations. If an error is discovered on a notice of fitness determination, BCU may correct it by issuing an amended notice of fitness determination.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0340, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

## 407-007-0350

### Immunity from Liability

(1) The Department and the Authority or QE, acting within the course and scope of employment, have immunity from any civil liability that might otherwise be incurred or imposed for determining, in accordance with ORS 181.537, that an SI is fit or not fit to hold a position, provide services, or be employed, licensed, certified, or registered.

(2) The Department and the Authority or QE, acting within the course and scope of employment, and an employer or employer's agent are not liable for the failure to hire a prospective employee or the decision to discharge an employee on the basis of the final fitness determination if they in good faith comply with:

(a) ORS 181.537 and ORS 409.027; and

(b) The decision of the QE or employee of the QE acting within the course and scope of employment.

(3) No employee of the state, a business, or an organization, acting within the course or scope of employment, is liable for defamation, invasion of privacy, negligence, or any other civil claim in connection with the lawful dissemination of information lawfully obtained under ORS 181.537.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0350, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 1-2011(Temp), f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; 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

## 407-007-0370

### Variations

(1) The Department or Authority may consider variance requests regarding these rules.

(a) The outcome of a fitness determination made pursuant to these rules is not subject to variance. Challenges to fitness determinations may only be made by SIs through contested case hearing rights set forth in these rules.

(b) The Department or Authority may not grant variances to ORS 181.534 and 181.537.

(2) The Department or Authority may grant a variance to any section of these rules based upon a demonstration by the QE that the variance would not pose a significant risk to physical, emotional, or financial well-being of vulnerable individuals.

(3) The QE requesting a variance must submit, in writing, an application to the BCU that contains:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) The alternative practice, service, method, concept, or procedure proposed;

(d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and

(e) An explanation on how the welfare, health, or safety of individuals receiving care will be ensured during the time the variance is in effect.

(4) The Assistant Director or designee for the Department's Shared Services, Office of Human Resources shall approve or deny the request for a variance.

(5) The Department or Authority shall notify the QE of the decision within 60 calendar days of the receipt of the request and shall provide a copy to other relevant Department program offices.

(6) Appeal of the denial of a variance request must be made in writing to the Department's or the Authority's Director, whose decision is final.

(7) The Department or Authority shall determine the duration of the variance.

(8) The QE may implement a variance only after receipt of written approval from the Department or Authority.

(9) Granting a variance does not set a precedent that must be followed by the Department or the Authority when evaluating subsequent variance requests.

Stat. Auth.: ORS 181.537 & 409.050

Stats. Implemented: ORS 181.534, 181.537 & 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0370, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12

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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 1-2012(Temp)

**Filed with Sec. of State:** 3-12-2012

**Certified to be Effective:** 3-12-12 thru 9-8-12

**Notice Publication Date:**

**Rules Amended:** 413-015-0470

**Subject:** OAR 413-015-0470 about child protective services (CPS) assessments and notifications is being amended to modify the notification at the conclusion of a CPS assessment to be a verbal notification rather than a written notification. There will still be written notification to perpetrators of founded dispositions. This amendment further details the documentation requirements as they relate to the notification.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

### 413-015-0470

#### Notifications

(1) Requirements for Providing Notifications. The CPS worker must:

(a) Unless the Department determines that disclosure is not permitted under ORS 419B.035, notify the reporter, if the reporter provided the Department with contact information, whether contact was made, whether the Department determined that child abuse or neglect occurred, and whether services will be provided.

(b) Provide the child's parents, including a non-custodial legal parent, and caregivers verbal notification of all CPS assessment dispositions (unfounded, unable to determine, or founded) and whether the Department will provide services as a result of the CPS assessment. When the child's parent is the perpetrator, the notice under subsection (c) of this section also

# ADMINISTRATIVE RULES

must be provided. If notification may make a child or adult unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation supporting that conclusion.

(c) Provide perpetrators written notification of founded dispositions. This written notification must include information about the founded disposition review process as outlined in Child Welfare Policy I-A.6.1, "Notice and Review of CPS Founded Dispositions", OAR 413-010-0700 to 413-010-0750. If the notification could make a child or adult unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation that supports this conclusion.

(2) Documentation of Notifications. The CPS worker must document the notifications as described in this rule in the Department's electronic information system in the same location where the CPS Disposition is currently documented and the documentation must include:

- (a) Who made the notification.
- (b) To whom the notification was made.
- (c) The date and time the notification was made.
- (d) That the notifications have been attempted or made within the following time lines:

(A) Prior to completing the CPS assessment for a notification provided under subsection (1)(a) of this rule.

(B) Within five business days of supervisory approval of the CPS assessment for a notification provided under subsection (1)(b) or (1)(c) of this rule.

Stat. Auth.: ORS 418.005  
Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050  
Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 8-2009, f. 7-29-09, cert. ef. 8-3-09; CWP 1-2012(Temp), f. & cert. ef. 3-12-12 thru 9-8-12

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

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

**Adm. Order No.:** SSP 6-2012(Temp)

**Filed with Sec. of State:** 2-27-2012

**Certified to be Effective:** 2-27-12 thru 8-25-12

**Notice Publication Date:**

**Rules Amended:** 461-165-0035

**Subject:** 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.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

**461-165-0035**

**Alternate Payees; EBT**

(1) An alternate payee may be used to obtain and use benefits for the benefit group (see OAR 461-110-0750) when benefits are issued by electronic benefit transfer (EBT).

(2) Except as provided in section (5) of this rule, an alternate payee may be used any time the primary person, the spouse of the primary person, or another responsible adult member of the filing group names one in writing on a form designated by the Department.

(3) The branch office may appoint an emergency alternate payee if the adult filing group members are temporarily unable to act as payee.

(4) When an alternate payee is named, the Department issues an EBT card and personal identification number (PIN) for that person.

(5) For child care benefits in the ERDC, JOBS, JOBS Plus, and TANF programs, an alternate payee may not be a Department-approved child care provider or acting on behalf of a Department-approved child care provider.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816 & 412.049  
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.816 & 412.049  
Hist.: AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 6-2012(Temp), f. & cert. ef. 2-27-12 thru 8-25-12

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

**Adm. Order No.:** SSP 7-2012(Temp)

**Filed with Sec. of State:** 2-29-2012

**Certified to be Effective:** 2-29-12 thru 8-27-12

**Notice Publication Date:**

**Rules Amended:** 461-115-0230

**Subject:** OAR 461-115-0230 about interviews in the application process is being amended to state that the ERDC program requires an interview. This is a federal requirement for the ERDC program, but the requirement had only been stated in the Family Services Manual.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

**461-115-0230**

**Interviews**

(1) In the TANF program, the Department may conduct a required face-to-face interview by telephone or home visit if an *authorized representative* (see OAR 461-115-0090) has not been appointed, and participating in a face-to-face interview is a *hardship* (see section (2) of this rule) for the household.

(2) For the purposes of this rule, "hardship" includes but is not limited to:

- (a) Care of a household member;
- (b) A client's age, *disability* (see OAR 461-001-0000), or illness;
- (c) A commute of more than two hours from the client's residence to the nearest *branch office* (see OAR 461-001-0000);
- (d) A conflict between the client's work or training schedule and the business hours of the branch office; and
- (e) Transportation difficulties due to prolonged severe weather or financial hardship.

(3) In the SNAP program:

(a) An interview must be scheduled so that the *filing group* (see OAR 461-110-0370) has at least ten days to provide any needed verification before the deadline under 461-115-0210.

(b) A face-to-face interview must be granted at the applicant's request.

(c) When an applicant misses the first scheduled interview appointment, the Department must inform the applicant by regular mail of the missed interview.

(d) An applicant who fails to attend a scheduled interview must contact the Department no later than 30 days following the *filing date* (OAR 461-115-0040) to be eligible for benefits.

(e) An adult in the *filing group* or the *authorized representative* of the *filing group* is interviewed once every 12 months.

(4) In the ERDC program:

(a) Except as provided otherwise in subsection (c) of this section, an interview with an adult in the *filing group* (see OAR 461-110-0350) or the *authorized representative* of the *filing group* is required to process an initial application and a renewal of benefits.

(b) A phone interview is preferred; however, a face-to-face interview must be granted at the applicant's request.

(c) An interview is not required when the Department has implemented the Child Care Reservation List and it is determined that a *decision notice* of ineligibility will be sent under OAR 461-115-0016.

Stat. Auth.: ORS 411.060, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831 & 414.839

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831 & 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; 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 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; 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 22-2011(Temp), f. & cert. ef. 7-22-11 thru 1-18-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 7-2012(Temp), f. & cert. ef. 2-29-12 thru 8-27-12

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

**Adm. Order No.:** SSP 8-2012

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 461-155-0290, 461-155-0291, 461-155-0295

**Subject:** OAR 461-155-0290, 461-155-0291, and 461-155-0295 about the income standards for the QMB-BAS, QMB-DW, and QMB-SMB programs (Qualified Medicare Beneficiaries - Basic, Disabled Worker, Special Medicare Beneficiaries) are being amend-

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ed to base their income standards on the 2012 federal poverty level. Currently, these rules are based on the 2011 federal poverty level.  
**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 461-155-0290

### Income Standard; QMB-BAS

The adjusted income standard for the QMB-BAS program is 100 percent of the 2012 federal poverty level. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. & cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 4-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2012, f. & cert. ef. 3-1-12

## 461-155-0291

### Income Standard; QMB-DW

The adjusted income standard for the QMB-DW program is 200 percent of the 2012 federal poverty level (see OAR 461-155-0290). [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. & cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2012, f. & cert. ef. 3-1-12

## 461-155-0295

### Income Standard; QMB-SMB, QMB-SMF

(1) Eligibility for QMB-SMB requires income greater than 100 percent (see OAR 461-155-0290) but less than 120 percent of the federal poverty level. The adjusted income standard for QMB-SMB is 120 percent of the 2012 federal poverty level. [Table not included. See ED. NOTE.]

(2) Eligibility for QMB-SMF requires income equal to or greater than 120 percent (see section (1) of this rule) but less than 135 percent of the federal poverty level. The adjusted income standard for QMB-SMF is 135 percent of the 2012 federal poverty level. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 19-2002(Temp), f. 12-10-02, cert. ef. 1-1-03 thru 5-31-03; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2012, f. & cert. ef. 3-1-12

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

**Rule Caption:** Developmental Disability Services Health Care Representative.

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

**Filed with Sec. of State:** 2-29-2012

**Certified to be Effective:** 3-1-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 411-365-0100, 411-365-0120, 411-365-0140, 411-365-0160, 411-365-0180, 411-365-0200, 411-365-0220, 411-365-0240, 411-365-0260, 411-365-0280, 411-365-0300, 411-365-0320

**Subject:** To implement House Bill 2375 and House Bill 2652 from the 2011 legislative session, the Department of Human Services (Department) is permanently amending the health care representative rules for individuals with developmental disabilities in OAR chapter 411, division 365 that prescribe standards by which a health care representative may be appointed for adult individuals with developmental disabilities who reside in many 24 hour residential services sites.

Specifically, the permanent rules:

- Include the appointment of a health care representative for adult individuals residing in licensed adult foster homes for individuals with developmental disabilities under OAR chapter 411, division 360, previously only allowed through a variance process;

- Clearly define who may or may not be appointed as a health care representative;

- Further describe the expanded membership of an ISP team used to appoint a health care representative; and

- Clean up old, obsolete language to reflect current Department standards.

**Rules Coordinator:** Christina Hartman—(503) 945-6398

## 411-365-0100

### Purpose

(1) The rules in OAR chapter 411, division 365 prescribe standards by which a health care representative may be appointed for adults with developmental disabilities who reside in a home or facility licensed and certified for 24 hour residential services under OAR chapter 411, division 325, certified for supported living services under OAR chapter 411, division 328, or licensed as an adult foster home for individuals with developmental disabilities under OAR chapter 411, division 360.

(2) The mission of the Department of Human Services is to provide support services that enhance the quality of life of individuals with developmental disabilities.

(a) The Department is entrusted with the health and safety of individuals residing in homes and facilities providing 24 hour residential services. Access to health care is essential to individuals' health and safety and inability to give informed consent as required by ORS 430.210 is a major barrier to that access.

(b) The Department recognizes and supports the rights of adult individuals to make informed choices including refusal of and consent to health care. The intent of these rules is to maximize access to health care by allowing the appointment of a health care representative when an adult individual is incapable of making health care decisions, as determined by OAR 411-365-0180.

(c) These rules encourage the use of health care representatives as provided under ORS 127.505 to 127.660 and provide for the appointment of a health care representative in situations not covered by ORS 127.505 to 127.660 (provisions permitting capable individuals to appoint a health care representative to make health care decisions in the event they are incapable) and when there is no legally appointed guardian with authority over health care decisions. ORS 127.635 provides for appointment of a health care representative to decide whether life-sustaining procedures may be withheld or withdrawn for incapable individuals. These rules provide for appointment of a health care representative for making other health decisions for incapable individuals in situations where there is concurrence by the ISP team regarding the individual's incapacity, the identity of the health care representative, and significant health care decisions.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450

Stats. Implemented: ORS 127.505 - 127.660, & 443.450

Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1500, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0120

### Definitions

As used in these rules:

(1) "Advocate" means a person other than paid staff who has been selected by the individual with developmental disabilities or by the individual's legal representative to help the individual understand and make choices in matters relating to identification of needs and choices of services, especially when rights or interests are at risk or have been violated.



# ADMINISTRATIVE RULES

(2) “Artificially administered nutrition and hydration” means a medical intervention to provide food and water by tube, mechanical device, or other medically assisted method. “Artificially administered nutrition and hydration” does not include the usual and typical provision of nutrition and hydration, such as the provision of nutrition and hydration by cup, hand, bottle, drinking straw, or eating utensil.

(3) “Attending physician” means the physician who has primary responsibility for the care and treatment of the individual.

(4) “Concurrence” means all members of the Individual Support Plan team agree that a decision has sufficient worth that they do not object to the decision.

(5) “Department” means the Department of Human Services.

(6) “Developmental disability” means a neurological condition that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional as described in OAR 411-320-0080.

(7) “Director” means the director of the Department’s Office of Developmental Disability Services, or that person’s designee.

(8) “Health care” means diagnosis, treatment, or care of disease, injury, and congenital or degenerative conditions, including the use, maintenance, withdrawal, or withholding of life-sustaining procedures and the use, maintenance, withdrawal, or withholding of artificially administered nutrition and hydration.

(9) “Health care decision” means consent, refusal of consent, or withholding or withdrawal of consent to health care, and includes decisions relating to admission to or discharge from a health care facility as defined in ORS 442.015 or a hospice program as defined in ORS 443.850. As used in these rules, “health care decision” does not include decisions relating to admission or discharge from a residential facility as defined in ORS 443.400 or an adult foster home as defined in ORS 443.705.

(10) “Health care facility” means a health care facility as defined in ORS 442.015, a domiciliary care facility as defined in ORS 443.205, a residential facility as defined in ORS 443.400, an adult foster home as defined in ORS 443.705, or a hospice program as defined in ORS 443.850.

(11) “Health care representative” means:

(a) A health care representative as defined in ORS 127.505; or

(b) A person who has authority to make health care decisions for an individual under the provisions of these rules.

(12) “Incapable” means that an individual lacks the ability to make and communicate decisions, including any means of communication, including communication through persons familiar with the individual’s manner of communicating.

(a) “Incapable of making a health care decision” means that the individual lacks the ability to make and communicate health care decisions to health care providers. “Incapable of making a health care decision” does not mean an individual is incapable of appointing a health care representative.

(b) “Incapable of appointing a health care representative” means that the individual lacks the ability to make and communicate the decision to appoint a health care representative to the witnesses required by ORS 127.510 through 127.515. These require separate evaluations.

(c) “Capable” means not incapable.

(13) “Individual” means an adult with developmental disabilities for whom services are planned and provided.

(14) “Individual Support Plan (ISP) Team” means a team composed of the individual, representatives of all current service providers, the individual’s legal guardian, the services coordinator, family, and the individual’s advocate and others determined appropriate by the individual receiving services. If the individual is unable or does not express a preference, other appropriate team membership shall be determined by the ISP team members.

(15) “Life-sustaining procedure” means any medical procedure, pharmaceutical, medical device, or medical intervention that maintains life by sustaining, restoring, or supplanting a vital function. For purposes of these rules, “life-sustaining procedure” includes decisions about emergency procedures started when an individual’s heart stops or breathing stops, commonly called “code procedures.” “Life-sustaining procedure” does not include routine care necessary to sustain patient cleanliness and comfort.

(16) “Physician” means an individual licensed to practice medicine by the Board of Medical Examiners for the State of Oregon.

(17) “Psychotropic medication” means medication the prescribed intent of which is to affect or alter thought processes, mood, or behavior including but not limited to anti-psychotic, antidepressants, anxiolytic (anti-anxiety), and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed.

(18) “Services coordinator” means an employee of the community developmental disability program or other agency that contracts with the County or Department, who is selected to plan, procure, coordinate and monitor individual support plan services, and to act as a proponent for individuals with developmental disabilities.

(19) “Significant medical procedure or treatment” means:

(a) Any starting, stopping, or change in psychotropic medication that is anticipated to involve risk;

(b) Any treatment or procedure that requires general anesthesia;

(c) Any treatment or procedure that incurs a 1 percent or greater risk of death, in the opinion of the physician;

(d) Any treatment or procedure that may decrease the ability of an individual to participate in a valued activity for longer than 48 hours; or

(e) Any treatment or procedure that is likely to cause severe pain.

(20) “These rules” mean the rules in OAR chapter 411, division 365.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450

Stats. Implemented: ORS 127.505 - 127.660, & 443.450

Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1510, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0140

### Limits on Rule

(1) These rules apply only to adults who:

(a) Have a developmental disability; and

(b) Live in a facility or home licensed and certified for 24 hour residential services under OAR chapter 411, division 325, certified for supported living services under OAR chapter 411, division 328, or licensed as an adult foster home for individuals with developmental disabilities under OAR chapter 411, division 360.

(2) Guardians appointed pursuant to ORS chapter 125 and health care representatives appointed under ORS chapter 127 are not bound by the provisions of these rules. The guardian appointed pursuant to ORS chapter 125 or health care representative appointed under ORS chapter 127 shall be invited by the ISP team to use the process set forth in these rules.

(3) These rules do not impair or supersede the existing laws of this state relating to:

(a) Any requirement of notice to others of proposed health care;

(b) The standard of care required of a health care provider in the administration of health care;

(c) Whether consent is required for health care;

(d) The elements of informed consent for health care under ORS 677.097 or other law;

(e) The provision of health care in an emergency;

(f) Any right a capable person may have to consent or withhold consent to health care administered in good faith pursuant to religious tenets of the individual requiring health care;

(g) Delegation of authority by a health care representative;

(h) Any legal right or responsibility any person may have to affect the providing, withholding, or withdrawal of life-sustaining procedures including artificially administered nutrition and hydration in any lawful manner;

(i) Guardianship or conservatorship proceedings; or

(j) Any right persons may otherwise have to make their own health care decisions, or to make health care decisions for another.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450

Stats. Implemented: ORS 127.505 - 127.660, & 443.450

Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1520, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0160

### Entitlement to Decisions

(1) Individuals are entitled to make their own health care decisions when they are capable and shall be offered the opportunity to appoint a health care representative as described in ORS 127.505 to 127.660.

(2) Individuals who are determined incapable of making a health care decision under OAR 411-365-0180, shall be assessed by the ISP team and services coordinator for capability for appointing a health care representative. If determined capable, the ISP team shall offer the individual the opportunity to appoint a health care representative as described in ORS 127.505 to 127.660.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450

Stats. Implemented: ORS 127.505 - 127.660, & 443.450

Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1530, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0180

### Incapability Determinations

For the purpose of these rules, incapability of an individual to make a health care decision may occur by any of the following procedures:

# ADMINISTRATIVE RULES

(1) A court renders an opinion that the individual is incapable of making health care decisions; or

(2) The individual's attending physician determines the individual is incapable and, for the purpose of these rules, the ISP team concurs with that opinion.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450  
Stats. Implemented: ORS 127.505 - 127.660, & 443.450  
Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1540, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0200

### Naming a Health Care Representative

(1) If an individual is determined incapable of making a health care decision under OAR 411-365-0180 and incapable of appointing a health care representative, a health care representative may be designated by the persons listed below who can be located upon reasonable effort, provided that no person or entity listed below objects to the designation:

(a) Spouse of the individual;

(b) Guardian appointed pursuant to ORS chapter 125 but who lacks the power to make health care decisions;

(c) Adult children of the individual who may be located through reasonable effort;

(d) Parents of the individual who may be located through reasonable effort;

(e) Adult siblings of the individual who may be located through reasonable effort; and

(f) The ISP team members for the individual, including the individual and any available advocates or friends.

(2) The health care representative must be a capable adult and must be willing to serve as a health care representative.

(3) The appointment of a health care representative shall be valid for only one year and shall be reviewed for revocation sooner if there is any indication that the duties of these rules are not being fulfilled, or if the individual regains capability to make a health care decision.

(4) The appointment shall be valid only when the form approved by the Department is completed.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450  
Stats. Implemented: ORS 127.505 - 127.660, & 443.450  
Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1550, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0220

### Disqualifications

(1) Except as may be allowed by court order, the following may participate in the process of naming a health care representative, but may not serve as the health care representative appointed under these rules if unrelated to the individual by blood, marriage, or adoption:

(a) The attending physician or an employee of the attending physician;

(b) An owner, operator, or employee of a health care facility in which the individual is a patient or resident, unless the health care representative was appointed before the individual's admission to the facility;

(c) The owner, operator, or employee of a residential service provider for the individual for which a health care representative is being appointed, licensed, and certified for 24 hour residential services in OAR chapter 411, division 325, certified for supported living services under OAR chapter 411, division 328, or licensed in OAR chapter 411, division 360 as an adult foster home; and

(d) The owner, operator, or employee of the employment service provider for the adult, if the employment service provider also provides residential services to the adult.

(2) Any parent or guardian is disqualified from serving as a health care representative if at any time the individual was under the care, custody, or control of the parent or guardian, and the court entered an order that either:

(a) Terminated the person's parental rights; or

(b) Placed the individual in the protective custody or legal custody of the Department and the individual was not returned to the care, custody, or control of the parent or guardian because it was determined that it was not safe for the individual.

(3) At any time, the individual may disqualify any person from being their health care representative appointed under these rules by any means of communication.

(4) A health care representative whose authority has been revoked by a court or hearing process is disqualified.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450  
Stats. Implemented: ORS 127.505 - 127.660, & 443.450

Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1560, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0240

### Authority and Responsibility of Health Care Representative

(1) When making any health care decision for an individual, the health care representative must first consider any preference indicated by any means of communication (verbal or nonverbal) by the individual and attempt to make the decision that the individual may have made if capable. If this is not possible, the decision must be made in what the health care representative believes to be in the individual's best interest.

(2) The health care representative shall have all the authority over the individual's health care that the individual may have if not incapable, subject to the limitations of the appointment, OAR 411-365-0260, and statute.

(3) A health care representative is not personally responsible for the cost of health care provided to the individual solely because the health care representative makes health care decisions for the individual.

(4) The health care representative shall have access to all medical records necessary to make health care decisions. Re-release or publication of medical records shall only be permitted when it is in the individual's best interest or as otherwise permitted by rule or statute.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450  
Stats. Implemented: ORS 127.505 - 127.660, & 443.450  
Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1570, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0260

### Limits on Authority

(1) If the individual objects to any decision made by a health care representative pursuant to these rules, that decision or determination shall be null and void unless authorized by statute or other administrative rule.

(2) A health care representative appointed under these rules does not have the authority to and may not make the following health care decisions on behalf of the individual:

(a) Convulsive treatment;

(b) Psychosurgery;

(c) Sterilization;

(d) Abortion;

(e) Withholding or withdrawing of a life-sustaining procedure;

(f) Withholding or withdrawing artificially administered nutrition and hydration, other than hyperalimentation, necessary to sustain life;

(g) Testing for HIV, unless testing is required to obtain treatment or care for the individual;

(h) Assisted suicide or mercy killing; and

(i) Experimentation, unless the medication or medical treatment prescribed is part of a study protocol approved by a human rights committee and is determined to be in the best interests of the individual.

(3) Health care representatives appointed by the individual under ORS 127.505 to 127.660 may make decisions concerning withholding or withdrawal of life-sustaining procedures or withholding or withdrawal of artificially administered nutrition and hydration, but only according to the provisions of those statutes.

(4) A health care representative (other than a duly appointed guardian with authority over health care decisions) may not have the authority to make the health care decisions for the individual that the individual is capable of making herself or himself.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450  
Stats. Implemented: ORS 127.505 - 127.660, & 443.450  
Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1580, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0280

### Significant Medical Procedures

(1) If the health care decision involves a significant medical procedure or treatment, the individual's ISP team must concur with the decision of the individual's health care representative prior to administration of the significant procedure or treatment. This must involve discussion and documentation of:

(a) The alternatives to the proposed procedure or treatment;

(b) The risks and benefits of the proposed procedure or treatment;

(c) The risks and benefits of not receiving the proposed procedure or treatment;

(d) The impact of the proposed procedure or treatment on the individual's lifestyle;

(e) Any preferences indicated by any verbal or nonverbal communication by the individual; and

(f) Any additional information that may need to be obtained that might affect the decision, such as a second opinion.

# ADMINISTRATIVE RULES

(2) When a health care decision involves a significant medical procedure or treatment, the ISP team must include the individual's services coordinator.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450  
Stats. Implemented: ORS 127.505 - 127.660, & 443.450  
Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1590, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0300

### Safeguards

(1) When the ISP team is discussing issues of capability, appointing a health care representative, or discussing a significant medical treatment or procedure, the individual and any advocate named to the ISP team by the individual must be included in the ISP team and may not be excluded.

(a) The ISP team must be composed of at least three members other than the individual; and

(b) The ISP team must include all family, advocates, and staff with a vested interest in the individual. This may be an expanded ISP team.

(2) The composition of the ISP team may not be changed to override the objection of any member of the ISP team.

(3) In following the decision of a health care representative, a health care provider shall exercise the same independent medical judgment that the health care provider may exercise in following the decisions of the individual if the individual were capable.

(4) Service coordinators and at least one other person from each ISP team shall receive approved training from the Department before using these rules to designate a health care representative.

(5) When these rules are used to appoint a health care representative, information and data specified by the Department shall be submitted to the Community Developmental Disability Program and the Department.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450  
Stats. Implemented: ORS 127.505 - 127.660, & 443.450  
Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1600, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 411-365-0320

### Notification and Appeal

(1) The services coordinator shall notify the individual, give the individual the opportunity to object, and document the notification and objection in the case management record, of any and all of the following that apply:

(a) The individual is determined to be incapable of either making a health care decision or appointing a health care representative;

(b) A health care representative is being sought for the individual;

(c) The name of the appointed health care representative; and

(d) The proposed decision about any significant medical procedure or treatment.

(2) The services coordinator shall give any health care representative appointed under these rules a copy of these rules and document this in the individual's records.

(3) The following may appeal any decision or determination made under this rule in writing to the Director for the Department:

(a) The individual;

(b) Any advocate;

(c) The services coordinator;

(d) The guardian;

(e) Any member of the ISP team; or

(f) Any family member.

(4) The Director or designee shall respond in writing within 15 working days of receipt of the appeal. The Director or designee's decision is final.

Stat. Auth.: ORS 127.505 - 127.660, 409.050, & 443.450  
Stats. Implemented: ORS 127.505 - 127.660, & 443.450  
Hist.: MHD 1-1996, f. & cert. ef. 1-10-96; Renumbered from 309-041-1610, SPD 11-2007, f. & cert. ef. 8-20-07; SPD 2-2012, f. 2-29-12, cert. ef. 3-1-12

## Department of Justice Chapter 137

**Rule Caption:** Amends the Attorney General's Model Public Contract Rule 137-047-0270.

**Adm. Order No.:** DOJ 5-2012

**Filed with Sec. of State:** 2-27-2012

**Certified to be Effective:** 2-27-12

**Notice Publication Date:** 10-1-2011

**Rules Amended:** 137-047-0270

**Subject:** Permits amending a contract awarded under ORS 279B.070 (Intermediate Procurements) to increase the contract price to the greater of \$150,000 or 25% of the original contract price.

**Rules Coordinator:** Carol Riches—(503) 947-4700

## 137-047-0270

### Intermediate Procurements

(1) Generally. For Procurements of Goods or Services greater than \$5000 and less than or equal to \$150,000, a Contracting Agency may Award a Contract as an intermediate Procurement pursuant to ORS 279B.070.

(2) Negotiations. A Contracting Agency may negotiate with a prospective Contractor who offers to provide Goods or Services in response to an intermediate Procurement to clarify its quote or Offer or to effect modifications that will make the quote or Offer more Advantageous to the Contracting Agency.

(3) Amendments. A Contracting Agency may amend a Contract Awarded as an intermediate Procurement in accordance with OAR 137-047-0800, but the cumulative amendments shall not increase the total Contract Price to a sum that is greater than \$150,000.00 or twenty-five percent (25%) of the original Contract Price, whichever is greater.

Stat. Auth.: ORS 279A.065 & 279B.070  
Stats. Implemented: ORS 279B.070  
Hist.: DOJ 11-2004, f. 9-1-04, cert. ef. 3-1-05; DOJ 20-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 15-2009, f. 12-1-09, cert. ef. 1-1-10; DOJ 5-2012, f. & cert. ef. 2-27-12

## Department of Public Safety Standards and Training Chapter 259

**Rule Caption:** Clarifies the education requirements for general polygraph examiner licensure.

**Adm. Order No.:** DPSST 2-2012(Temp)

**Filed with Sec. of State:** 2-24-2012

**Certified to be Effective:** 2-24-12 thru 8-15-12

**Notice Publication Date:**

**Rules Amended:** 259-020-0015

**Subject:** This rule was recently updated to implement Senate Bill 71, enacted during the 2011 legislative session, which allowed for individuals meet the minimum education requirements for a general polygraph examiner's license if they have been awarded a GED certificate. It has been brought to the attention of DPSST that the current organization of the education requirements in rule may be confusing. On the advice of legislative counsel, the rule is being re-organized to clarify that an individual applying for general polygraph licensure must either have received a baccalaureate degree OR have graduate from high school or received a GED and has at least five years of active investigative experience.

**Rules Coordinator:** Linsay Hale—(503) 378-2431

## 259-020-0015

### Minimum Standards for a Polygraph Examiner

(1) Any applicant for a license as a general polygraph examiner must:

(a) Be at least 18 years of age;

(b) Be a citizen of the United States;

(c) Not have demonstrated a course of behavior in the preceding 10 years that would indicate the applicant is unable to perform the duties of a polygraph examiner in a manner that would serve the interests of the public. When the Department refuses to issue a license based upon an applicant's failure to meet this requirement, the Department must follow the procedures set forth in OAR 259-020-0030;

(d) If previously convicted for a criminal offense, provide information relating to the circumstances of the conviction as required by the Department. ORS 670.280 is applicable when the Department considers information provided under this paragraph;

(e) Be fingerprinted and submit one (1) completed fingerprint cards to the Department for subsequent submission to the Oregon State Police, Identification Services Section.

(A) Appropriate fees must accompany the applicant's fingerprints to pay costs of the state and federal fingerprint background checks. No general license will be issued until the Department has received fingerprint clearance from the Oregon State Police Identification Services Section.

(B) Currently employed corrections officers, parole and probation officers, or police officers, as defined in ORS 181.610, whose fingerprints are on file in accordance with OAR 259-008-0010, are exempt from this fingerprinting requirement.



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(f)(A) Have received a baccalaureate degree from an accredited college or university; or

(B) Have graduated from high school or have been awarded a General Educational Development (GED) certificate and have at least five years of active investigative experience before the date of the application.

(i) Active investigative experience is acquired through full-time employment as an investigator. An investigator is a person whose primary assigned duty is the investigation of actual or suspected violations of law, either criminal or civil.

(ii) Administering polygraph examinations will satisfy the investigative experience requirement of this section.

(iii) The Department may, upon application of an individual polygraph examiner, accept the examiner's professional experience as being equal in professional value to the five years of active investigative experience required by this section.

(g) Have graduated from a polygraph examiner's course approved by the Department and have completed at least 200 examinations, or have worked as a polygraph examiner for a period of at least five years for a governmental agency within the State of Oregon and have satisfactorily completed at least 200 examinations.

(h) Have successfully completed an examination conducted by the Department in consultation with the Advisory Committee as defined in OAR 259-020-0055, to determine competency to act as a polygraph examiner. The Department, in consultation with the Advisory Committee, will prescribe the manner and contents of any examination conducted by the Department under provisions of the Act.

(i) Submit a fully-completed Application for Polygraph Examiner's License (DPSST Form F-203) as prescribed by OAR 259-020-0060, accompanied by documentation of qualifications as required by the Department.

(j) Submit to the Department appropriate fees as prescribed by OAR 259-020-0035.

(2) Any person who has held a trainee license for longer than 12 months and who has completed the 200 exams required under OAR 259-020-0015 must take the general license examination within 12 months of completing the required exams.

(3) The Department in consultation with the advisory committee may prescribe requirements for:

(a) The internship of an applicant who fails to pass the first or second oral or written part of the examination described in OAR 259-020-0015(1)(h);

(b) An applicant who resides in a state other than Oregon. The minimum requirements for an out-of-state examiner who does not qualify under ORS 703.130 must include:

(A) Substantial compliance with the applicable requirements for in-state examiners;

(B) A log meeting Oregon guidelines;

(C) Passing the Oregon licensing examination;

(D) Submitting at least 20 of the last 100 polygraph examinations conducted to a licensed Oregon general polygraph examiner for review. A Polygraph Review Critique (DPSST Form F-203a) must be completed on the examinations and provided to the Department for review by the Polygraph Licensing Advisory Committee; and

(E) Demonstrating proficiency in the field of polygraphy by an oral interview with the Polygraph Licensing Advisory Committee.

(c) Any individual whose license has expired for a period of more than two years and who reappplies for licensure. These requirements may include, but are not limited to:

(A) Documentation indicating any necessary training requirements have been met; and

(B) Verification that the individual has the current knowledge, skills and ability to perform the duties of a polygraph examiner.

(4) The Department will immediately suspend an applicant's trainee license if the applicant fails the third examination. The applicant may submit a new application for a general license only after retaking and successfully completing a polygraph examiner's course approved by the Department and meeting any additional requirements.

(5) The Director, acting on the written recommendation of the Polygraph Examiners Licensing Advisory Committee, may require a licensed general polygraph examiner to appear for reexamination as directed.

(a) In preparing its written recommendation, the Committee must identify the good cause reasons for its recommendation.

(b) Based on the written recommendation, the reexamination may include the written examination, the oral examination, or both.

(c) Failure of the licensee to comply with the directive to appear for reexamination will result in the suspension of the license by the Department, until the licensee appears as directed.

(6) Every examiner must maintain basic records of examinations conducted. A numerical log or ledger (beginning with #1) will provide a brief record of the name of the person examined, date, time, type of examination, and results, as well as other information the examiner considers pertinent. Folder or envelope "case" files containing all available test information, including notes, questions, charts, reports, and correspondence, must be maintained for a minimum of five years unless any applicable Oregon State Archives Records Retention Schedules require longer retention.

(7) An examiner must not conduct more than five (5) completed examinations, of any type, in any one calendar day.

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

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.210, 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 3-1987, f. & ef. 10-26-87; 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 7-1999, f. & cert. ef. 7-29-99; BPSST 10-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 9-2001, f. & cert. ef. 9-19-01; BPSST 14-2002, f. & cert. ef. 7-1-02; DPSST 1-2003, f. & cert. ef. 1-21-03; DPSST 1-2009, f. & cert. ef. 2-2-09; DPSST 10-2010, f. 10-15-10, cert. ef. 11-1-10; DPSST 19-2011, f. & cert. ef. 12-30-11; DPSST 2-2012(Temp), f. & cert. ef. 2-24-12 thru 8-15-12

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**Rule Caption:** Implements the regulation of tribal law enforcement units and the certification of tribal police officers.

**Adm. Order No.:** DPSST 3-2012

**Filed with Sec. of State:** 2-29-2012

**Certified to be Effective:** 2-29-12

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

**Rules Adopted:** 259-008-0069

**Rules Repealed:** 259-008-0069(T)

**Subject:** The rule implements the basic requirements of OR Laws 2011 Chapter 644 that pertain to the Department of Public Safety Standards and Training, specifically relating to the regulation of tribal law enforcement units and the certification of tribal police officers.

**Rules Coordinator:** Linsay Hale—(503) 378-2431

## 259-008-0069

### Tribal Law Enforcement

(1) In order for individuals employed as public safety professionals by a tribal government to be eligible for certification as a public safety professional:

(a) The tribal government must comply with all requirements found in ORS 181.610 to 181.712 and OAR 259, Section 8 applicable to law enforcement units.

(b) Tribal law enforcement units must submit an Applicant Disclosure of Convictions in Tribal Jurisdiction (Form F-8) when:

(A) Reporting individuals hired into certified positions as prescribed in OAR 259-008-0020 (Personnel Action Report Form F-4); and

(B) Upon application for certification (Application for Certification Form F-7).

(c) Tribal law enforcement units must annually complete an Annual Affidavit for Tribal Law Enforcement Units (Form F-8a).

(d) A certified public safety professional employed by a tribal government must comply with all requirements found in ORS 181.610 to 181.712 and OAR 259, Section 8 applicable to public safety professionals.

(2) Failure of a tribal government to comply with any requirements of section (1) of this rule will result in the lapse of certification of all certified public safety professionals employed with the affected tribal government. Upon reemployment as a public safety professional, or upon compliance with requirements by a tribal government, a person whose certification has lapsed may apply for recertification in the manner provided in 2011 OR SB 412 and this rule.

(3) Tribal governments choosing to comply with the provisions of OR Laws 2011 Chapter 644 regarding authorized tribal police officers must submit a resolution to the Department that includes the following:

(a) A declaration of compliance with all requirements of OR Laws 2011 Chapter 644;

(b) Proof of insurance. Acceptable proof of insurance consists of:

(A) A full copy of the public liability and property damage insurance for vehicles operated by the tribal government's authorized tribal police officers and a full copy of the police professional liability insurance policy from a company licensed to sell insurance in the state of Oregon; or

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(B) A description of the tribal government's self-insurance program which is in compliance with OR Laws 2011 Chapter 644.

(c) Tribal governments must file a written description of all material changes to insurance policies or the tribal government's self-insurance program with the Department within 30 days of the change.

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

Stat. Auth.: 2011 OL Ch. 644

Stats. Implemented: 2011 OL Ch. 644

Hist.: DPSST 15-2011(Temp), f. & cert. ef. 10-27-11 thru 3-28-12; DPSST 16-2011(Temp), f. & cert. ef. 11-28-11 thru 3-28-12; DPSST 3-2012, f. & cert. ef. 2-29-12

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**Rule Caption:** New model rule adoption.

**Adm. Order No.:** DPSST 4-2012

**Filed with Sec. of State:** 3-7-2012

**Certified to be Effective:** 3-7-12

**Notice Publication Date:**

**Rules Amended:** 259-001-0015, 259-003-0015, 259-005-0015

**Subject:** This rule amendment adopts the current version of the Attorney General's Model Rules of Procedure, effective January 1, 2012.

**Rules Coordinator:** Linsay Hale—(503) 378-2431

## 259-001-0015

### Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Board and Department adopt the Attorney General's Model Rules of Procedure applicable to proceedings for agency rulemaking in effect on January 1, 2012.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 2-1981, f. & ef. 12-18-81; PS 1-1983, f. & ef. 12-16-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 9-2001, f. & cert. ef. 9-19-01; DPSST 13-2011, f. & cert. ef. 8-29-11; DPSST 4-2012, f. & cert. ef. 3-7-12

## 259-003-0015

### Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Board and Department adopt the Attorney General's Model Rules of Procedure applicable to proceedings for agency declaratory rulings under the Administrative Procedures Act as amended and in effect on January 1, 2012.

Stat. Auth.: ORS 181.640(5) & 703.230(2)

Stats. Implemented: ORS 181.640(5) & 703.23(2)

Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 13-2011, f. & cert. ef. 8-29-11; DPSST 4-2012, f. & cert. ef. 3-7-12

## 259-005-0015

### Rules of Procedures

Pursuant to the provisions of ORS 183.341, the Board and Department adopt the Attorney General's Model Rules of Procedure applicable to contested cases under the Administrative Procedures Act as amended and in effect on January 1, 2012.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2000, f. & cert. ef. 9-29-00; DPSST 13-2011, f. & cert. ef. 8-29-11; DPSST 4-2012, f. & cert. ef. 3-7-12

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## Department of State Lands Chapter 141

**Rule Caption:** General Permit for Impacts to Vernal Pool Wetlands, Revisions to the Rules for General Permits.

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

**Filed with Sec. of State:** 3-14-2012

**Certified to be Effective:** 4-1-12

**Notice Publication Date:** 9-1-2011

**Rules Adopted:** 141-093-0180, 141-093-0185, 141-093-0187, 141-093-0190, 141-093-0195, 141-093-0200, 141-093-0205, 141-093-0215

**Rules Amended:** 141-093-0107, 141-093-0115, 141-093-0135

**Subject:** In November 2009, after six years of extensive public involvement and interagency coordination, DSL approved a Gener-

al Permit for Removal-Fill and Mitigation of Impacts to Vernal Pool Wetlands in Jackson County (Vernal Pool GP). The Vernal Pool GP was developed in coordination with the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service to address endangered species associated with vernal pools. Through this rulemaking we will finalize the Vernal Pool GP to create a new permit instrument that is predictable, timely, and consistent with the regional planning effort for vernal pools. The revisions to the existing Division 93 rules are necessary to accommodate the new Vernal Pool GP.

The Vernal Pool GP provides an expedited process (55 days) for permitting impacts to vernal pool wetlands located in Jackson County. The rules describe the standards for mitigation for those impacts that are consistent with the standards required to address the Endangered Species Act (administered by the U.S. Fish and Wildlife Service) and the Clean Water Act (administered by the U.S. Army Corps of Engineers).

**Rules Coordinator:** Elizabeth Bolden—(503) 986-5239

## 141-093-0107

### Completeness and Eligibility Review for Authorizing Projects under a GP

(1) Initial Review. The Department will review the application within 15 calendar days (unless otherwise stated in the administrative rules for a specific GP), of agency receipt of the application to determine whether the application is complete and the project is eligible for a GP.

(a) Complete and Eligible Application. A complete application is one that contains all the information required in the Department's application. An eligible project is one that meets the eligibility requirements, activity-specific application requirements and authorized activities listed under the GP.

(b) Incomplete Application Notification. If the Department determines that the application is incomplete or deficient, the Department will notify the applicant in writing and list the missing or deficient information. The applicant may resubmit the entire amended package for reconsideration within 120 calendar days from date of the Department's notice, unless instructed by the Department to do otherwise. Submission of a new or amended application package starts a new initial review period.

(c) Ineligible Projects. If the review of the application results in a determination that the project is ineligible for a GP, the applicant will be notified and informed of the reason for ineligibility. The applicant may then either revise the project and resubmit the application for reconsideration or apply for an Individual Permit under OAR 141-085 within 120 calendar days from date of agency determination.

(2) Timeframe for Resubmittal. If a revised application is not resubmitted within 120 calendar days of an incompleteness or ineligibility determination, the Department may administratively close the application. If the Department closes the file under this circumstance, the Department will retain the application fee. A subsequent application for the same or similar project will require payment of an application fee.

Stat. Auth.: ORS 196.600 - 196.692, 196.795 - 196.990

Stats. Implemented: ORS 196.600 - 196.692, 196.795 - 196.990

Hist.: DSL 3-2011, f. & cert. ef. 3-1-11; DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0115

### Department Determinations and Considerations in Evaluating Applications to Authorize Projects under a GP

(1) Departmental Final Review. The Department will evaluate the information provided in the application, conduct its own investigation, and consider the comments submitted during the public review process to determine whether or not to issue an authorization under a GP. The Department will render a decision within 40 calendar days of receipt of a complete application, unless otherwise stated in the administrative rules for a specific GP.

(2) Extension of Decision Deadline. The applicant may request additional time to respond to comments or to satisfy other requirements. The applicant and the Department may agree to extend the timeline for making a final authorization decision. If no agreement is reached, the Department will make a final authorization decision within the original time period specified in these rules.

(3) Effective Date of Review Standards. The Department may consider only standards and criteria in effect on the date the Department receives the complete application or renewal request.

(4) Department Determinations. The Department will issue an authorization under a GP if it determines the project described in the application:

(a) Has independent utility;

# ADMINISTRATIVE RULES

(b) Is consistent with the protection, conservation and best use of the water resources of this state as specified in ORS 196.600 through 196.990;

(c) Would not unreasonably interfere with the paramount policy of this state to preserve the use of its waters for navigation, fishing and public recreation, when project is on state-owned lands; and

(d) Meets the purpose and eligibility requirements in the GP.

(5) Department Considerations. In determining whether to issue an authorization under a GP, the Department will consider all of the following:

(a) The public need for the proposed fill or removal and the social, economic and other public benefits likely to result from the proposed fill or removal. When the applicant for an authorization under a GP is a public body, the Department may accept and rely on the public body's findings as to local public need and local public benefit;

(b) The economic cost to the public if the proposed fill or removal is not accomplished;

(c) The availability of alternatives to the project for which the fill or removal is proposed;

(d) The availability of alternative sites for the proposed fill or removal;

(e) Whether the proposed fill or removal conforms to sound policies of conservation and would not interfere with public health and safety;

(f) Whether the proposed fill or removal is in conformance with existing public uses of the waters and with uses designated for adjacent land in an acknowledged comprehensive plan and land use regulations;

(g) Whether the proposed fill or removal is compatible with the acknowledged comprehensive plan and land use regulations for the area where the proposed fill or removal is to take place or can be conditioned on a future local approval to meet this criterion;

(h) Whether the proposed fill or removal is for stream bank protection; and

(i) Whether the applicant has provided all practicable mitigation to reduce the adverse effects of the proposed fill or removal in the manner set forth in ORS 196.800.

(6) Alternatives Analysis. The applicant bears the burden of providing the Department with the alternatives analysis used to derive the practicable alternative that has the least reasonably expected adverse impacts on waters of this state. The alternatives analysis must provide the Department all the underlying information necessary to support its considerations under section (5) of this rule.

(7) Fills in an Estuary for Non-Water Dependent Use. A "substantial fill" in an estuary is any amount of fill regulated by the Department. No authorizations will be issued for a substantial fill in an estuary for a non-water dependent use unless all of the following apply:

(a) The fill is for a public use;

(b) The fill satisfies a public need that outweighs the harm, if any, to navigation, fisheries and recreation; and

(c) The removal-fill meets all other review standards.

(8) Written Findings. In the following cases, the Department will prepare written findings to document a decision for an authorization under a GP:

(a) Permit denial;

(b) Fill of two acres or more in wetlands;

(c) Fill in estuaries (except cable crossings, pipelines, or bridge construction);

(d) Removal from estuaries of more than 10,000 cubic yards of material (except for maintenance dredging);

(e) Placement of greater than 2,500 cubic yards of riprap in coastal streams or estuaries;

(f) Removal-fill in the Oregon Territorial Sea in accordance with Statewide Planning Goal 19-Ocean Resources; and

(g) Any permit decision that is contrary to the final decision recommendation of a state agency.

(9) Marine Reserves and Marine Protected Areas. The Department will only authorize a removal-fill activity within an area designated by the State Land Board as a marine reserve or a marine protected area if the removal-fill activity is necessary to study, monitor, evaluate, enforce, protect or otherwise further the studying, monitoring, enforcement and protection of the reserve or marine protected area.

Stat. Auth.: ORS 196.600 - 196.692, 196.795 - 196.990

Stats. Implemented: ORS 196.600 - 196.692, 196.795 - 196.990

Hist.: DSL 3-2011, f. & cert. ef. 3-1-11; DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0135

### General Conditions

(1) Responsible Party. The person listed on the application as the applicant is responsible for the activities of all contractors or other operators involved in project work covered by the authorization under the GP.

(2) Copy of Authorization Available for Inspection. A copy of the authorization must be available at the work site whenever authorized activities are being conducted.

(3) Site Access Required. Employees of the Department and all authorized representatives must be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this authorization.

(4) Archeological Resources. If any archeological sites, resources or artifacts are discovered during construction, work must immediately cease and the State Historic Preservation Office must be contacted.

(5) ODFW Fish Passage Requirement. The authorized activity must meet Oregon Department of Fish and Wildlife requirements for fish passage before commencing the project (ORS 509.580 through 509.901 and OAR 635-412-0005 through 635-412-0040).

(6) Hazards to Recreation, Navigation or Fishing. The activity must be timed not to interfere with or create a hazard to recreational or commercial navigation or fishing.

(7) Work Period in Jurisdictional Areas. Fill or removal activities below the Ordinary High Water Line must be conducted when recommended by ODFW, unless otherwise coordinated with Oregon Department of Fish and Wildlife and approved in writing by DSL. Work is prohibited when fish eggs are present within the reach where the authorized activities are being conducted.

(8) Pre-Construction Resource Area Fencing or Flagging. Prior to any site grading, the boundaries of any avoided wetlands, waterways and riparian areas adjacent to the project site must be surrounded by noticeable construction fencing or flagging. There will be no vegetation removal or heavy equipment within marked areas. The marked areas must be maintained during construction of the project and be removed immediately upon project completion.

(9) Erosion Control Methods. The following erosion control measures must be installed at the construction site before construction and maintained during and after construction to prevent erosion and minimize movement of soil into waters of this state:

(a) All exposed soils must be stabilized during and after construction in order to prevent erosion and sedimentation;

(b) Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures must be used to prevent movement of soil into waterways and wetlands;

(c) To prevent erosion, use of compost berms, impervious materials or other equally effective methods, must be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours;

(d) Unless part of the permanent fill, all construction access points through, and staging areas in, riparian and wetland areas must use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities must be stabilized by mulching and native vegetative plantings or seeding. Sterile grass may be used instead of native vegetation for temporary sediment control if native vegetation is unavailable. If soils are to remain exposed for more than seven days after completion of the permitted work, they must be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed;

(e) Where vegetation is used for erosion control on slopes steeper than 2:1, tackified seed mulch must be used so the seed does not wash away before germination and rooting;

(f) Dredged or other excavated material must be placed on upland areas having stable slopes and must be prevented from eroding back into waterways and wetlands;

(g) Erosion control measures must be inspected and maintained as necessary to ensure their continued effectiveness until soils become stabilized; and

(h) All erosion control structures must be removed when the project is complete and soils are stabilized and vegetated.

(10) Hazardous, Toxic, and Waste Material Handling. Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint, wood treated with leachable preservatives or other deleterious waste materials must not be allowed to enter waters of this state. Machinery refueling is to occur at least 150 feet from waters of this state and confined in a des-



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ignated area to prevent spillage into waters of this state. Barges must have a containment system to effectively prevent petroleum products or other deleterious material from entering waters of this state. Project-related spills into waters of this state or onto land with a potential to enter waters of this state must be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.

(11) Raising or Redirecting Water. The project must not cause water to rise or be redirected and result in damage to structures or property.

(12) Waste Disposal. Old piling and other waste material generated by the project must be disposed of in an appropriate disposal facility. There must be no temporary storage of piling or other waste material below top of bank, in wetlands; in a Federal Emergency Management Administration designated floodway, or in an area historically subject to landslides.

(13) DSL May Halt or Modify. DSL retains the authority to temporarily halt or modify the project in case of unforeseen damage to natural resources.

(14) Work Area Isolation. The work area must be isolated from the water during construction. All structures and materials used to isolate the work area must be removed immediately following construction and water flow returned to pre-construction conditions. All fish must be salvaged from the isolated area in accordance with Oregon Department of Fish and Wildlife requirements.

(15) Spoil Disposal. Spoil materials, not authorized used in the project for placement in waters of this state, must be placed in an upland location. Spoil materials used in the project must be included in the cumulative removal-fill calculation for the activity.

(16) Additional Conditions. The Department may impose additional conditions, if necessary, to eliminate and reduce the reasonably expected adverse impacts of project development to waters of this state. OAR 141-093-0135

Stat. Auth.: ORS 196.600 - 196.692, 196.795 - 196.990  
Stats. Implemented: ORS 196.600 - 196.692, 196.795 - 196.990  
Hist.: DSL 3-2011, f. & cert. ef. 3-1-11; DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0180

### Purpose

The purpose of this General Permit (GP) is to provide an expedited authorization for certain projects that involve removal-fill activities in vernal pool wetlands in Jackson County, Oregon. This GP includes a mitigation framework to address the Department's interest in conserving and maintaining the rare species function of vernal pool wetlands. It is also in alignment with the regulatory tools established by the U.S. Fish and Wildlife Service (USFWS) and the U.S. Army Corps of Engineers in administering the federal Endangered Species Act (ESA) and Clean Water Act, respectively. This GP authorizes removal-fill in vernal pool wetlands and other specific waters, as well as removal-fill activities necessary to conduct mitigation.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990  
Stats. Implemented: ORS 196.600 - 196.692 & ORS 196.795 - 196.990  
Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0185

### Expiration

This GP will expire on April 1, 2016 or when a combined total of 60 acres of vernal pool wetlands (up to 300 acres of vernal pool habitat complex) or other associated waters have been impacted, whichever occurs first. Upon expiration, the GP may be reviewed and modified or reissued.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990  
Stats. Implemented: ORS 196.600 - 196.692 & 196.795 - 196.990  
Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0187

### Review Process for Authorizing Projects under this GP

The Department shall review applications for this GP according to 141-093-0100 through 141-093-0135, with the following exceptions:

(1) Initial Review. The Department will review the application within 30 calendar days of agency receipt of the application to determine whether the application is complete and the project is eligible for this GP.

(2) Departmental Final Review. The Department will render a decision within 60 calendar days of receipt of a complete application.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990  
Stats. Implemented: ORS 196.600 - 196.692 & 196.795 - 196.990  
Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0190

### Definitions

The following definitions are used in this GP, in addition to those in OAR 141-085-0510.

(1) "Combination Credits" means those credits that have been approved by the Department as wetland mitigation credits and by the USFWS as ESA species credits.

(2) "Drought Year" means a season in which precipitation prior to and during the growing season is less than the 30 percent probability level documented in the WETS table for the Medford weather station. The procedure for determining "below normal rainfall" is found in the 2006 Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region, available on the Department Web site.

(3) "Permittee Responsible Mitigation" means actions undertaken by a permittee to compensate for impacts resulting from a specific project.

(4) "Protect and Manage Mitigation" is preservation mitigation that entails the removal of a threat to, or preventing the decline of vernal pool wetlands, and includes the establishment and maintenance of native biological communities.

(5) "Restore and Manage Mitigation" is mitigation which re-establishes and maintains vernal pool wetland topography and hydrology, and native biological communities in areas where previously existing vernal pools have been altered to upland or open water.

(6) "Steward" means the party responsible for long-term management and monitoring of the mitigation site after it has been released by the Department.

(7) "Vernal Pool" means a seasonal wetland found on shallow soils over an impermeable hardpan layer or bedrock.

(8) "Vernal Pool Complex (VPC) and VPC Habitat" means a tract of land that includes vernal pool wetlands and the upland mounds between them.

(9) "Vernal Pool Function Ranking" is the average of the four function scores (scores) for the subject site relative to the scores reported for the 59 vernal pool complexes inventoried in appendix C-1 of the Agate Desert Vernal Pool Final Draft Function Assessment Methodology dated April 2007 (AD Inventory). This report is available on the Department Web site.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990  
Stats. Implemented: ORS 196.600 - 196.692 & 196.795 - 196.990  
Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0195

### Eligibility Requirements

(1) Project Location. To be eligible for this GP, the project must be located within the geographic area of Agate-Winlo Soils. This area generally conforms to the boundaries of the Agate-Winlo soil map unit as mapped by the Natural Resources Conservation Service's Jackson County soil survey.

(2) Type of Water. This GP authorizes removal-fill activities only in vernal pool wetlands and the following other waters that occur in Agate-Winlo soils:

(a) Ditches or other water conveyance structures constructed solely to drain vernal pool lands;

(b) Roadside ditches that are not part of a stream tributary system;

(c) Channels excavated through uplands for irrigation water and return flows; and

(d) Palustrine emergent wetlands that were historically vernal pool wetlands.

(3) Thresholds. To be eligible, a project must meet both of the following:

(a) Impacts to vernal pool wetlands and other waters must be less than two acres; and

(b) Impacts to VPC must be less than 15 acres.

(4) Mitigation. Mitigation must be accomplished in accordance with OAR 141-093-0200.

Stat. Auth.: ORS 196.600 - 196.692 & 196.795 - 196.990  
Stats. Implemented: ORS 196.600 - 196.692 & 196.795 - 196.990  
Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0200

### Mitigation

(1) General Requirements. Mitigation may be accomplished by either permittee responsible mitigation projects or by purchasing credits from an established mitigation bank. Mitigation must be conducted according to the following general requirements:

(a) Out-of-kind mitigation is not allowed for vernal pool impacts;

(b) All mitigation projects must meet the ratios and site suitability criteria described in this section.

(c) Mitigation for vernal pool impacts must consist of either protect and manage or restore and manage, or both. Neither enhancement of existing wetland nor creation of wetlands where they did not previously occur is recognized as suitable mitigation for this GP;

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(d) Combination credits may be used only once (for wetlands or ESA species separately or for an impact that requires both types); and

(e) The amount of mitigation required to offset impacts to waters of the state depends on both the mitigation site base ratios and the impact site multipliers, as described in this section.

(2) Mitigation Site Base Ratios. Mitigation site base ratios are used to determine the number of credits generated by each type of mitigation, as follows:

(a) One and one-half acres of wetland protected and managed generates one wetland or combination credit (1.5:1 ratio), and

(b) One acre of wetland restored and managed generates one wetland or combination credit (1:1 ratio).

(3) Impact Site Multiplier. The impact site multiplier determines the number of credits that must be purchased from a bank or generated at a permittee responsible mitigation site to offset impacts associated with a project.

(a) The impact acreage is multiplied by 2 if the project meets both of the following:

(A) The vernal pool function ranking of the impact wetland is less than or equal to the 30th percentile score in the AD Inventory; and

(B) The total vernal pool wetland impact for the project is less than 0.5 acres.

(b) The impact acreage is multiplied by 2.5 if the project meets any one of the following:

(A) The vernal pool function ranking is less than or equal to the 30th percentile score in the AD Inventory and the total impact for the project is more than 0.5 acre of vernal pool wetland;

(B) The vernal pool function ranking is between the 30th and 70th percentile scores in the AD Inventory;

(C) The vernal pool wetland proposed for impact is within a USFWS designated critical habitat unit as shown on the Department Web site; or

(D) The vernal pool wetland proposed for impact is hydrologically contiguous with any VPC of 10-30 acres.

(c) The impact acreage is multiplied by 3 if the project meets any one of the following:

(A) The vernal pool function ranking is equal to or greater than the 70th percentile score in the AD Inventory; or

(B) The vernal pool wetland proposed for impact is hydrologically contiguous with any VPC >30 acres.

(d) For impacts to other waters, the impact acreage is multiplied by 2.

(4) Mitigation Site Suitability Criteria. All of the following criteria must be met for a proposed mitigation site under this GP:

(a) Size. The total effective size of a mitigation site must be at least 70 contiguous acres of VPC. The Department will consider adjacent, permanently protected parcels dedicated to vernal pool conservation as part of the total effective size if they have uninterrupted continuity of soils, water flows, and topography. The Department may determine that smaller parcels (10-70 acres) of VPC may be adequate in isolation if they exist within areas in which surrounding land uses are compatible with long-term VPC habitat conservation;

(b) Buffers. Mitigation sites must include sufficient area to maintain the hydrologic regime, soils, topography, and vegetation conditions to provide suitable habitat for the typical suite of vernal pools species. The mitigation site must include the surrounding upland mounds and adjacent areas adequate to buffer the VPC habitats against effects from adjacent land uses.

(c) Fairy Shrimp Presence. Mitigation sites must demonstrate at least 10 percent occupancy by vernal pool fairy shrimp, unless only restore and manage mitigation is proposed;

(d) Functionality. Mitigation sites must meet the 70th percentile ranking of the function assessment score, unless only restore and manage mitigation is proposed;

(e) Hardpan. All proposed mitigation sites and must have an intact hardpan layer and no activity anticipated that would perforate the hardpan (e.g. utility easement). If the hardpan is perforated within 100 feet of the mitigation site, or if it is anticipated in the future, the area of the mitigation site adversely affected, as determined by the Department, may generate half of the credits otherwise generated per OAR 141-093-0200(2);

(f) Net gain. Mitigation projects proposed for lands that are already designated for conservation purposes must provide benefits to vernal pool habitats and species above and beyond those resulting from the current conservation status of the lands. For such cases, the number of credits generated will be determined by the Department.

Stat. Auth.: ORS 196.600 – 196.692 & 196.795 – 196.990

Stats. Implemented: ORS 196.600 – 196.692 & 196.795 – 196.990

Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0205

### GP-Specific Application Requirements for Authorizing Projects

(1) Wetland Delineation and Functional Assessments. All applications for this GP must include a wetland delineation approved by the Department and a functional assessment of the vernal pool wetlands at the impact site. If the project involves permittee responsible mitigation, a wetland delineation and functional assessment is also required for the mitigation site. Functional assessments must be conducted according to the Agate Desert Vernal Pool Final Draft Function Assessment Methodology, available on the Department's Web site.

(2) Rare Species Surveys. All rare species surveys for this GP must be conducted according to the USFWS Guidance to Assist in the Assessment of, and Conservation Efforts for, Vernal Pool Systems on the Agate Desert, Jackson County, Oregon, dated June 2008, available on the Department Web site.

(3) Compensatory Wetland Mitigation Plan. All applications for this GP that do not propose using bank credits, must include a compensatory wetland mitigation plan according to OAR 141-085-0695 through 0705, unless otherwise specified in this GP.

(4) Long-Term Stewardship Plan. Each permittee responsible mitigation project under this GP must include a plan describing long-term management of the site necessary to meet the goal of sustaining the aquatic resources and the wetland-dependent listed species. The plan must include:

(a) A long-term protection instrument consistent with OAR 141-085-0695 for the entire mitigation site, including the uplands between vernal pools and buffers.

(b) Identification of the long-term steward;

(c) A description of the long term management goals, the actions needed to reach and maintain those goals, and an estimate of the annual costs for each action; and

(d) An ongoing funding mechanism, such as a non-wasting endowment, to pay for site management in perpetuity.

Stat. Auth.: ORS 196.600 – 196.692 & 196.795 – 196.990

Stats. Implemented: ORS 196.600 – 196.692 & 196.795 – 196.990

Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

## 141-093-0215

### GP-Specific Conditions

(1) General Conditions Apply. All the requirements, procedures and conditions set forth in OAR 141-093-0105 through 141-093-0135 apply to this GP, unless otherwise specified in this GP.

(2) Proof of Mitigation Purchase. Before an authorization is approved, the Department must have proof of purchase of wetland mitigation bank credit, in-lieu fee credit purchase, or cash payment of the correct in-lieu amount.

(3) Long-Term Protection of Mitigation Sites Required. The mitigation site shall be protected in perpetuity pursuant to OAR 141-085-0695, using an instrument approved by the Department. There must be no wetland impacts until the approved instrument is fully executed.

(4) Post-Construction Report Required. For restore and manage sites, a post-construction report demonstrating as-built conditions and discussing any variation from the approved plan must be provided to the Department within 90 days of mitigation site grading. The post-construction report must include:

(a) A scaled drawing, accurate to 6-inch elevation, showing the finished contours of the mitigation site;

(b) A narrative that describes any deviation from the approved mitigation plan; and

(c) A copy of the fully executed long-term protection instrument.

(5) Term of Monitoring; Annual Monitoring Reports Required. The permittee must monitor the mitigation site to determine whether the mitigation site is meeting performance standards for a minimum period of five growing seasons after completion of all initial plantings, and longer if necessary, until the standards have been met for three consecutive non-drought years. Annual monitoring reports are required; however, if a drought year occurs within these timelines, that year may be deferred and the regular monitoring must resume the next non-drought year.

(6) Annual Monitoring Report Due Date. Annual monitoring reports are due by December 31st of each year.

(7) Extension of the Monitoring Period. The monitoring period may be extended, at the discretion of the Department, for failure to provide monitoring reports, failure of the mitigation site to meet performance standards for three consecutive non-drought years or when needed to evaluate replanting or other corrective or remedial actions.

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(8) Release of Mitigation Obligation. Mitigation monitoring is required until the Department has officially released the site from further monitoring.

(9) Failure to Submit Monitoring Reports. Failure to submit the monitoring report by the due date may result in an extension of the monitoring period, forfeiture of the financial security and/or enforcement action.

(10) Contents of the Annual Monitoring Report. The annual monitoring report must include the following information:

(a) Completed Monitoring Report Cover Sheet, which includes permit number, permit holder name, monitoring date, report year, performance standards, and a determination of whether the site is meeting performance standards;

(b) Impact and mitigation site location map(s);

(c) A brief narrative that describes maintenance activities conducted and recommendations for future management to sustain performance standards;

(d) Mitigation site map showing permanent plot locations that correspond to the data collected and fixed photo-points;

(e) Data collected to support the conclusions related to the status of the site relative to all the performance standards listed in this permit (include a summary and analysis in the report and raw data in the appendix);

(f) Photos from fixed photo points (include in the appendix);

(g) Other information necessary to document compliance with the performance standards listed in this permit;

(h) A post-construction functional assessment by the end of the monitoring period; and

(i) For restore and manage projects, a delineation must be conducted one time within the first five years, during spring of a year with normal precipitation patterns.

(11) Corrective Action May be Required. The Department retains the authority to require corrective action in the event the performance standards are not accomplished at any time within the monitoring period.

(12) Monitoring Methods. The mitigation site must be monitored according to the monitoring methods described in the Vernal Pool General Permit Mitigation Performance Standards and Monitoring Methods, available on the Department's Web site.

(13) Performance Standards. Authorizations issued under this GP shall include the performance standards listed in the Vernal Pool General Permit Mitigation Performance Standards and Monitoring Methods, available on the Department's Web site. Alternative performance standards may be approved, if they are based on monitoring data from appropriate reference sites and they meet the following goals:

(a) The goal of the hydrology and topography standards is to restore and sustain the natural range of extent, depth and duration of water, and topography of vernal pools.

(b) The goal of the vegetation standards is to restore and maintain plant communities dominated by native species typical of least-disturbed reference site vernal pool wetlands and surrounding uplands.

(c) The goal for listed and rare species is to sustain or increase local populations.

Stat. Auth.: ORS 196.600 – 196.692 & 196.795 – 196.990

Stats. Implemented: ORS 196.600 – 196.692 & 196.795 – 196.990

Hist.: DSL 1-2012, f. 3-14-12, cert. ef. 4-1-12

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## Department of Transportation Chapter 731

**Rule Caption:** Interrogatories not allowed for certain types of ODOT contested case hearings.

**Adm. Order No.:** DOT 1-2012(Temp)

**Filed with Sec. of State:** 2-21-2012

**Certified to be Effective:** 2-21-12 thru 8-15-12

**Notice Publication Date:**

**Rules Amended:** 731-001-0005

**Subject:** The Oregon Attorney General's office has adopted a rule, effective on January 31, 2012, that allows for particular discovery methods in all contested case hearings. The rule allows agencies to opt out of provisions of that rule if certain criteria are met. ODOT has determined that several, but not all, of its programs that utilize contested case hearings do meet that criteria and are opting out of the provision for interrogatories, for the reasons stated in the text of the proposed rule.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

## 731-001-0005

### Model Rules of Procedure

(1) Pursuant to ORS 183.341, the Oregon Transportation Commission adopts the following portions of Oregon Administrative Rules chapter 137, effective January 31, 2012 as the general administrative procedural rules for the Oregon Transportation Commission and the Oregon Department of Transportation: division 1, division 2, division 3, division 4 and division 5, excluding OAR 137-003-0001 through 137-003-0092.

(2) Pursuant to ORS 184.616, ORS 184.619 and OAR 137-003-0566(2), the Oregon Department of Transportation is excluding interrogatories as a discovery device from contested cases for Motor Carrier Transportation Division, Driver and Motor Vehicle Services Division, and Highway Division for Access Management and Right-of-Way Relocation Benefits. The use of interrogatories in these types of cases will unduly complicate or interfere with the hearing process given the volume of cases and the need for informality. In addition, alternative discovery and alternative procedures for sharing relevant information are sufficient to ensure fundamental fairness in these types of proceedings.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Transportation.]

Stat. Auth.: ORS 183.341, 184.616 & 184.619

Stats. Implemented: ORS 183.341

Hist.: HC 1207, f. & ef. 10-9-69; HC 1245, f. & ef. 2-12-71; HC 1276, f. & 3-3-72, ef. 3-15-72; 1 OTC 1(Temp), f. & ef. 7-18-73; 1 OTC 2, f. & ef. 9-26-73; 1 OTC 3, f. 10-15-73, ef. 11-25-73; 1 OTC 68, f. & ef. 1-23-76; 1 OTC 3-1978, f. & ef. 3-29-78; 1 OTC 3-1980(Temp), f. & ef. 1-16-80; 1 OTC 7-1980, f. & ef. 3-28-80; 1 OTC 4-1981, f. & ef. 11-24-81; 1 OTC 1-1984, f. & ef. 1-6-84; 1 OTC 3-1986, f. & ef. 4-28-86; DOT 1-1988, f. & ef. 8-22-88; DOT 4-1990, f. & cert. ef. 8-14-90; DOT 1-1992, f. & cert. ef. 5-12-92; DOT 2-1994, f. & cert. ef. 3-17-94; DOT 2-1995, f. 11-21-95, cert. ef. 1-1-96; DOT 2-1997, f. & cert. ef. 12-23-97; DOT 2-2000, f. & cert. ef. 6-8-00; DOT 1-2002, f. & cert. ef. 1-17-02; DOT 2-2004, f. & cert. ef. 2-23-04; DOT 1-2006, f. & cert. ef. 1-24-06; DOT 1-2011, f. & cert. ef. 5-27-11; DOT 1-2012(Temp), f. & cert. ef. 2-21-12 thru 8-15-12

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

**Rule Caption:** Updates requirements for possessory lien foreclosure forms and the perfection of a security interest.

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

**Filed with Sec. of State:** 2-21-2012

**Certified to be Effective:** 2-21-12

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

**Rules Amended:** 735-020-0010, 735-020-0012

**Subject:** OAR 735-020-0012 designates the forms and procedures to be used when evidence of a possessory lien foreclosure is submitted to DMV in support of an application for vehicle title. Specifically, evidence of a possessory lien foreclosure submitted in support of an application for title must be submitted on a DMV certificate of possessory lien foreclosure form.

The amendment of OAR 735-020-0010 clarifies which primary ownership documents constitute proof of ownership for purposes of ORS 803.205(2). The amendment of OAR 735-020-0012 is needed to specify the information required to be on a DMV certificate of possessory lien foreclosure form and the effect of the lien claimant's signature on the form. To reflect relevant law changes that became effective since the forms were last revised, lien forms submitted to DMV must have a revision date of January 2008 or later. Other, non-substantive changes simplify rule language to improve readability.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

## 735-020-0010

### Perfection of Security Interest; Primary Ownership Document

(1) This rule specifies the documents DMV will consider primary ownership documents for the purposes of perfecting a security interest in a vehicle.

(2) Except as provided in section (3) of this rule, a primary ownership document is:

(a) A manufacturer's certificate of origin (MCO) or equivalent document as described in OAR 735-022-0030 through 735-022-0060. This subsection applies to:

(A) A vehicle or camper built by a manufacturer that has never been titled or registered; and

(B) A vehicle or camper built, assembled, or reconstructed using a component kit that has never been titled or registered. The MCO may only



# ADMINISTRATIVE RULES

be considered a primary ownership document for the vehicle parts contained in the kit.

(b) A current certificate of title or salvage title issued for a vehicle or camper; or

(c) A Certificate to Obtain Title for a Vehicle (U.S. Government Form SF 97), for a vehicle or camper previously owned by the U.S. Government and where interest is being transferred.

(3) Notwithstanding section (2) of this rule, DMV may, at its discretion, consider other documents to be primary ownership documents when:

(a) DMV is satisfied that the original Oregon title has been lost or destroyed, and that there has been a change in interest;

(b) Interest has been transferred by operation of law under Oregon law, or through court action in a court having jurisdiction over persons or property located in Oregon, and the primary ownership documents described in section (2) of this rule are not available;

(c) The security interest is in a vehicle or camper not manufactured for sale in the U.S., and that is not currently registered or titled in the U.S.;

(d) The security interest is in a vehicle or camper last titled or registered outside the U.S.; or

(e) DMV is satisfied that a primary ownership document described in section (2) of this rule was never issued, is not obtainable, or has been surrendered to another jurisdiction.

(4) Documents DMV may determine are primary ownership documents under section (3) of this rule include but are not limited to:

(a) A court judgment or decree from a court having jurisdiction over persons or property located in Oregon that awards ownership of a vehicle or camper as a matter of law;

(b) A sheriff's bill of sale;

(c) A certificate of possessory lien foreclosure as described in OAR 735-020-0012;

(d) A completed and signed Inheritance Affidavit (DMV Form 735-516) vesting the interest of a deceased owner in the person designated by all the heirs as the owner of the vehicle or camper;

(e) A completed and signed Certificate of Ownership of an Assembled Light Trailer or Heavy Trailer (DMV Form 735-6644) for a trailer built by someone other than a manufacturer;

(f) A completed and signed Application for Replacement Title (DMV Form 735-515) or Application for Replacement Salvage Title (DMV Form 735-230) where:

(A) The application is accompanied by an Application for Title and Registration (DMV Form 735-226) that includes a release of interest from anyone listed on the original title that will not be listed on the new title; and

(B) Any change in interest is of a type not subject to odometer disclosure requirements under ORS 803.102 and OAR 735-028-0000 through 735-028-0100;

(g) A completed and signed Certification of Ownership Facts (DMV Form 735-550);

(h) An Ownership document issued by the U.S. Armed Forces for a vehicle or camper owned by a member of the U.S. Armed Forces;

(i) A salvage title, salvage bill of sale, or dismantler (wrecker) bill of sale on a vehicle or camper whose title has been surrendered to a jurisdiction; or

(j) For a vehicle or camper described under subsections (3)(c) and (d) of this rule:

(A) A certificate for export purposes issued by a foreign jurisdiction; or

(B) A vehicle or camper registration if the vehicle has been registered but is not currently titled.

(5) When the application for notation of a security interest is for a vehicle or camper that is initially being titled as assembled, reconstructed, or a vehicle replica, the primary ownership document must be specific to the frame or unibody.

(6) When the application for notation of a security interest is for a vehicle or camper manufactured in more than one stage, the primary ownership document(s) must cover each stage of manufacture.

(7) DMV may invalidate a primary ownership document as evidence of ownership if it determines:

(a) The document is fraudulent or contains false information; or

(b) The document does not show the most current ownership interest in the vehicle or camper.

(8) If, after a title has been issued, it is determined that the evidence of ownership is invalid under section (7) of this rule, DMV may cancel the vehicle title. Before a title is cancelled, DMV will send a notice of the proposed cancellation to the vehicle owner or lessee, security interest holder(s) and lessor (if applicable), as listed in DMV records. A cancellation

becomes effective 10 days after the date the notice is deposited with the postal service, unless a hearing is requested within that 10-day period. If a timely hearing is requested, the cancellation will be contingent on the outcome of the hearing.

(9) A title cancellation under section (8) of this rule automatically invalidates the security interest(s) noted on that title. A new application for notation for perfection of security interest and valid evidence of ownership must be submitted to DMV before security interest in a vehicle can be perfected pursuant to ORS 803.097.

(10) DMV will not invalidate a primary ownership document as evidence of ownership based solely on missing title requirements (e.g., missing odometer information, and fees).

(11) A document considered by DMV to be a primary ownership document under section (3) of this rule constitutes proof of ownership for purposes of ORS 803.205.

[ED. NOTE: Forms referenced are available from the agency.]  
Stat. Auth.: ORS 184.616, 184.619, 801.402, 802.010 & 803.097  
Stats. Implemented: ORS 801.402, 803.097 & 803.205

Hist.: MV 2-1988, f. & cert. ef. 1-7-88; Administrative Renumbering 3-1988, Renumbered from 735-110-0510; MV 18-1988, f. & cert. ef. 6-1-88; MV 9-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 10-2002, f. & cert. ef. 6-24-02; DMV 11-2005, f. 4-25-05, cert. ef. 5-1-05; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 2-2012, f. & cert. ef. 2-21-12

## 735-020-0012

### Application for Title by Possessory Lien Foreclosure

(1) This rule designates the forms and procedures to be used when evidence of a possessory lien foreclosure is submitted to DMV in support of an application for vehicle title.

(2) In addition to all applicable fees, an application for title that is supported by evidence of a possessory lien foreclosure must be accompanied by one of the following certification forms:

(a) For a landlord's lien pursuant to ORS 87.162, a Certificate of Possessory Lien Foreclosure (DMV Form 735-518);

(b) For an abandoned vehicle pursuant to ORS 98.835, a Certificate of Possessory Lien Foreclosure (DMV Form 735-519);

(c) For a possessory lien for labor or material expended on chattel (mechanic's lien) pursuant to ORS 87.152, a Certificate of Possessory Lien Foreclosure (DMV Form 735-520);

(d) For property abandoned by a tenant pursuant to ORS 90.425, a Certificate of Possessory Lien Foreclosure (DMV Form 735-521);

(e) For a lien for towing a vehicle pursuant to ORS 819.160, a Certificate of Possessory Lien Foreclosure (DMV Form 735-6604); or

(f) For towing, care and storage charges of an unlawfully parked vehicle pursuant to ORS 98.812, a Certificate of Possessory Lien Foreclosure (DMV Form 735-6605).

(3) A certification form described under section (2) of this rule must be the correct form for the type of lien foreclosure, have a revision date of January 2008 or later, and contain the following:

(a) Information sufficient to identify the vehicle, such as the plate number, including the jurisdiction of issuance if the vehicle is not registered in Oregon, or VIN number;

(b) The printed name of the buyer;

(c) The date of the public auction;

(d) The printed name and address of the lien claimant; and

(e) The signature of the lien claimant. The lien claimant's signature constitutes a certification that the information in the Certificate of Possessory Lien Foreclosure is true and accurate and that the lien claimant complied with all applicable statutory requirements for the possessory lien foreclosure.

(4) A certification form submitted and completed as described under sections (2) and (3) of this rule constitutes proof of ownership for purposes of ORS 803.205.

[ED. NOTE: Forms referenced are available from the agency.]  
Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.045, 803.094, 803.097  
Stat. Implemented: ORS 87.152, 87.162, 87.166, 87.172, 87.176 - 87.206, 90.425, 90.675, 98.805, 98.810, 98.812, 98.818, 98.830, 98.835, 803.045, 803.094, 803.097, 803.205, 809.720, 811.555, 811.570, 819.110, 819.120, 819.160 & 819.230  
Hist.: DMV 10-2002, f. & cert. ef. 6-24-02; DMV 2-2012, f. & cert. ef. 2-21-12

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

**Rule Caption:** Removing personal property from illegal campsites on state highway rights of way.

**Adm. Order No.:** HWD 4-2012

**Filed with Sec. of State:** 2-21-2012

# ADMINISTRATIVE RULES

**Certified to be Effective:** 2-24-12  
**Notice Publication Date:** 11-1-2011

**Rules Amended:** 734-035-0010, 734-035-0040

**Subject:** The Department of Transportation may remove personal property that is left on state highway rights of way. SB 447 (2011) was specific to personal property that is under a state highway bridge, on property along a river, and within an urban growth boundary and requires written notice be provided each time the Department intends to remove personal property from these areas. The bill also outlined the style and content of the written notice.

These rule amendments modify the procedure for removing personal property specifically from illegal campsites that are located on state highway rights of way.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

## 734-035-0010

### Purpose

The purpose of OAR 734-035-0010 through 734-035-0040 is to outline a process for removing personal property from state highway rights of way under ORS 377.650 and 377.653 where the property is reasonably believed to be the result of illegal camping.

Stat. Auth.: 184.616, 184.619, 377.653

Stats. Implemented: ORS 377.650, 377.653

Hist.: HWY 12-1990(Temp), f. & cert. ef. 7-20-90; HWY 16-1990, f. & cert. ef. 12-28-90; HWD 4-2012, f. 2-21-12, cert. ef. 2-24-12

## 734-035-0040

### Scheduling and Notice; Costs

(1) In locations where camping or staying overnight regularly occurs, signs may be posted by the Department announcing that camping is not allowed according to OAR 734-020-0095. Personal property left on state highway right of way and reasonably believed to be the result of illegal camping may be removed from the right of way after the Department posts proper notice in accordance with this rule.

(2) Written notice will be posted in a conspicuous location in the general vicinity of the personal property to be removed. The notice is to be posted at least ten days but not more than 19 days prior to removal of the personal property by the Department. When the personal property is under a bridge, along a river, and within the urban growth boundary, notice will be posted in a conspicuous location within 30 feet of the personal property.

(3) The written notice must include:

(a) The date the notice was posted;

(b) The date by which personal property must be removed by the property owner;

(c) The time frame in which the Department may remove the personal property;

(d) The telephone number where information on recovering the property may be obtained; and

(e) The length of time the property will be stored by the Department.

(4) If the notice is removed during the posting period, the Department may proceed with the removal of the personal property but will replace the notice at the site to inform property owners about how to claim the personal property.

(5) Written notices will be in both English and Spanish.

(6) A \$2 charge may be made for the cost of removal and storage of the personal property. No charge will be made for the cost of the cleanup generally.

Stat. Auth.: 184.616, 184.619, 377.653

Stats. Implemented: ORS 377.650, 377.653

Hist.: HWY 12-1990(Temp), f. & cert. ef. 7-20-90; HWY 16-1990, f. & cert. ef. 12-28-90; HWD 4-2012, f. 2-21-12, cert. ef. 2-24-12

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

**Rule Caption:** Amendment of federal safety and hazardous materials transportation regulations affecting motor carriers.

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

**Filed with Sec. of State:** 2-21-2012

**Certified to be Effective:** 4-1-12

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

**Rules Amended:** 740-100-0010, 740-100-0065, 740-100-0070, 740-100-0080, 740-100-0085, 740-100-0090, 740-110-0010

**Subject:** These rules cover the annual adoption of federal motor carrier safety and hazardous materials transportation regulations, and the adoption of international standards related to driver, vehicle and hazardous materials out-of-service violations. The changes will ensure Oregon's motor carrier safety, hazardous materials, and driver, vehicle and hazardous materials out-of-service requirements are current with national and international standards. Failure to adopt these rules could result in a major negative economic impact to state agencies by jeopardizing Oregon's continued receipt of \$2.6 million in MCSAP funds per year if it fails to amend and maintain compatible rules.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

## 740-100-0010

### Adoption of Federal Safety Regulations

(1) Except as provided in section (4) of this rule, the rules and regulations adopted by the United States Department of Transportation contained in Title 49, Code of Federal Regulations (CFR), Parts 380 (Special Training Requirements), 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards Requirements and Penalties), 385 (Safety Fitness Procedures), 387 (Minimum Levels of Financial Responsibility for Motor Carriers), 390 (Federal Motor Carrier Safety Regulations: General), 391 (Qualification of Drivers), 392 (Driving of Motor Vehicles), 393 (Parts and Accessories Necessary for Safe Operation), 395 (Hours of Service of Drivers), 396 (Inspection, Repair and Maintenance), 398 (Transportation of Migrant Workers), 399 (Employee Safety and Health Standards) and all amendments thereto in effect April 1, 2012, are adopted and prescribed by the Department of Transportation (ODOT) to be observed by carriers conducting operations in interstate commerce, subject to ORS Chapter 825.

(2) The provisions of section (1) of this rule as adopted are prescribed by the Department to be observed by carriers conducting operations in intrastate commerce, subject to ORS Chapter 825, except:

(a) Relating to Part 385:

(A) The provisions of Part 385.1(b), 385.13(b), 385.13(c), 385.13(d)(3), 385.301 through 385.337 and Appendix A to Part 385 do not apply to a motor carrier operating exclusively in intrastate commerce.

(B) With reference to Part 385.13(a), 385.19(c) and 385.19(d), current intrastate safety rating information is available from ODOT only by telephone at (503) 378-6963.

(C) With reference to Part 385.15 and 385.17, requests for administrative review of an intrastate safety rating or requests for a change to a proposed or final intrastate safety rating based on corrective actions must be submitted in writing to the ODOT Motor Carrier Transportation Division, 550 Capitol St. NE, Salem OR 97301-2530.

(D) With reference to Appendix B of Part 385, a final intrastate safety rating will be determined by the Department and the motor carrier to whom the rating applies will be notified in writing of its intrastate safety rating.

(E) In addition to the violations described in the List of Acute and Critical Violations in Appendix B of Part 385, the Department will include the following violations in a determination of an intrastate or an interstate safety rating:

(i) Financial responsibility requirements in OAR 740-040-0010 (critical) and 740-040-0020 (acute); and

(ii) Intrastate drivers hours-of-service requirements found in OAR 740-100-0010(2)(i) (critical).

(b) The provisions of Part 387 will apply to intrastate motor carriers only when transporting hazardous materials, hazardous substances or hazardous wastes.

(c) With reference to Part 390.21, external identification requirements do not apply to vehicles with a gross combination weight rating of 26,000 pounds or less and operated exclusively in intrastate private carriage, except those vehicles transporting hazardous materials of a type or quantity requiring placarding or passenger vehicles with a seating capacity of more than 15 passengers including the driver.

(d) The rules in Part 391.11(b)(1) regarding the minimum age for a commercial motor vehicle operator do not apply to a driver engaged in intrastate commerce.

(e) The rules in Part 391 (except Part 391.11(b)(2), English Speaking Driver, Part 391.11(b)(5), Valid Operator's License and Part 391.15, Disqualification of Drivers) do not apply to a driver who is employed by a private carrier and:

# ADMINISTRATIVE RULES

(A) Does not transport hazardous materials of a type or quantity requiring the vehicle to be marked or placarded in accordance with Title 49, CFR, Part 177.823 drives a motor vehicle with a gross vehicle or gross combination weight rating of 26,000 pounds or less; or

(B) Operates a passenger vehicle designed to transport fewer than 16 passengers, including the driver.

(f) Notwithstanding Parts 391.41 to 391.49 (Subpart E -- Physical Qualifications and Examinations) the Department may issue a waiver of physical disqualification to a commercial vehicle driver who has met the conditions established by the Driver and Motor Vehicle Services Division.

(g) With reference to Part 395.1(e)(1), motor carriers conducting intrastate transportation of property may not require or permit any driver used by it to exceed 12 hours driving following ten consecutive hours off-duty;

(h) With reference to Part 395.1(g), motor carriers conducting intrastate transportation of property may not require or permit any driver used by it to drive a commercial motor vehicle, nor may any such driver:

(A) Exceed 12 hours driving following ten consecutive hours off-duty;

(B) Drive for any period beyond the 16th hour after coming on-duty following ten consecutive hours off-duty;

(i) With reference to Part 395.1(e)(2) and Part 395.3, a motor carrier conducting intrastate transportation of property may not require or permit any driver used by it to drive a commercial motor vehicle, nor may any such driver:

(A) Exceed 12 hours driving following ten consecutive hours off-duty;

(B) Drive for any period beyond the 16th hour after coming on-duty following ten consecutive hours off-duty;

(C) Drive for any period following 70 hours on-duty in any seven consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week, however, any period of seven consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours; or

(D) Drive for any period following 80 hours on-duty in any eight consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week, however, any period of eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.

(j) The provisions of subsections (g) through (i) of this section are not applicable to the transportation of hazardous materials of a type or quantity requiring placarding. A motor carrier transporting hazardous materials of a type or quantity requiring placarding must comply with Part 395.

(k) The provisions of Parts 396.17 through 396.23 (Periodic Inspection Requirements), are not applicable to operations conducted wholly in intrastate commerce.

(3) The provisions of Part 386.83(a)(1) and Part 386.84(a)(1), related to sanctions for failure to pay civil monetary penalties are adopted for operations conducted in intrastate commerce and apply to penalties and sanctions found in ORS Chapter 825, pursuant to the provisions of ORS Chapter 183.

(4) The intracity operation exemption adopted by the US Department of Transportation found in Part 391.62 is not adopted and prescribed.

(5) Wherever reference is made in Title 49 of the CFR as adopted by this rule to a federal entity, including but not limited to "Federal Highway Administrator," "Regional Director," "Special Agent of the Federal Highway Administration" or the "Federal Motor Carrier Safety Administration," it will be construed to mean the Oregon Department of Transportation or a person authorized by the Oregon Department of Transportation to act on its behalf.

(6) Copies of the federal regulations referred to in this rule are available from ODOT Motor Carrier Transportation Division or may be accessed on the Federal Motor Carrier Safety Administration website, [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252  
Stats. Implemented: ORS 825.210, 825.250 & 825.252

Hist.: PUC 156, f. & ef. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 4-1979, f. & ef. 9-21-79 (Order No. 79-641); PUC 5-1979, f. & ef. 9-21-79 (Order No. 79-635); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Part 2, f. & ef. 6-30-80 (Order No. 80-475); PUC 7-1980, f. & ef. 11-6-80 (Order No. 80-845); Renumbered from 860-035-0010; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 12-1982(Temp), f. 12-20-82, ef. 1-1-83 (Order No. 82-872); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 2-1983, f. & ef. 3-1-83 (Order No. 83-117); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 19-1984, f. & ef. 9-10-84 (Order No. 84-713); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 17-1986 (Temp), f. & ef. 12-3-86; (Order No. 86-1239); PUC 2-1987 (Temp), f. & ef. 2-25-87 (Order No. 87-248); PUC 4-1987, f. & ef. 6-9-87 (Order No. 87-509); PUC 16-1987(Temp), f. & ef. 12-11-87 (Order No. 87-1244); PUC 4-1988(Temp), f. & ef. 2-12-88 (Order No. 88-161); PUC 6-1988(Temp), f. & ef. 3-9-88 (Order No. 88-818); PUC

14-1988, f. & cert. ef. 7-22-88 (Order No. 88-245); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (and corrected 1-31-91) (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 13-1992(Temp), f. & cert. ef. 9-4-92 (Order No. 92-1303); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0010; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCT 2-1997, f. & cert. ef. 5-9-97; MCT 6-1997, f. & cert. ef. 8-26-97; MCT 10-1997, f. & cert. ef. 12-22-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 2-1998, f. & cert. ef. 8-20-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 5-2005(Temp), f. 9-16-05, cert. ef. 10-1-05 thru 3-29-06; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 3-2011, f. & cert. ef. 10-26-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12

## 740-100-0065

### North American Standard Administrative Out-of-Service Criteria

(1) The North American Standard Administrative Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2012, is adopted and incorporated into this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" must not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported, or escorted to a safe location only at the direction of an official authority.

(2) Copies of the North American Standard Administrative Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 6303 Ivy Lane, Suite 310, Greenbelt, MD 20770-6319.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.210 & 825.252

Hist.: MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12

## 740-100-0070

### North American Standard Vehicle Out-of-Service Criteria

(1) The North American Standard Vehicle Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2012, is adopted by and incorporated into this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to one or more of the following:

(a) Out-of-Service Condition: When any motor vehicle by reason of its mechanical condition or loading, is determined to be so unsafe as to likely cause an accident or breakdown or when such conditions would likely contribute to loss of control of the vehicle by the driver, said vehicle must be placed out-of-service. No motor carrier shall permit or require nor shall any person operate any motor vehicle declared and marked "out-of-service" until all required repairs of violations which resulted in the out-of-service condition have been completed. If, at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported or escorted only at the direction of an official authority.

(b) Other: Violations other than out-of-service conditions detected during the inspection process will not preclude the completion of the current trip or dispatch. However, such violations must be corrected or repaired prior to redispach.

(2) Copies of the North American Standard Vehicle Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 6303 Ivy Lane, Suite 310, Greenbelt, MD 20770-6319.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.250 & 825.252

Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-372); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0030; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12



# ADMINISTRATIVE RULES

## 740-100-0080

### North American Standard Hazardous Material Out-of-Service Criteria

(1) The North American Standard Hazardous Materials Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2012, is adopted and incorporated in this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" must not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported or escorted to a safe location only at the direction of an official authority.

(2) Copies of the North American Standard Hazardous Materials Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 6303 Ivy Lane, Suite 310, Greenbelt, MD 20770-6319.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.250, 825.258 & 825.260

Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-377); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0035; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12

## 740-100-0085

### North American Standard Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials

(1) The North American Standard Out-of-Service Criteria Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2012, is adopted and incorporated in this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" must not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it will be towed, transported or escorted to a safe location only at the direction of an official authority.

(2) Copies of North American Standard Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 6303 Ivy Lane, Suite 310, Greenbelt, MD 20770-6319.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.250, 825.258 & 825.260

Hist.: MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12

## 740-100-0090

### North American Standard Driver Out-of-Service Criteria

(1) The North American Standard Driver Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2012, is adopted and incorporated in this rule. Inspection violations identified in the Out-of-Service Criteria may be subject to one or both of the following:

(a) Out-of-Service Violation: Drivers with violations under this category must not operate a commercial motor vehicle for a specified period of time or for some violations until a required condition is met.

(b) Other: Violations other than out-of-service violations require no immediate action by the driver or motor carrier. The carrier must certify in accordance with the terms contained on the inspection document and return it to the Department of Transportation within 15 days.

(2) Copies of the North American Standard Driver Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 6303 Ivy Lane, Suite 310, Greenbelt, MD 20770-6319.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.250 & 825.252

Hist.: PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-

065-0040; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12

## 740-110-0010

### Adoption of United States Department of Transportation Hazardous Materials Regulations

(1) Any person subject to ORS Chapter 825 who transports a hazardous material and any person subject to 823.061 who causes to be transported a hazardous material must comply with the rules and regulations governing the transportation of hazardous materials as prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, Part 397 and such portions of Parts 107-178 and 180 as are applicable and amendments thereto, in effect on April 1, 2012.

(2) Copies of the federal regulations referred to in this rule are available from ODOT, Motor Carrier Transportation Division or may be accessed on the Federal Motor Carrier Safety Administration website, [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

Stat. Auth.: ORS 823.011, 823.061 & 825.258

Stats. Implemented: ORS 823.061, 825.258

Hist.: Refiled in PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 98, f. 1-18-61, ef. 1-12-61 (Order No. 37620); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 132, f. 3-29-65, ef. 4-1-65 (Order No. 41035); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 150, f. 11-7-68, ef. 12-1-68 (Order No. 45141); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); PUC 5-1980, f. & ef. 10-13-80 (Order No. 80-758); Renumbered from 860-036-0055; PUC 1-1981, f. & ef. 2-9-81; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 6-1982, f. & ef. 5-6-82 (Order No. 82-336); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 1-1984, f. & ef. 2-9-84 (Order No. 84-076); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 7-1986(Temp), f. & ef. 7-25-86 (Order No. 86-736); PUC 13-1986, f. & ef. 10-30-86 (Order No. 86-1106); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 1-1996, f. 2-16-96, cert. ef. 4-1-96; Renumbered from 860-066-0055; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12

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**Rule Caption:** Annual readoption of HVUT and IFTA regulations.

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

**Filed with Sec. of State:** 2-21-2012

**Certified to be Effective:** 2-21-12

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

**Rules Amended:** 740-200-0020, 740-200-0040

**Subject:** Title 26 Code of Federal Regulations Part 41 (HVUT) requires the State to confirm proof of payment of the tax, and require proof of payment by the State as a condition of issuing a registration for a highway motor vehicle. The amendment of OAR 740-200-0020 adopts HVUT and amendments with the effective date of January 1, 2012, and ensures Oregon remains current with national commercial motor vehicle registration standards.

International Fuel Tax Agreement (IFTA) and associated material are applicable to Oregon-based motor carriers who participate in IFTA as a way to report and pay fuel tax to other jurisdictions. The revision to OAR 740-200-0040 adopts the most recent version of IFTA and associated material (effective date January 1, 2012) as the procedures and guidelines for Oregon-based IFTA participants to ensure Oregon remains current with the international IFTA standards.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

## 740-200-0020

### Adoption of Federal Rules Governing Payment of Heavy Vehicle Use Tax (HVUT)

The Department hereby adopts the rules of the United States Internal Revenue Service contained in 26 CFR Part 41 (HVUT) and all amendments thereto in effect January 1, 2012. These rules apply to carriers conducting operations subject to ORS Chapter 826. As provided in CFR Title 26 Part

# ADMINISTRATIVE RULES

41.6001-2(b)(3), the Department will suspend the registration of a vehicle for which proof of HVUT payment has not been received within four months of the effective date of registration.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 826.003

Stat. Implemented: ORS 803.370(5) & 826.007

Hist.: PUC 19-1990, f. & cert. ef. 12-31-90 (Order No. 90-1919); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-081-0015; MCTB 6-2002, fr. & cert. ef. 11-18-02; MCTD 8-2003, f. & cert. ef. 11-18-03, cert. ef. 1-1-04; MCTD 4-2004, f. 12-28-04, cert. ef. 1-1-05; MCTD 2-2008, f. 6-23-08, cert. ef. 7-1-08; MCTD 1-2011, f. & cert. ef. 2-18-11; MCTD 2-2012, f. & cert. ef. 2-21-12

## 740-200-0040

### Adoption of International Fuel Tax Agreement

(1) The provisions contained in the International Fuel Tax Agreement (IFTA) Articles of Agreement, the IFTA Audit Manual and the IFTA Procedures Manual, and all amendments thereto in effect January 1, 2012, are hereby adopted and prescribed by the Oregon Department of Transportation (ODOT) and apply to Oregon-based motor carriers who participate in IFTA.

(2) In addition to the requirements described in section (1) of this rule, the following requirements apply to Oregon-based motor carriers who participate in IFTA:

(a) Records required to be maintained for distance data must denote intermediate trip stops;

(b) Records of monthly over the road and bulk fuel reconciliations must be maintained;

(c) The Department will assess a penalty of \$50 or 10 percent of the amount of delinquent taxes due, whichever is greater, for failing to file a return, filing a late return, or underpaying taxes due on a return;

(d) The Department will assess a penalty of 10 percent of the amount of delinquent taxes due, for additional assessments as the result of an audit;

(e) Any person against whom a proposed assessment is made by the Department may petition the Department for reassessment within 30 days after service upon the person of the assessment notice. If a petition for reassessment is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is timely filed, the Department will reconsider the assessment. The decision of the Department upon a petition for reassessment will become final 30 days after notice of the decision is served to the petitioner. A petitioner may submit a request for hearing in the petition for reassessment; and

(f) If a request for hearing is timely received, a hearing will be scheduled and conducted in accordance with the provisions of ORS Chapter 183. The petitioner will be provided a minimum of 10 days notice of the time and place of the hearing. The Department may assess a penalty of \$150 for failure to appear at a scheduled hearing.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stat. Implemented: ORS 825.490, 825.494 & 825.555

Hist.: MCTB 6-2002, fr. & cert. ef. 11-18-02; MCTD 8-2003, f. & cert. ef. 11-18-03, cert. ef. 1-1-04; MCTD 4-2004, f. 12-28-04, cert. ef. 1-1-05; MCTD 2-2008, f. 6-23-08, cert. ef. 7-1-08; MCTD 4-2009, f. 12-22-09, cert. ef. 1-1-10; MCTD 1-2011, f. & cert. ef. 2-18-11; MCTD 2-2012, f. & cert. ef. 2-21-12

## Department of Veterans' Affairs Chapter 274

**Rule Caption:** Conservatorship Fees and Services.

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

**Filed with Sec. of State:** 2-22-2012

**Certified to be Effective:** 2-22-12

**Notice Publication Date:** 2-1-2012

**Rules Adopted:** 274-015-0020

**Rules Amended:** 274-015-0010

**Subject:** The amendment to 274-015-0010 is proposed in order to relieve the agency's Loan Program from subsidizing the Conservatorship Program. ODVA is proposing to raise the fee amounts in three areas as follows: Property Management, Appraisal, and Inspection.

The adoption of 274-0015-0020 provides for the agency to act as Representative Payee. The fee rate for this service is the amount which is federally allowed.

**Rules Coordinator:** Bruce Craig — (503) 373-2327

## 274-015-0010

### Conservatorship Fees

(1) The Director of Veterans' Affairs (DVA) may charge fees when acting as the Conservator of the estate of a protected person. The fees DVA may charge are as follows:

(a) For ordinary services, five percent of income to the estate;

(b) For unusual services:

(A) \$40 per hour for real property management;

(B) Real property appraisal, actual cost;

(C) \$50 per real property inspection.

(2) The sources of income upon which DVA will impose a fee are as follows:

(a) United States Department of Veterans Affairs (VA) Compensation;

(b) VA Pension;

(c) VA Accumulated Benefits;

(d) VA Death Indemnity Compensation (DIC);

(e) VA Death Pension (Spouse, Child);

(f) VA Education;

(g) VA Vocational Rehabilitation;

(h) Social Security;

(i) State Retirement;

(j) Federal Civil Service Retirement (CSA);

(k) Worker's Compensation;

(l) Railroad Retirement;

(m) Union Pension;

(n) Life Insurance Annuity;

(o) Private Disability Insurance;

(p) Military Retirement;

(q) Wages;

(r) Interest Income Earned through investments made by the State Treasurer.

(3) As used in applicable Oregon Law and this rule, unless otherwise required by context:

(a) "Ordinary services" means services performed routinely for or on behalf of protected persons for whom DVA acts as conservator;

(b) "Unusual services" means services provided to protected persons that go beyond being ordinary or routine services. "Unusual services" include, but are not limited to, management of real property, real property appraisals, and real property inspections.

(4) In deciding whether all or a portion of the fees will be waived, the director shall consider the following:

(a) Whether the protected person has at least \$2,000 in cash and investment assets;

(b) Whether, after payment of a fee, the protected person would have sufficient funds to pay all outstanding bills, and have money remaining to pay for such basic needs as food, shelter, clothing, and medical care;

(c) Whether the protected person receives public assistance;

(d) Whether all foreseeable expenses have been taken into account in deciding what the needs of the protected person will be.

(5) Fees waived by the Director shall still be submitted for court approval. Should funds become available, the Director may collect any outstanding fee balance.

Stat. Auth.: ORS 113.085, 406.030, 406.040, 406.050(5), 406.050(6) & 406.100

Stats. Implemented: ORS 406.050, 406.100, 406.110 & 406.120

Hist.: DVA 9-1987, f. 11-25-87, ef. 12-1-87; DVA 4-1991, f. & cert. ef. 7-1-91; DVA 1-2012, f. & cert. ef. 2-22-12

## 274-015-0020

### Representative Payee

(1) The Director of Veterans' Affairs (DVA) may act as Representative Payee on behalf of a person deemed to be financially incapable at the request of any of the following:

(a) The United States Department of Veterans' Affairs (VA);

(b) The Social Security Administration;

(c) The United States Department of Defense;

(d) Defense Finance and Accounting Service;

(e) Public Employees Retirement System;

(f) Any other payor of benefits.

(2) The Director of Veterans' Affairs (DVA) may charge fees when acting as the Representative Payee of a person deemed to be financially incapable. The fees DVA may charge are as follows:

(a) Up to four (4) percent of highest income source; or

(b) As stated in applicable law governing the payor.

(3) The sources of income upon which DVA may impose a fee are as outlined in OAR 274-015-0010(2).

(4) In deciding whether all or a portion of the fees will be waived, the Director shall consider the following:

(a) Whether the protected person has at least \$2,000 in cash and investment assets;

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(b) Whether, after payment of a fee, the protected person would have sufficient funds to pay all outstanding bills, and have money remaining to pay for such basic needs as food, shelter, clothing, and medical care;

(c) Whether the protected person receives public assistance;

(d) Whether all foreseeable expenses have been taken into account in deciding what the needs of the protected person will be; and

(e) Whether fees have been authorized by the payer of benefits.

Stat. Auth.: ORS 406.030, 406.040, 406.050, 406.100, 113.085

Stats. Implemented: ORS 406.030, 406.050, 406.100, 406.110

Hist.: DVA 1-2012, f. & cert. ef. 2-22-12

## Employment Department Chapter 471

**Rule Caption:** Update to Extended Benefit lookback for consistency with federal extension.

**Adm. Order No.:** ED 2-2012(Temp)

**Filed with Sec. of State:** 2-29-2012

**Certified to be Effective:** 2-29-12 thru 6-25-12

**Notice Publication Date:**

**Rules Adopted:** 471-030-0230

**Rules Suspended:** 471-030-0230(T)

**Subject:** Update administrative rule to allow period for payment of federal Extended Benefits (EB) to align with the most recent federal extension, which extended federally paid EB through the end of 2012. This will prevent a disruption of benefit payments to individuals, and allow the state to continue to provide 100% federally paid Extended Benefits.

**Rules Coordinator:** Courtney Brooks—(503) 947-1724

### 471-030-0230

#### Extended Benefits Temporary Look Back Period

(1) Section 201 of Public Law 112-78, The Temporary Payroll Tax Cut Continuation Act of 2011, and Subtitle B of Public Law 112-96, the Middle Class Tax Relief and Job Creation Act of 2012, provide opportunities for states to pay federally funded unemployment insurance extended benefits that would not otherwise be available. To permit this program to be implemented in Oregon, except as otherwise specified in this rule, the provisions of ORS 657.321 through 657.329 apply to benefits paid under Section 201 of Public Law 112-78 and Subtitle B of Public Law 112-96.

(2) For benefits for weeks of unemployment beginning January 1, 2012 through the week ending December 29, 2012, for purposes of determining an “extended benefit period” or “high unemployment period,” the average rate of total unemployment in the state (seasonally adjusted), as determined by the United States Secretary of Labor, for the three-month period referred to in ORS 657.321(3)(c)(C)(i), must equal or exceed 110 percent of such average for any or all of the corresponding three-month periods ending in the three preceding calendar years.

Stat. Auth.: ORS 657.610 & 657.895

Stats. Implemented: ORS 657.895

Hist.: ED 12-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; ED 2-2012(Temp), f. & cert. ef. 2-29-12 thru 6-25-12

**Rule Caption:** Updates due to legislative changes; clarifies eligibility for individuals in training.

**Adm. Order No.:** ED 3-2012

**Filed with Sec. of State:** 3-5-2012

**Certified to be Effective:** 3-5-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 471-030-0080

**Rules Repealed:** 471-030-0080(T)

**Subject:** The amendments to this rule make the following changes:

- Revise “Professional Technical Training” to “Career and Technical Training” as a result of changes in HB 2109, which passed in the 2009 Legislative Session.

- Defines when the Director may waive the requirement that an individual be a full time student to be approved for training. This change removes the reference to ORS 657.337, which was repealed by HB 2203 in the 2009 Legislative Session.

- Clarify eligibility requirements for unemployment benefits to individuals who are in approved training. Individuals who do not attend their approved training during the week are required to meet

regular unemployment insurance eligibility requirements for those weeks.

**Rules Coordinator:** Courtney Brooks—(503) 947-1724

### 471-030-0080

#### Career and Technical Training

(1) Career and technical training, as defined in ORS 657.335, shall not be approved by the Director unless the public or private institution, school, or agency offering such program is certified or licensed by the Oregon State Board of Education, the Superintendent of Public Instruction, the Oregon Workforce Investment Board, or another Oregon State agency authorized to grant such certification or license or an equivalent state agency in the state where the training is to be provided.

(2) Career and technical training shall not be approved by the Director if the Director finds that the planned curriculum of classes and course activity is less than the equivalent of full-time student status as defined by the training provider. The Director may waive this requirement if:

(a) Classes needed to complete the training are not available to the individual; or

(b) The number of classes needed to complete the training is less than the equivalent of a full-time schedule.

(3) To receive benefits for any week during career and technical training, a dislocated worker who is otherwise eligible for unemployment insurance benefits must:

(a) Submit a written application for approval of career and technical training on forms prescribed or approved for such purpose by the Director, with the Employment Department Benefits Section — UI Training Programs Unit within 90 days of:

(A) Certification as a dislocated worker; or

(B) Termination from the dislocating employment; or

(C) The filing of a claim for unemployment insurance benefits; and

(b) Submit to the Employment Department a timely claim for such week in accordance with OAR 471-030-0045(4) which establishes the individual:

(A) Was physically present in the individual’s labor market as defined in OAR 471-030-0036(6); and

(B) Attended and participated in all scheduled classes for each week of approved career and technical training; or

(C) If the individual failed to attend or participate in all scheduled classes during the week, was able and available for work; and

(c) At the end of each term provide to the Employment Department grades or completion of program documentation from the training facility which certifies that the claimant was satisfactorily pursuing the approved career and technical training; and

(4) Decisions of the Director to approve or disapprove an application for course approval or to discontinue such approval for one or more weeks during career and technical training or to approve or deny supplemental benefits under the provisions of ORS 657.335 through 657.360 shall be in writing, shall set forth the reasons therefore, and shall be served upon the claimant by mailing to the claimant’s last known address of record with the Employment Department.

(5) As used in ORS 657.335(1):

(a) “Eligible dislocated workers” includes:

(A) For purposes of ORS 657.345(1), any worker attending training financed wholly or in part, or directly delivered by a recipient or subrecipient administering Title 1B of the Workforce Investment Act of 1998 (P.L. 105-220).

(B) For purposes of ORS 657.345(2), any worker identified as dislocated by the Employment Department under ORS 657.335(1).

(b) “Unlikely to return to their previous industry or occupation” includes the following:

(A) The individual has been identified as meeting the Worker Profiling Program participation threshold developed by the Employment Department, or

(B) The individual has been permanently separated from an employer in an occupation identified as declining by the Employment Department in that geographic area in which the claimant resides, or

(C) The individual has been evaluated and referred to training by a vocational rehabilitation provider, including but not limited to Vocational Rehabilitation Division, Workers Compensation Division, or a private insurance carrier.

(c) “Long-term unemployed” means unemployed from the dislocated occupation for at least 15 of the last 26 weeks or for at least 8 consecutive weeks immediately prior to application (including survival jobs during such period).



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(6) In applying the provisions of ORS 657.340, the Director may approve a program of instruction, including transfer credit programs of instruction given at community colleges, leading toward a baccalaureate or higher degree or training that has for its purpose the preparation of persons for employment in occupations which require a baccalaureate or higher degree from institutions of higher education if:

(a) The individual does not have significant transferable skills for other occupations in the statewide labor market;

(b) Unless previously approved in accordance with the provisions of Title IB of the Workforce Investment Act of 1998 (P.L. 105-220), the individual is within 48 quarter credit hours (or the semester equivalent) from completing the baccalaureate or higher degree; and

(c) Completing the baccalaureate or higher degree offers the best chance of long term employment.

(7) As used in ORS 657.340(2), "attendance in career and technical training" means the period of time beginning with the starting date of the training and ends with satisfactory completion of the training program. The period of time defined in this section includes customary academic recesses for holidays and between academic terms but does not include the customary academic summer recess. For purposes of applying 657.340(2), an individual may be determined not to be in "attendance in career and technical training" as defined in this section if the individual fails to demonstrate satisfactory progress and attendance as defined in section (3) of this rule.

(8) As used in ORS 657.340(3), "terms and conditions" includes "benefit year" as defined in 657.010(3). In applying the provisions of 657.340(3), the benefit year of an eligible dislocated worker may be extended, whether or not the benefit year has expired, if the eligible dislocated worker has not filed a subsequent initial claim establishing a new benefit year.

(9) The determination that an individual meets the definition of dislocated worker may be made by the Employment Department for purposes of paying benefits under ORS 657.335 to 657.360.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.335 - 657.360

Hist.: 1DE 150, f. & ef. 2-9-76; 1DE 1-1983(Temp), f. & ef. 3-9-83; 1DE 2-1983, f. & ef. 8-12-83; ED 1-1991, f. & cert. ef. 4-1-91; ED 4-1991(Temp), f. & cert. ef. 12-30-91; ED 3-1992, f. & cert. ef. 6-29-92; ED 4-1992(Temp), f. & cert. ef. 10-19-92; ED 1-1993, f. & cert. ef. 3-22-93; ED 4-1994, f. & cert. ef. 9-2-94; ED 1-1996, f. 4-24-96, cert. ef. 4-29-96; ED 5-2000, f. 10-6-00, cert. ef. 10-8-00 thru 4-6-01; ED 5-2001(Temp), f. 4-6-01, cert. ef. 4-7-01 thru 10-4-01; ED 6-2001, f. 4-20-01, cert. ef. 4-22-01; ED 8-2002, f. 11-22-02 cert. ef. 11-24-02; ED 11-2003, f. 7-25-03, cert. ef. 7-27-03; ED 10-2005, f. 12-29-05, cert. ef. 1-1-06; ED 11-2008, f. & cert. ef. 9-16-08; ED 10-2011(Temp), f. & cert. ef. 9-13-11 thru 3-9-12; ED 3-2012, f. & cert. ef. 3-5-12

## Oregon Business Development Department Chapter 123

**Rule Caption:** These BOOST rules are being amended to conform with HB 2919 from the 2011 Legislative Session relating to veterans.

**Adm. Order No.:** OBDD 1-2012(Temp)

**Filed with Sec. of State:** 2-23-2012

**Certified to be Effective:** 2-23-12 thru 8-20-12

**Notice Publication Date:**

**Rules Amended:** 123-017-0080

**Subject:** In the 2011 Legislative Session, HB 2919 was passed to allow the Business Opportunities for Oregon Small Business Today Account (BOOST) to grant funds to businesses who employ veterans as new full time employees.

**Rules Coordinator:** Mindee Sublette—(503) 986-0036

**123-017-0080**

**Building Opportunities for Oregon Small Business Today Grant Program**

(1) In order to approve a grant from the BOOST Account, the Department must first determine that the Applicant:

(a) Is a traded sector business that meets the requirements set forth in ORS 285A.055;

(b) Is legally organized and authorized to conduct business in Oregon;

(c) Has 100 or fewer employees in Oregon at the time of application as demonstrated by:

(A) The average number of workers reported on the most recent Form OQ filed by the Applicant with and as required by the Oregon Employment Department; or

(B) Other documentation determined to be acceptable by the Department.

(d) Has established goals to create Full-time Jobs in Oregon within 90 days after approval of the grant;

(e) Demonstrates a reasonable capacity of achieving its goals to create Full-time Jobs in Oregon within 90 days after approval of the grant;

(f) Provides Comparable Wages to its employees; and

(g) Has paid the \$50 non-refundable application fee to the Department.

(2) In order to approve a grant from the BOOST Account, the Department must first determine that funds are or will be available in the BOOST Account to fund the grant.

(3) After approval of a grant, the Department will enter into a grant agreement with the Applicant. Among other items, the grant agreement will contain the following provisions:

(a) Grant funds will be disbursed to the Applicant upon receipt of the report described in (3)(b) and a determination by the Department, in the reasonable exercise of its administrative discretion that the Department has sufficient funds in and expenditure authorization for the BOOST Account, to make the disbursement.

(b) No later than 10 months after the date the grant was approved by the Department, the Applicant shall submit a report to the Department for each new employee who:

(A) Was not an employee of the Applicant within the nine months prior to the current date of hire;

(B) Was unemployed for at least the 60 days prior to the date of hire by the Applicant, or is a veteran under the meaning given that term in ORS 408.225;

(C) Was hired by the Applicant within 90 days after the date the Department approved the grant;

(D) Has signed an affidavit that he or she was unemployed for at least the 60 days prior to the date of hire by the Applicant, or has signed an affidavit that he or she is a veteran under the meaning given that term in ORS 408.225;

(4) Worked at least:

(a) 35 hours in each of the 26 consecutive weeks since hired by the Applicant; or

(b) 25 hours in each of the consecutive 26 weeks since hired by the Applicant when the Applicant provides a Health Benefit Plan.

(c) The report submitted to the Department will include the following information for each employee who meets the criteria described in (3)(b):

(A) Legal Name;

(B) Social Security Number;

(C) Date of hire;

(D) Date of departure from the applicant if applicable

(E) Number of hours worked in each of the 26 consecutive weeks beginning the week the employee was hired by the Applicant.

(5) The amount of the grant to be disbursed to the Applicant shall be the minimum of:

(a) \$50,000 in a calendar year;

(b) The grant amount approved;

(c) The amount in the BOOST Account available to be disbursed to the Applicant;

(d) The next increase in employment as demonstrated by the formula  $G = (A1 - A2) * \$2,500$ , where:

(A) G = the amount of the grant to be disbursed;

(B) A1 = the average number of workers reported on the most recent Form OQ filed by the Applicant with and as required by the Oregon Employment Department or as demonstrated by other documentation determined to be acceptable by Department; and,

(C) A2 = the average number of workers determined in accordance with section (1)(c) above.

(6) The net increase in eligible employees as demonstrated by the formula  $G = [P - (P - A)] * \$2,500$  where:

(a) G = the amount of the grant to be disbursed;

(b) P = the number of projected Full-time Jobs submitted by the Application in the grant application;

(c) A = the total number of employees listed in the report described in (3)(b) above.

(7) The total amount of BOOST grants awarded and made shall not exceed 20% of the total capitalization provided to the BOOST Account from the Tax Enforcement Account.

(8) Applications for a grant from the BOOST Account will be processed on a first come, first served basis. If the Department determines an application for a grant from the BOOST Account is incomplete, the Department shall notify the Applicant in writing of the additional information needed and any deficiencies in the application. The Applicant must

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submit the information necessary for the Department to determine that the application is complete within thirty days after the date of notification or the application will no longer be considered for a grant award.

(9) Applications for a grant from the BOOST Account may be submitted by an Applicant to the Department at any time until 5:00 P.M. on June 30, 2012.

Stat. Auth.: ORS 285A.075  
Stats. Implemented: ORS 285B.050 - 285B.098, 408.225  
Hist.: OBDD 20-2010(Temp), f. & cert. ef. 5-28-10 thru 10-9-10; OBDD 33-2010, f. & cert. ef. 10-1-10; OBDD 1-2012(Temp), f. & cert. ef. 2-23-12 thru 8-20-12

## Oregon Department of Aviation Chapter 738

**Rule Caption:** Necessary clarification of non-commercial tie down fees and a fee change for commercial ties-downs.

**Adm. Order No.:** AVIA 1-2012(Temp)

**Filed with Sec. of State:** 2-28-2012

**Certified to be Effective:** 2-28-12 thru 8-26-12

**Notice Publication Date:**

**Rules Amended:** 738-010-0025

**Subject:** OAR 738-010-0025(4)(a) currently states Non-commercial tie down fees at a monthly rate.

Language "per tie-down" will be added to clarify that these fees apply for each tie-down.

OAR 738-010-0025(4)(b) currently states ODA shall collect 30% of all tie-down revenue generated from FBO's. There shall be no flat fee per tie-down.

Language was removed. "ODA shall collect" and "There shall be no flat fee per tie-down."

Fees will be changed to be consistent with non-commercial tie-down fees.

The fee shall be the greater of:

Category II Airports – \$20 per month, per tie-down.

Category III and IV Airports – \$17.50 per month, per tie-down.

Category V Airports – \$15 per month, per tie-down.

Or 30% of all tie-down revenue generated.

**Rules Coordinator:** Cindy M. Pease – (503) 378-4881

### 738-010-0025

#### Types of Rates, Charges and Fees

Each user of an Oregon State-owned airport shall be charged one or more of the following types of rates, charges and fees for the use of the premises and the rights granted by the Department:

(1) All leases of improved or unimproved state-owned land at state-owned airports shall include rent assessed at an annual rate per square foot. All rents and other charges for a lease of Department property shall reflect fair market rent as determined by first considering the fair market value established by the most recent appraisal of the property, if available, adjusted, if necessary, to reflect current lease market conditions as reflected in a market rent analysis conducted by a licensed real estate broker or a similar analysis conducted by Department staff experienced in such analysis. The market rent or similar analysis shall consider relevant circumstances including but not limited to whether the land is buildable and the restrictions, if any, that apply to the land. Lessees shall also pay all real property taxes and other taxes, if any, imposed on the leased property.

(a) Rent shall be paid to the Department as follows:

(A) Annually in full, with the first annual payment on or before the date the lease begins and subsequent payments on the anniversary date;

(B) Monthly in equal installments, payable at the beginning of each month; or

(C) By the terms of a payment-in-kind agreement that may constitute partial payment or full payment. The Department will determine and assign a value to payments in kind based upon a determination of the value of the goods, improvements or services actually received or to be provided. In kind payments are subject to rent escalation clauses. The determination of value will be based on an objective process which compares estimates obtained by the Department, the lessee or the proposed lessee from service providers for like services, goods or improvements. A payment-in-kind agreement and all documents used to determine payment-in-kind value must be retained in the lease file. Acceptance of an in kind payment offering requires documentation of an affirmative finding by the Department that the value of the in kind offering primarily benefits the airport generally rather than the individual lessee or the business of the individual lessee.

Any payment-in-kind provision contained in an agreement executed before the effective date of this rule will be deemed valid.

(b) In new or renewed leases where all or part of the capital improvements are constructed at the Department's expense, the Department reserves the right to amortize all or part of the construction costs of the capital improvements, plus a reasonable rate of return as part of the rent, during the term of the lease.

(2) A fuel flowage fee, not to exceed \$0.12 per gallon, shall be assessed to each FBO for all types of fuel received from a commercial distributor. Fuel flowage fees shall be calculated from the FBO's fuel flowage delivery report and shall be paid in full not later than two working days after the conclusion of the reporting period.

(3) Each user with an agreement to access the State-owned airport property shall pay an access fee according to a published fee schedule. To ensure equity among all users, the schedule shall be based on the quantity and individual weight of user's aircraft that will access the airport.

(a) Each commercial operator shall pay a fee to the Department, either annually on the agreement anniversary date or monthly on or before the 25th, for the month then in process.

(A) The fee shall be the greater of:

(i) A fee for each aircraft based on the adjacent property, based on aircraft maximum gross landing weight as shown below; or

(ii) A minimum guaranteed amount determined by Airport Category, as follows:

\$275.00 – Per month per Category II Airport.

\$175.00 – Per month per Category III and IV Airports.

\$75.00 – Per month per Category V Airport.

(B) For multiple aircraft, payment shall be accompanied by a report listing each based aircraft showing aircraft class, N-number, aircraft type and the hangar or tie-down number where the aircraft is stored.

(b) Each non-commercial operator shall pay a fee for each aircraft based on the adjacent property, based on aircraft's maximum gross landing weight as set forth in Table 1 below. Payment is due either:

(A) Annually on the anniversary date of the agreement; or

(B) Monthly on or before the 25th, for the month then in process.

(c) At residential airparks, access fees as set forth below shall be assessed for each developed lot with airport access, whether or not the access is being utilized.

#### PER AIRCRAFT WEIGHT-BASED FEE FOR ALL STATE-OWNED AIRPORTS

Aircraft Weight Class – Weight Range – Monthly Fee Per Aircraft.

Class 1 – Up to 5,000 lbs. – \$15 per month.

Class 2 – 5,001 to 10,000 lbs. – \$24 per month.

Class 3 – 10,001 to 20,000 lbs. – \$44 per month.

Class 4 – 20,001 to 30,000 lbs. – \$66 per month.

Class 5 – 30,001 to 40,000 lbs. – \$88 per month.

Class 6 – 40,001 lbs. and over – \$120 per month.

(4) The Department shall offer tie-down facilities to based and transient aircraft at specific State-owned airports where there are no FBO-provided tie-downs. Based aircraft operators leasing an available tie-down shall pay rent for an entire year in full beginning at lease commencement and subsequently on each anniversary date of the lease, according to rates set forth below.

(a) NON-COMMERCIAL TIE-DOWN FEES:

Category II Airports – \$20 per month, per tie-down.

Category III and IV Airports – \$17.50 per month, per tie-down.

Category V Airports – \$15 per month, per tie-down.

(b) COMMERCIAL TIE-DOWN FEES: ODA shall rent tie-down facilities to FBOs wherever possible.

The fee shall be the greater of:

Category II Airports – \$20 per month, per tie-down.

Category III and IV Airports – \$17.50 per month, per tie-down.

Category V Airports – \$15 per month, per tie-down.

Or 30% of all tie-down revenue generated. FBOs shall be responsible for providing a monthly accounting of all tie-down revenue received.

(5) The Department may negotiate individual fee and rent agreements at each State-owned airport, recognizing the diversity of services performed by the caretakers of different airports. These agreements shall be based on the specific services provided by the caretaker and the Department shall ensure that all the financial terms of those agreements are consistent among the same category of airport.

(6) The Director, or the Director's designee, may negotiate a unique rent or fee structure and enter into a special use agreement to benefit the general public, the local community or the State, for such activities as fire protection facilities, sports complexes, farming rights, weather equipment site leases and concession storage areas. All rental rates and charges applicable to special use agreements shall be determined through an analysis of similar activities, rates and charges at comparable airports in addition to consideration of overall benefit to the general public and the State aviation system.

# ADMINISTRATIVE RULES

(7) Each commercial operator conducting any type of agricultural-related aeronautical activity at a State-owned airport shall be required to lease property from the Department to store materials and equipment applicable to such operation. The rental rate shall be determined as of the day of occupancy.

(8) Each Mobile Service Provider (MSP) is required to obtain an annually renewable permit from the Department and pay the appropriate fee as represented below.

Category II Airports — \$25 per month or \$250 annually.  
Category III and IV Airports — \$20.00 per month or \$200 annually.  
Category V Airports — \$15 per month or \$150 annually.

(9) The Director, or the Director's designee, may negotiate a specific rate or fee to support the Department's mission of developing and promoting aviation in the State of Oregon. Any such negotiated fee agreement will contain a fair and equitable rate structure, will not be used routinely and will only be considered for the most unique circumstances.

(10) The Director, or the Director's designee, may waive certain fees for government aircraft, in order to comply with Federal Airport improvement grant assurances. The Director, or the Director's designee, may also waive certain fees for an organization or person engaged in a non-profit aeronautical program or activity that benefits a charitable organization or community.

Stat. Auth.: ORS 835.035, 835.040 & 835.112  
Stats. Implemented: ORS 835.035, 835.040, 835.112 & 836.055  
Hist.: IAD 2-1981, f. & ef. 4-20-81; AVIA 3-2002, f. 10-30-02 cert. ef. 11-1-02; AVIA 4-2002, f. 11-27-02, cert. ef. 12-1-02; AVIA 2-2003, f. & cert. ef. 4-3-03; AVIA 1-2010(Temp), f. & cert. ef. 1-7-10 thru 7-6-10; AVIA 2-2010, f. 6-9-10, cert. ef. 7-7-10; AVIA 1-2012(Temp), f. & cert. ef. 2-28-12 thru 8-26-12

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## Oregon Department of Education Chapter 581

**Rule Caption:** Special Education Responsibilities for Students in Charter Schools.

**Adm. Order No.:** ODE 8-2012

**Filed with Sec. of State:** 2-17-2012

**Certified to be Effective:** 2-17-12

**Notice Publication Date:** 12-1-2011

**Rules Amended:** 581-015-2005, 581-015-2010, 581-015-2040, 581-015-2075, 581-015-2080

**Subject:** Shifts student special education responsibilities from resident school district to the district in which the charter school is located if student is enrolled in a charter school in another school district from which the student resides.

**Rules Coordinator:** Cindy Hunt—(503) 947-5651

### 581-015-2005

#### Criteria for Approving School District Special Education Programs

(1) School districts operating or initiating special education programs must have their programs approved by the State Superintendent of Public Instruction in order to qualify such programs for state reimbursement. As part of this process, districts must subscribe to the following:

(a) Special education instructional programs in the district must include a continuum of services to meet the individual special education needs of all resident children with disabilities, including resident children with disabilities enrolled in public charter schools. For all school purposes residency for children with disabilities enrolled in charter schools is determined in accordance with ORS chapter 338.

(b) Special education must be established and conducted as an integral part of the district's regular school program.

(c) Children who require special education have the same rights and privileges provided to other students.

(2) In addition, the school district must have on file with the Oregon Department of Education a set of assurances and other documentation as required that ensure district compliance with requirements set forth in Oregon Revised Statutes and Oregon Administrative Rules for the education of children with disabilities.

Stat. Auth.: ORS 343.041, 343.045  
Stats. Implemented: ORS 343.221  
Hist.: IEB 208, f. 12-19-75, ef. 1-16-76; Renumbered from 581-022-0175; IEB 248, f. & ef. 9-23-76; IEB 269, f. & ef. 12-22-77; IEB 48-1978, f. & ef. 11-17-78; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0035, 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

### 581-015-2010

#### Census and Data Reporting

(1) Each school district must report to the Department all resident children with disabilities, who have been identified, located and evaluated

and are receiving early intervention, early childhood special education or special education from a public or private educational program on December 1 of each school year.

(2) Charter School Students. Each school district in which a charter school is located reports children with disabilities enrolled in the charter schools located in the district and receiving services described in (1), regardless of parental residency. Residency for children enrolled in charter schools is determined in accordance with ORS chapter 338.

(3) If no children have been identified, located, and evaluated as being disabled, school districts must report this fact.

(4) Private School Students. Each school district must conduct an annual count of the number of private school children as follows:

(a) On October 1 of each year, each school district must count all children attending private schools located within the boundaries of the district.

(b) On December 1 of each year, each school district must count all parentally placed children with disabilities attending non-profit private schools located within the boundaries of the district, in accordance with OAR 581-015-2475, whether or not these children are receiving equitable special education services as described in OAR 581-015-2460.

(5) School districts must report to the Department additional data as required by the Department for the preparation of reports to federal or state agencies. The Department will notify school districts of additional data needed to meet the requirements of federal or state law and the applicable reporting dates.

Stat. Auth.: ORS 343.041, 343.045 & 343.055;  
Stats. Implemented: ORS 338.165, 343.155, 34 CFR 300.137 & 139  
Hist.: ODE 2-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0038, 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

### 581-015-2040

#### Free Appropriate Public Education (FAPE) and Age Ranges

(1) School districts must provide special education and related services to all resident school-age children with disabilities, except as provided in OAR 581-015-2045. "School-age children" are children who have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year.

(2) An otherwise eligible person whose 21st birthday occurs during the school year is eligible for FAPE for the remainder of the school year.

(3) The requirements of this rule also apply to children with disabilities who have been suspended or expelled from school in accordance with OAR 581-015-2410 to 581-015-2440.

(4) For purposes of this rule, residency is determined in accordance with ORS chapter 339, except for children enrolled in charter schools. For all school purposes residency for charter school students is determined in accordance with ORS chapter 338.

Stat. Auth.: ORS 343.055  
Stats. Implemented: ORS 338.165, 343.041, 339.115, 34 CFR 300.101  
Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0600, 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

### 581-015-2075

#### Charter Schools

(1) For all school purposes, residency for charter school children is determined in accordance with ORS chapter 338, revised 2011.

(2) In accordance with procedural safeguards for special education, a school district must serve resident children with disabilities attending public charter schools located in the district in the same manner as the school district serves children with disabilities in other district schools, including but not limited to:

(a) Identifying, locating, and evaluating students, in accordance with OAR 581-015-2100 – 581-015-2180, to determine which children enrolled in a public charter school may be in need of special education and related services

(b) Implementing special education and related services according to each child's individual education programs (IEP) in accordance with OAR 581-015-2200 – 581-015-2230.

(c) Providing supplementary and related services on site at the public charter school to the same extent to which the school district has a policy or practice of providing such services on site to its other public schools.

(3) A school district in which a public charter school is located must provide IDEA funds to those charter schools on the same basis as the school district provides IDEA funds to other public schools in the district, including proportional distribution based on relative enrollment of children with disabilities, at the same time as funds are distributed to other public schools in the district.



# ADMINISTRATIVE RULES

(4) When a student enrolls in a public charter school, the school district in which the public charter school is located shall:

(a) Provide written notification of the student's enrollment to the student in which the student resides;

(b) Request, in accordance with applicable confidentiality provisions in IDEA and OAR 581-015-0220 through 581-015-0400 and 34 CFR §§300.610 through 300.620, the student records of the student, including all information related to an individualized education program developed for the student;

(c) If a student resides in another district, provide written notification to the student's parent, guardian, or person in parental relationship to provide information about:

(A) The school district's responsibility to identify, locate and evaluate to determine a student's need for special education and related services and to provide those special education services in the public charter school; and

(B) The methods by which the school district may be contacted to answer questions or provide information related to special education and related services.

(5) Each school district that receives an individualized education program (IEP) under subsection (4)(b) must, in consultation with the child's parents, provide a free appropriate public education to the child, in accordance with OAR 581-015-2230(1), until the new district implements the individualized education program from the previous district or develops, adopts and implements a new IEP that meets the applicable requirements. If the information received was in effect in a previous school district in another state, the district will implement it in accordance with OAR 581-015-2230(2).

(6) When a student no longer is enrolled in a public charter school for any reason, the school district in which the public charter school is located shall notify

(a) The school district in which the student resides to provide notice:

(A) that the student no longer is enrolled in the public charter school; and

(B) that the district will provide the student education records including all information related to the student's individualized education program if the student seeks enrollment or services from the district in which the student resides. Transfer of the information in (6)(b)(ii) is subject to the confidentiality provisions of IDEA and OAR 581-021-0230 – 581-021-0400.

(b) The student's parent, guardian or person in parental relationship to provide information about:

(A) The responsibility of the school district in which the student resides to identify, locate and evaluate students and implement services; and

(B) The methods by which the school district in (6)(a) may be contacted to answer questions or provide information about special education and related services.

(C) The responsibility of the district to provide student education records, including all information related to the student's individualized education program, if the student seeks enrollment or services from another school district, including the parental resident district. Transfer of student education records (6)(b)(ii) is subject to the requirements of IDEA and OAR 581-021-0230 – 581-021-0400.

Stat. Auth.: ORS 338.165

Stats. Implemented: ORS 338.165, 343.045, 34 CFR 300.209

Hist.: 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

## 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 – OAR 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.

Stat. Auth.: ORS 343.041, 343.045, 343.157

Stats. Implemented: ORS 343.045, 343.157, 34 CFR 300.111

Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 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

## Oregon Health Authority Chapter 943

**Rule Caption:** Oregon Health Authority Special Procurements.

**Adm. Order No.:** OHA 1-2012(Temp)

**Filed with Sec. of State:** 2-17-2012

**Certified to be Effective:** 2-17-12 thru 8-14-12

**Notice Publication Date:**

**Rules Adopted:** 943-060-0050

**Subject:** The Authority needs to adopt this rule to exercise special procurement authority provided in ORS 413.033. The rule also describes the methods of providing public notice of proposed special procurements and how affected individuals may protest the approval of a special procurement.

**Rules Coordinator:** Evonne Alderete—(503) 932-9663

### 943-060-0050

#### Special Procurements

(1) The Oregon Health Authority (Authority) may award a contract as a special procurement as authorized by ORS 413.033.

(2) The Authority may give public notice of the approval of a proposed special procurement in one or more, or in any combination of, the following manners:

(a) Publish notice on the Department of Administrative Services electronic procurement system;

(b) Placing notice on any Authority electronic procurement system which it may establish and maintain;

(c) Placing notice in a newspaper or trade journal of general circulation in the area where the contract awarded under the special procurement is to be performed; or

(d) Giving direct written or electronic notice to potential providers of the goods or services that are the subject of the special procurement to those potential providers known to the Authority as offering the goods or services that are the subject of the special procurement.

(3) The public notice shall describe the goods or services or class of goods or services to be acquired through the special procurement. The Authority shall give affected individuals at least seven days from the date of the notice of approval of the special procurement to protest the special procurement, unless fewer days are specified in the notice.

(4) An affected individual may protest the request for approval of a special procurement in accordance with ORS 279B.400.

Stat. Auth.: ORS 413.033, 413.042

Stats. Implemented: ORS 179.040, 279.050, 413.032, OL 2009, ch. 595, sec. 19.

Hist.: OHA 1-2012(Temp), f. & cert. ef. 2-17-12 thru 8-14-12

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

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

**Adm. Order No.:** MHS 3-2012

**Filed with Sec. of State:** 2-23-2012

**Certified to be Effective:** 2-23-12

**Notice Publication Date:** 11-1-2011

# ADMINISTRATIVE RULES

**Rules Adopted:** 309-014-0300, 309-014-0310, 309-014-0320, 309-014-0330, 309-014-0340

**Rules Repealed:** 309-014-0300(T), 309-014-0310(T), 309-014-0320(T), 309-014-0330(T), 309-014-0340(T)

**Subject:** These rules relate to the implementation of Chapter 418, Oregon Laws 2011, sections 13 through 20. The scope is limited to the creation of the Central Health Council and the implementation of the Central Oregon Health Improvement Plan.

**Rules Coordinator:** Nola Russell—(503) 945-7652

## 309-014-0300

### Purpose and Scope

These rules relate to the implementation of Chapter 418, Oregon Laws 2011 sections 13 through 20. The scope is limited to the creation of the Central Health Council and the implementation of the Central Oregon Health Improvement Plan.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 243.125, 243.864

Hist.: MHS 6-2011(Temp), f. 8-26-11, cert. ef. 9-1-11 thru 2-28-12; MHS 3-2012, f. & cert. ef. 2-23-12

## 309-014-0310

### Definitions

(1) "Authority" means the Oregon Health Authority (OHA).

(2) "Central Oregon Health Council" (COHC) means a council which shall, as a minimum, conduct a regional health assessment and adopt a regional health improvement plan to serve as a strategic population health and health care system service plan for the region served by the council.

(3) "Commission" means the Commission on Children and Families.

(4) "Council" means the Central Oregon Health Council (COHC).

(5) "Plan" means the Regional Health Improvement Plan.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 243.125, 243.864

Hist.: MHS 6-2011(Temp), f. 8-26-11, cert. ef. 9-1-11 thru 2-28-12; MHS 3-2012, f. & cert. ef. 2-23-12

## 309-014-0320

### Regional Health Improvement Plan

(1) The Regional Health Improvement Plan (RHIP) submitted by the Central Oregon Health Council, defined in OAR 309-014-0300, must include, but need not be limited to the following:

(a) Federally required components;

(b) Health policy;

(c) System design;

(d) Outcome and quality improvement;

(e) Integration of service delivery and

(f) Workforce development.

(2) Any additional requirements to the RHIP will be agreed upon in advance by the Council, the Authority and the Commission.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 243.125, 243.864

Hist.: MHS 6-2011(Temp), f. 8-26-11, cert. ef. 9-1-11 thru 2-28-12; MHS 3-2012, f. & cert. ef. 2-23-12

## 309-014-0330

### Central Oregon Health Council

(1) The council may not convene until the governing body of each county adopts a resolution signifying the body's intention to do so.

(2) Subsequent to the formation of the council, a county that is adjacent to Crook, Deschutes or Jefferson County may join the council if:

(a) The governing body of the county seeking to join the council adopts a resolution signifying the body's intention to include a portion of that county in the region served by the council;

(b) The portion of the county to be included in the region is part of a natural health care referral pattern with the other counties on the council; and

(c) The authority and the council approve.

(3) The COHC shall consist of no more than 11 members, including:

(a) A formative council consisting of:

(A) One member each from the governing bodies of Crook, Deschutes and Jefferson Counties, appointed by each body;

(B) The chief executive officer, or a designee of the chief executive officer, of the health care system serving the region; and

(C) The chief executive officer, or a designee of the chief executive officer, of the Medicaid contractor serving the region; and

(b) At least three members appointed by the formative council established under paragraph (3)(a)(A) of this rule. Members appointed under this section shall be representatives of:

(A) Consumers of physical and behavioral health services;

(B) Health care professionals;

(C) School districts or educational service districts;

(D) The business community; or

(E) A member from the governing body of each county that joins the council defined in (3)(a)(A) of this rule.

(4) The term of office of the members of the council is four years.

(5) A majority of the members of the council constitutes a quorum for the transaction of business.

(6) The council shall elect a member of the council to serve as the chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to the vacated position to become effective immediately.

(8) The council may enter into necessary contracts, apply for and receive grants, hold and dispose of property and take other actions necessary to carry out the activities, services and responsibilities assumed by the council.

(9) The council may adopt rules necessary for the operation of the council.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 243.125, 243.864

Hist.: MHS 6-2011(Temp), f. 8-26-11, cert. ef. 9-1-11 thru 2-28-12; MHS 3-2012, f. & cert. ef. 2-23-12

## 309-014-0340

### Central Oregon Health Improvement Plan (COHIP)

(1) The COHC shall develop a health improvement plan as detailed in OAR 309-017-0030.

(2) The COHIP will replace all prior plans required by the Authority in ORS 430.630, 430.640, 431.385 and 624.510 and plans required by the State Commission on Children and Families under ORS 417.705 through 417.801.

(3) The COHC will submit the plan no later than March 1, 2012 to the Authority.

(4) The Authority shall have 45 days from the date the plan is submitted to review the plan and return it to the Council either approved or with suggested modifications.

(a) If modifications are suggested the Council will have 45 days to respond to the suggestions and resubmit the plan.

(b) The Authority will have a final 30 days to review the plan.

(5) The plan is effective July 1, 2012.

(6) New plans must be submitted every four years if the sunset in the enabling legislation is removed by the Legislative Assembly.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 243.125, 243.864

Hist.: MHS 6-2011(Temp), f. 8-26-11, cert. ef. 9-1-11 thru 2-28-12; MHS 3-2012, f. & cert. ef. 2-23-12

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

**Rule Caption:** Hospital Provider Tax Rate Decrease.

**Adm. Order No.:** DMAP 8-2012

**Filed with Sec. of State:** 2-27-2012

**Certified to be Effective:** 3-1-12

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

**Rules Amended:** 410-050-0861

**Rules Repealed:** 410-050-0861(T)

**Subject:** The hospital provider tax rate is being decreased from 5.08% to 4.32% effective January 1, 2012. Upon adoption of this permanent rule, the temporary rule, effective January 1, 2012, will be repealed.

**Rules Coordinator:** Jennifer Bittel—(503) 947-5250

### 410-050-0861

#### Tax Rate

(1) The tax rate for the period beginning January 1, 2005 and ending June 30, 2006 is .68 percent.

(2) The tax rate for the period beginning July 1, 2006 and ending December 31, 2007 is .82 percent.

(3) The tax rate for the period beginning January 1, 2008 and ending June 30, 2009 is .63 percent.

(4) The tax rate for the period of January 1, 2008 through June 30, 2009 does not apply to the period beginning July 1, 2009.

# ADMINISTRATIVE RULES

(5) The tax rate for the period beginning July 1, 2009 and ending September 30, 2009 is .15 percent.

(6) The tax rate for the period beginning October 1, 2009 and ending June 30, 2010 is 2.8 percent.

(7) The tax rate for the period beginning July 1, 2010 and ending June 30, 2011 is 2.32 percent.

(8) The tax rate for the period beginning July 1, 2011 and ending September 30, 2011 is 5.25 percent.

(9) The tax rate for the period beginning October 1, 2011 and ending December 31, 2011 is 5.08 percent.

(10) The tax rate for the period beginning January 1, 2012 is 4.32 percent.

Stat. Auth.: ORS 413.042

Stats. Implemented: 2009 OL Ch. 867 §17, 2007 OL Ch. 780 § 1 & 2003 OL Ch. 736 § 2 & 3

Hist.: OMAP 28-2005(Temp), f. & cert. ef. 5-10-05 thru 11-5-05; OMAP 34-2005, f. 7-8-05, cert. ef. 7-11-05; OMAP 14-2006, f. 6-1-06, cert. ef. 7-1-06; DMAP 29-2007, f. 12-31-07, cert. ef. 1-1-08; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 24-2009, f. & cert. ef. 7-1-09; DMAP 25-2009(Temp), f. & cert. ef. 7-15-09 thru 1-10-10; DMAP 27-2009, f. & cert. ef. 9-1-09; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 21-2010, f. 6-30-10, cert. ef. 7-1-10; DMAP 16-2011(Temp), f. & cert. ef. 7-1-11 thru 11-1-11; DMAP 26-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 11-1-11; DMAP 31-2011, f. 10-28-11, cert. ef. 11-1-11; DMAP 50-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-30-12; DMAP 8-2012, f. 2-27-12, cert. ef. 3-1-12

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**Rule Caption:** Align with OAR chapter 461, division 155 medical eligibility rules.

**Adm. Order No.:** DMAP 9-2012(Temp)

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12 thru 7-10-12

**Notice Publication Date:**

**Rules Amended:** 410-120-0006

**Rules Suspended:** 410-120-0006(T)

**Subject:** The General Rules Program administrative rules govern the Division's payments for services provided to clients, and medical assistance eligibility determinations made by the Oregon Health Authority. In coordination with the Department of Human Services' (Department) temporary revision of medical eligibility rules in chapter 461, the Division is temporarily amending OAR 410-120-0006 to assure that the Division's medical eligibility rule aligns with and reflects information found in the Department's medical eligibility rules. In OAR 410-120-0006, the Division adopts in rule by reference Department eligibility rules and must update OAR 410-120-0006 in conjunction. The Division intends to file this rule permanent 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 March 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 1-1-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-1-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-1-12; 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

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**Rule Caption:** Amendment of Oregon Prescription Drug Program rules.

**Adm. Order No.:** DMAP 10-2012

**Filed with Sec. of State:** 3-6-2012

**Certified to be Effective:** 3-13-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 410-121-2000, 410-121-2005, 410-121-2010, 410-121-2020, 410-121-2030, 410-121-2050, 410-121-2065

**Subject:** The Oregon Prescription Drug Program is amending these rules to update definitions, add a definition for mail order pharmacy, update terminology and make grammatical corrections.

**Rules Coordinator:** Cheryl Peters—(503) 945-6527

## 410-121-2000

### Definitions

(1) "340B" means Section 340B of the Public Health Service Act, "Limitation on Prices of Drugs Purchased by Covered Entities," and any and all related rules, guidance, interpretations, and operational directives adopted by the federal Health Resources and Services Administration (HRSA) or any other governmental agency with jurisdiction over the enforcement of Section 340B.

(2) "Administrator" means the Administrator of the Oregon Prescription Drug Program (OPDP).

(3) "Authority" means the Oregon Health Authority.

(4) "Critical Access Pharmacy (CAP)" means a pharmacy in Oregon that is further than a ten-mile radius from any other pharmacy. If one CAP's ten-mile radius intersects with that of another CAP, both shall be considered a CAP if either CAP's closure could result in impaired access for rural areas.

(5) "Designated Entity" means an entity contracted by the Authority to perform administrative duties of the OPDP including but not limited to determining program prices, processing and paying claims, issuing identification cards, maintaining eligibility files, network development maintenance, and performing replenishment administration. Designated entities may include but are not limited to pharmacy benefits managers, third party administrators, insurance carriers, health maintenance organizations (HMOs), mail order and specialty drug suppliers, replenishment administrators, group purchasing organizations, and wholesalers.

(6) "Discount Card Program" or "DCP" means a state pharmacy benefit program for eligible uninsured individuals pursuant to ORS 414.312(4)(e) administered by the OPDP.

(7) "Group Purchasing Organization (GPO)" means any organization purchasing on a group basis established to meet the criteria of the Nonprofit Institutions Act, 15 USC 13c, or that is exempt under the Robinson Patman Antidiscrimination Act, 15 USC 13, or is a governmental entity performing traditional government functions.

(8) "Mail Order Pharmacy" means a pharmacy that fulfills prescriptions by mail or other delivery service.

(9) "Member" means individuals enrolled in a participating program to receive services under the OPDP.

(10) "Participating Program" means:

(a) A group, facility, or entity that is eligible to participate in the OPDP pursuant to ORS 414.312(4) and has a participation agreement with the OPDP; or

(b) A DCP for individual Oregon residents who lack or are underinsured for prescription drug coverage pursuant to ORS 414.312(4)(e).

(11) "Pharmacy Benefit Manager (PBM)" means an entity that negotiates and executes contracts with pharmacies, manages Preferred Drug Lists (PDL), negotiates rebates with prescription drug manufacturers, and serves as an intermediary between the Administrator, prescription drug manufacturers, and pharmacies.

(12) "Pharmacy Provider" means retail, mail order, and specialty drug outlets that participate in the OPDP and that contract with the Authority or a designated entity as a pharmacy provider.



# ADMINISTRATIVE RULES

(13) "Preferred Drug List (PDL)" means a list of preferred prescription drugs in selected classes that the Authority, in consultation with the Office for Oregon Health Policy and Research (OHPR), has determined represent the most effective drugs available at the best possible price.

(14) "Prescription Drug" means:

(a) A drug prescribed by a prescribing practitioner;

(b) Supplies necessary to administer a prescription drug in a safe and effective manner, including but not limited to inhaler, spacers, diabetic test strips, syringes, and meters.

(15) "Prescribing Practitioner" means a physician or other practitioner authorized by law to prescribe prescription drugs.

(16) "Prescription Drug Claims Processor" (PDCP) means an entity that processes and pays prescription drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims data between pharmacies and the OPDP, and processes payments to pharmacies.

(17) "Program Price" means the reimbursement rates and prescription drug prices established by the OPDP Administrator directly or indirectly through a contract with a designated entity, including program cost, dispensing or administration fees, and all applicable manufacturers discounts and rebates.

(18) "Rebate" means all payments or discounts whether retrospective or not, including promotional or volume-related refunds, incentives or other credits however characterized, pre-arranged with pharmaceutical companies on certain prescription drugs, which are paid to or on behalf of OPDP or a designated entity, and are directly attributable to the utilization of certain drugs by members including administrative fees and software or data fees paid by pharmaceutical companies to OPDP or a designated entity. Rebate includes all rebates, discounts, payments or benefits (however characterized) generated by participating program's claims, or derived from any other payment or benefit for the dispensing of prescription drugs or classes or brands of drugs within participating program or arising out of any relationships OPDP or designated entity has with pharmaceutical companies, including but not limited to rebate sharing, market share allowances, educational allowances, gifts, promotions, or other form of revenue.

(19) "Replenishment Administration" means tracking GPO or 340B program usage by pharmacy providers and ordering replacement inventory including associated reporting; GPO and 340B retail and mail order pharmacy contracting; GPO and 340B contracting; or as otherwise defined by contract.

(20) "Retail Pharmacy" means a pharmacy in a retail store and excludes any mail order pharmacy or specialty pharmacy.

(21) "Specialty Pharmacy" means a pharmacy provider where specialty drugs are dispensed and delivered to members or to prescribing practitioners for members.

(22) "Third Party Administrator (TPA)" means an entity that, in addition to being a PDCP, facilitates program management including processing and paying prescription drug claims; transmitting prescription drug prices and claims and enrollment data between pharmacies and the OPDP and its participating programs; maintaining enrollment and issuing identification cards; and processing payments to pharmacies. The TPA may be contracted through the Authority or PBMs, or other designated entities.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0000 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11; DMAP 10-2012, f. 3-6-12, cert. ef. 3-13-12

## 410-121-2005

### General Administration

(1) The Administrator, or designee, may:

(a) Negotiate price discounts and rebates on prescription drugs with prescription drug manufacturers and GPOs;

(b) Purchase prescription drugs on behalf of participating programs;

(c) Contract with a PDCP or PBM to adjudicate pharmacy claims and transmit program prices to pharmacies;

(d) Determine program prices and reimburse or replenish pharmacies for prescription drugs dispensed or transferred;

(e) Adopt and implement a PDL for the OPDP;

(f) Develop a system for allocating and distributing the operational costs of the program and any rebates obtained to participating programs; and

(g) Cooperate with any state or regional consortia in bulk purchasing of prescription drugs.

(2) The Administrator or designated entity shall oversee the implementation of the OPDP, including review of member eligibility information, participating program information, and pharmacy provider compli-

ance with program requirements. The Administrator, or designated entity, shall review records or other information, including health information, necessary to perform oversight responsibilities.

(3) The Administrator shall establish processes, terms, and conditions describing how the entities identified in ORS 414.312(4) may participate in the OPDP as a participating program, including entities otherwise subject to ORS 731.036(6).

(4) The Administrator or designated entity may contract with a PBM and directly or indirectly with pharmacy providers as the Administrator or designated entity considers necessary to maintain statewide access for OPDP members including consideration for CAP providers.

(5) The Administrator or designated entity may contract with replenishment administrators, GPO's, 340B providers, and pharmacy providers as necessary to utilize discount purchasing programs.

(6) Annually, no later than November 1, the Office of Rural Health shall determine any Oregon pharmacies that meet CAP status and report them to the OPDP for CAP designation. OPDP shall send the current list of all Oregon retail pharmacies to the Office of Rural Health no later than October 1 each year.

(7) Pursuant to ORS 414.312(5), the state agency that receives federal Medicaid funds and is responsible for implementing the state's medical assistance program may not participate in the program. The phrase "state agency" for this purpose means the Authority, which is the state Medicaid agency that administers funds from Title XIX of the Social Security Act, and is responsible for implementing the state's Medicaid program. State agency does not include other programs or functions within the Authority that do not receive federal Medicaid funds, such as the Public Employees' Benefit Board and the Oregon Educators Benefit Board.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; Administrative Correction, 6-16-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0005 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11; DMAP 10-2012, f. 3-6-12, cert. ef. 3-13-12

## 410-121-2010

### Pharmacy Providers

(1) The pharmacy shall contract with the Authority, or its designated entity, and must be licensed with their state Board of Pharmacy to be a pharmacy provider for the OPDP.

(2) The pharmacy provider must sign a pharmacy provider contract and comply with all applicable state and federal laws, regulations, rules, and the terms and conditions of the contract. The contract authorizes the pharmacy provider to serve members in the OPDP and outlines program compliance requirements.

(3) A contract may be issued to a qualified pharmacy provider upon:

(a) Completion and signature of the contract by the pharmacy provider or a person authorized by the pharmacy provider to bind the organization;

(b) Verification of Pharmacy licensing with their State Board of Pharmacy; and

(c) Approval of the contract by the Authority or its designated entity.

(4) To contract for the OPDP, the pharmacy provider must:

(a) Accept the program price in effect on the date of the transaction as established by the Administrator or designated entity including but not limited to dispensing fees which may be charged to the member;

(b) Maintain sufficient documentation of transactions to resolve disagreements with the member or participating program about the amount charged for the prescription drugs;

(c) Reimburse the member or participating program directly for overcharges as determined by program price in effect on the date of the transaction;

(d) Provide access to records and data required by the designated entity to administer claims, reimbursement, and other tasks as necessary for OPDP claims processing; and

(e) Not charge members for costs incurred by the pharmacy provider for the electronic transmittal of the program price from the Authority to the pharmacy.

(5) Pharmacy providers may advertise participation in the OPDP, provided that:

(a) Advertising or marketing materials must be accurate and not misleading or confusing to members or the public about participation in the OPDP or the savings offered by the pharmacy provider.

(b) The pharmacy provider must cease all advertisements pertaining to participation in the program if the Authority suspends or terminates the contract.

# ADMINISTRATIVE RULES

(6) The Administrator or designated entity shall, at its discretion, suspend or remove a pharmacy provider from the OPDP if the pharmacy provider loses licensure or fails to comply with applicable state and federal laws, rules, and regulations, and the terms and conditions of the contract.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0010 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11; DMAP 10-2012, f. 3-6-12, cert. ef. 3-13-12

## 410-121-2020

### Program Price

(1) The price for a prescription drug a pharmacy provider may charge a member under the OPDP is the lesser of the following on the date of the transaction:

(a) The program price, or  
(b) The pharmacy provider's usual and customary price, including program cost and dispensing fee.

(2) The designated entity shall transmit the price of the prescription drugs to the pharmacy providers electronically.

(3) The OPDP is limited to prescription drugs prescribed in the name of and for the use by the member, except as otherwise provided in section (7) of this rule.

(4) Prescription drug benefit access shall be available on member identification cards.

(5) The OPDP does not include prescriptions for over-the-counter drugs.

(6) The Administrator, or designated entity, may establish different program prices for CAP providers in rural areas to maintain statewide access to the OPDP.

(7) Unique pricing arrangements may be agreed upon between pharmacy providers and designated entity to accommodate group purchasing or 340B pricing for qualified entities.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0020 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11; DMAP 10-2012, f. 3-6-12, cert. ef. 3-13-12

## 410-121-2030

### Preferred Drug List

(1) The Administrator shall consider any PDL developed and recommended by OHPR that identifies preferred choices of prescription drugs within therapeutic classes for particular diseases and conditions, including generic alternatives, for use in the OPDP by participating programs.

(2) The OPDP shall develop a PDL that participating programs may choose to adopt for beneficiaries of their prescription drug benefit program. The PDL shall include the most effective prescription drugs at the lowest possible prices, taking into account negotiated price discounts and rebates available to the OPDP, while allocating and distributing the operational costs of the OPDP.

(3) If a participating program uses the PDL developed by the OPDP, it must be used in conjunction with that participating program's benefit plan including all pharmacy management programs the participating program has or adopts.

(4) OPDP shall make the PDL available to individuals enrolled in the OPDP.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0030 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11; DMAP 10-2012, f. 3-6-12, cert. ef. 3-13-12

## 410-121-2050

### Enrollment

(1) Participating programs, other than the DCP, shall enroll for participation through the designated entity chosen by the OPDP to administer the participating program's enrollment and claims processing.

(a) Eligibility for members of a participating program shall be maintained electronically between the participating program and designated entity.

(b) Participating programs or designated entities shall issue identification cards to members at initial enrollment and renewal, and between those times as needed.

(2) Residents of Oregon who do not have prescription drug coverage or who are underinsured for prescription drug coverage may be individually enrolled by the designated entity.

(a) The designated entity shall issue identification cards to members.

(b) Individuals who are eligible for Medicare Part D prescription drug coverage may participate in the program.

(3) The OPDP may charge a nominal fee to participate in the program.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; Renumbered from 409-030-0050 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11; DMAP 10-2012, f. 3-6-12, cert. ef. 3-13-12

## 410-121-2065

### Contracted Services

(1) The Administrator may procure goods and services to perform any of the functions of OPDP.

(2) The Administrator shall delegate procurement authority to the Authority's designated Procurement Officer for OPDP goods and services, except as the Administrator determines to retain such authority in a particular case and as otherwise provided in section (4) of this rule.

(3) The Administrator shall act as the Authority's representative for each contract. The Administrator may delegate in writing the representative's responsibilities to a designee. The agency's representative may participate with the Authority's designated Procurement Officer in all aspects of procurement.

(4) OPDP's mechanism for and administration of the enrollment of participating groups shall not constitute procurements subject to this rule.

Stat. Auth.: ORS 414.312

Stats. Implemented: ORS 414.312, 414.314, 414.316 & 414.318

Hist.: OHP 3-2007, f. & cert. ef. 8-3-07; OHP 3-2009, f. & cert. ef. 10-1-09; OHP 2-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 10-17-10; OHP 6-2010, f. 9-23-10, cert. ef. 10-1-10; Renumbered from 409-030-0065 by DMAP 1-2011, f. 2-10-11, cert. ef. 3-1-11; DMAP 10-2012, f. 3-6-12, cert. ef. 3-13-12

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## Oregon Health Authority, Office for Oregon Health Policy and Research Chapter 409

**Rule Caption:** Patient-Centered Primary Care Home Program Rules.

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

**Filed with Sec. of State:** 2-29-2012

**Certified to be Effective:** 3-1-12

**Notice Publication Date:** 2-1-2012

**Rules Adopted:** 409-055-0090

**Rules Amended:** 409-055-0000, 409-055-0010, 409-055-0020, 409-055-0030, 409-055-0040, 409-055-0050, 409-055-0060, 409-055-0070, 409-055-0080

**Rules Repealed:** 409-055-0000(T), 409-055-0010(T), 409-055-0020(T), 409-055-0030(T), 409-055-0040(T), 409-055-0050(T), 409-055-0060(T), 409-055-0070(T), 409-055-0080(T)

**Subject:** The Oregon Health Authority (OHA), Office for Oregon Health Policy and Research (OHPR) is adopting administrative rules for the Patient-Centered Primary Care Home (PCPCH) Program. The rules implement PCPCH standards, reporting, and recognition process and other applicable mandates of ORS 442.210, enacted by the 74th Legislative Assembly and ORS 414.655, enacted by the 75th Legislative Assembly. These rules are intended to fulfill the mandates by prescribing the standards used for practices to qualify as PCPCHs, the reporting requirements for PCPCHs, and the process used to recognize PCPCHs.

**Rules Coordinator:** Zarie Haverkate—(503) 373-1574

### 409-055-0000

#### Purpose and Scope

These rules (OAR 409-055-0000 to 409-055-0090) establish the Patient-Centered Primary Care Home (PCPCH) Program and define criteria and process that the Authority shall use to recognize and verify status as PCPCHs. The PCPCH is a model of primary care that has received attention in Oregon and across the country for its potential to advance the "triple aim" goals of health reform: a healthy population, extraordinary patient care for everyone, and reasonable costs, shared by all. PCPCHs achieve these goals through a focus on wellness and prevention, coordination of care, active management and support of individuals with special health care needs, and a patient and family-centered approach to all aspects of care. PCPCHs emphasize whole-person care in order to address a patient and family's physical and behavioral health care needs.

Stat. Auth.: ORS 413.042, 414.655 & 442.210

# ADMINISTRATIVE RULES

Stat. Implemented: 413.042, 414.655 & 442.210  
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 409-055-0010

### Definitions

The following definitions apply to OAR 409-055-0000 to 409-055-0090:

(1) "Administrator" means the administrator or designee of The Office for Oregon Health Policy and Research as defined in ORS 442.011.

(2) "Authority" means the Oregon Health Authority.

(3) "CHIPRA Core Measure Set" means the initial core set of children's health care quality measures released by the Centers for Medicare and Medicaid Services in 2009 for voluntary use by Medicaid and CHIP programs.

(4) "NCQA" means National Committee for Quality Assurance.

(5) "Office" means the Office for Oregon Health Policy and Research.

(6) "Patient Centered Medical Home (PCMH)" means a practice or provider who has been recognized as such by the National Committee for Quality Assurance.

(7) "Patient-Centered Primary Care Home (PCPCH)" means a health care team or clinic as defined in 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.

(8) "Personal Health Information" means demographic information, medical history, test and laboratory results, insurance information and other data that is collected by a health care professional to identify an individual and determine appropriate care.

(9) "Practice" means an individual, facility, institution, corporate entity, or other organization which provides direct health care services or items, also termed a performing provider, or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider (BP). The term provider refers to both performing providers and BP(s) unless otherwise specified.

(10) "Program" means Patient-Centered Primary Care Home Program.

(11) "Program website" means [www.primarycarehome.oregon.gov](http://www.primarycarehome.oregon.gov).

(12) "Provider" means an individual, facility, institution, corporate entity, or other organization which provides direct health care services or items, also termed a performing provider, or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider (BP). The term provider refers to both performing providers and BP(s) unless otherwise specified.

(13) "Recognition" means the process through which the Authority determines if a practice has met the Oregon Patient-Centered Primary Care Home Standards.

(14) "Recognized" means that the Authority has affirmed that a practice meets the Oregon Patient-Centered Primary Care Home Standards.

(15) "Tier" means the level of Patient-Centered Primary Care Home at which the Authority has scored a practice.

(16) "Verification" means the process that Office for Oregon Health Policy and Research shall conduct to ensure that a practice has submitted accurate information to the Authority for purposes of Patient-Centered Primary Care Home recognition.

Stat. Auth: ORS 413.042, 414.655 & 442.210

Stat. Implemented: 413.042, 414.655 & 442.210

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 409-055-0020

### Program Administration

(1) The Program is intended to ensure that there is a uniform process for recognizing PCPCHs throughout the State of Oregon in order to support primary care transformation.

(2) The Authority shall recognize practices as PCPCHs upon meeting defined criteria through the Program.

(3) The Authority shall administer the Program, including data collection and analysis, recognition, and verification that a practice meets the defined PCPCH criteria. The Authority may also provide technical assistance as is feasible.

(4) The Authority may contract for any of the work it deems necessary for efficient and effective administration of the Program.

Stat. Auth: ORS 413.042, 414.655 & 442.210

Stat. Implemented: 413.042, 414.655 & 442.210

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 409-055-0030

### Practice Application and Recognition Process

(1) Practices or other entities on behalf of the practice shall submit a PCPCH Recognition Process Application electronically to the Authority via the Program's online application system found on the Program website. The application shall include data per OAR 409-055-0040.

(2) The Authority shall review the application for completed data and compliance with the criteria in OAR 409-055-0040.

(3) When the PCPCH applicant meets the criteria requirements, the Authority shall deem the applicant as a Recognized PCPCH Practice and assign a Tier level.

(4) The Authority shall keep instructions and criteria for submitting a PCPCH Recognition Process Application posted on the Program website.

(5) Practices shall be notified in writing or electronically of a PCPCHs Tier score or contacted for additional information within 60 days of application submission.

(6) A practice may be denied PCPCH recognition if it does not meet the criteria in OAR 409-055-0040.

(7) Practices must file a request for review with the Program within 90 days if the practice disagrees with the calculated Tier score.

(8) PCPCHs must renew their recognition annually or at the discretion of the OHA, but no less than 12 months from the effective recognition date identified to the practice by the Authority. If during the year, a PCPCH believes that it meets the criteria to be recognized at a higher tier, it may request to have its tier status reassessed by re-submitting an application not more than once every six months.

(9) The effective recognition date identified by the Authority shall be the date on which the Authority has completed the application review process.

(10) The Authority reserves the right to identify a recognition date other than the date of application review process completion.

(11) It is the intent of the Program to refine the criteria per OAR 409-055-0040 during the first two years of implementation of the Program based on PCPCH provider and stakeholder feedback. After this time, the Authority intends to move to a recognition renewal process of once every three years.

(12) Recognition requests may be sent electronically or by mail to the address posted on the Program website.

[Tables: Tables reference are available from the agency.]

Stat. Auth: ORS 413.042, 414.655 & 442.210

Stat. Implemented: 413.042, 414.655 & 442.210

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 409-055-0040

### Recognition Criteria

(1) The PCPCH measures are divided into "Must-Pass" measures and other measures that place the practice on a scale of maturity or 'tier' that reflect basic to more advanced PCPCH functions.

(2) Must-Pass and Tier 1 measures focus on foundational PCPCH elements that should be achievable by most practices in Oregon with significant effort, but without significant financial outlay.

(3) Tier 2 and Tier 3 measures reflect intermediate and advanced functions.

(4) Except for the 10 Must-Pass measures, each measure is assigned a point value corresponding to the Tier. For a practice to be recognized as a PCPCH, it must meet the following point allocation criteria:

(a) Tier 1: 30 – 60 points and all 10 Must-Pass Measures

(b) Tier 2: 65 – 125 points and all 10 Must-Pass Measures

(c) Tier 3: 130 points or more and all 10 Must-Pass Measures

(5) A practice's point score shall be calculated through the recognition process pursuant to OAR 409-055-0030.

(6) See Table 1 for a detailed list of Measures and corresponding point assignment.

(7) See Tables 2.A and 2.B for a detailed list of the PCPCH Quality Measures referred to in Table 1, 2.A) Performance & Clinical Quality Improvement, 4.A) Personal Clinician Assigned, and 4.D) Personal Clinician Continuity.

(8) Data specifications for the measures listed in Table 2 shall be available on the Program website.

(9) Quantitative data shall be aggregated at the practice level, not the individual patient level, and there may not be any transfer of any personal health information from the practice to the Authority during the PCPCH application process.

(10) Measure specification, thresholds for demonstrating improvement, and benchmarks for quantitative data elements shall be developed by the Authority and made available on the Program website.



# ADMINISTRATIVE RULES

(11) NCQA recognition will be acknowledged in the Authority's PCPCH recognition process; however, a practice is not required to use its NCQA recognition to meet the Oregon PCPCH standards. A practice that does not wish to use its NCQA recognition to meet the Oregon PCPCH standards must indicate so during the PCPCH application process and submit a complete PCPCH application.

(12) Depending on the version of NCQA recognition that was used, practices seeking Oregon PCPCH recognition and wish to use their NCQA PCMH status shall attest to being a NCQA recognized PCMH and submit additional information.

(13) Additional required elements for NCQA PCMH recognized practices choosing to use their NCQA status are listed in Table 3 for PCMH practices using 2008 NCQA criteria and Table 4 for PCMH practices using 2011 NCQA criteria.

Stat. Auth: ORS 413.042, 414.655 & 442.210  
Stat. Implemented: 413.042, 414.655 & 442.210  
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 409-055-0050

### Data Reporting Requirements for Recognized PCPCHs

(1) In order to be recognized as a PCPCH, a practice must attest to meeting the standards described in Table 1 as well as submit quantitative data elements as described in Tables 1 and 2.

(2) The attestation shall be submitted electronically via the web-based process pursuant to OAR 409-055-0030.

(3) Recognized PCPCHs shall be scored and assigned a Tier level pursuant to OAR 409-055-0040.

(4) Attestation data must be submitted by PCPCHs annually as a part of the recognition renewal process.

(5) Part of the recognition process shall also include submission of quantitative data about the practice or the practice's patient population.

(6) Quantitative data shall be submitted electronically via the web-based reporting process.

(7) Quantitative data elements selected from Table 2 must be submitted by recognized PCPCHs annually for those practices submitting data to meet standard 2.A.2 or 2.A.3.

(8) If approved by the practice and the Authority, other entities may submit information on behalf of a practice.

(9) Specific data elements required for PCPCH recognition shall be posted on the PCPCH Program website.

(10) The Authority shall have discretion to make exceptions to the reporting requirements above for practices collecting data elements outside of those on Table 2 for the purpose of quality improvement activities.

(11) The Authority shall have discretion to make exceptions to any of the reporting requirements referred to in OAR 409-055.

(12) Practices may request an exception to the reporting requirements on the PCPCH application form.

(13) The Authority will notify the practice within 60 days of complete application submission whether or not the requested exception has been granted.

[Tables: Tables reference are available from the agency.]  
Stat. Auth: ORS 413.042, 414.655 & 442.210  
Stat. Implemented: 413.042, 414.655 & 442.210  
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 409-055-0060

### Verification

(1) The Authority shall conduct at least one verification review of each recognized PCPCH to determine compliance with PCPCH criteria every five years and at such other times as the Authority deems necessary or at the request of the Division of Medical Assistance Programs (DMAP) or any other applicable program within the Authority. The purpose of the review is to verify reported attestation and quantitative data elements for the purposes of confirming recognition and Tier level.

(2) PCPCHs selected for verification shall be notified no less than 30 days prior to the scheduled review.

(3) PCPCHs shall permit Authority staff access to the practice's place of business during the review.

(4) A verification review may include but is not limited to:

(a) Review of documents and records.

(b) Review of patient medical records.

(c) Review of electronic medical record systems, electronic health record systems, and practice management systems.

(d) Review of data reports from electronic systems or other patient registry and tracking systems.

(e) Interviews with practice management, clinical and administrative staff.

(f) On-site observation of practice staff.

(g) On-site observation of patient environment and physical environment.

(5) Following a review, Authority staff may conduct an exit conference with the PCPCH representative(s). During the exit conference Authority staff shall:

(a) Inform the PCPCH representative of the preliminary findings of the review; and

(b) Give the PCPCH a reasonable opportunity to submit additional facts or other information to the Authority staff in response to those findings.

(6) Following the review, Authority staff shall prepare and provide the PCPCH specific and timely written notice of the findings.

(7) If the findings result in a referral to the Division of Medical Assistance Programs per OAR 409-055-0070, Authority staff shall submit the applicable information to the Division of Medical Assistance Programs for its review and determination of appropriate action.

(8) If no deficiencies are found during a review, the Authority shall issue written findings to the PCPCH indicating that fact.

(9) If the reviewer's written notice of findings indicates that the PCPCH was in compliance with PCPCH standards and criteria and no deficiencies were cited, the PCPCH representative shall sign and date the written notice and return it to the Authority.

(10) If deficiencies are found, the Authority shall take informal or formal enforcement action in compliance with OAR 409-055-0070.

(11) The Authority may share application information and content submitted by practices and/or verification findings only with managed care plans and/or insurance carriers with which the Authority contracts.

Stat. Auth: ORS 413.042, 414.655 & 442.210  
Stat. Implemented: 413.042, 414.655 & 442.210  
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 409-055-0070

### Compliance

(1) If the Authority finds that the practice is not in compliance with processes as attested to, the Authority shall:

(a) Require a waiver with timeline to correct deficiency

(b) Issue a written warning with timeline to correct deficiency

(2) For steps (1)(a) and (1)(b), the Authority will review outcomes in accordance with the waiver or warning, and if remedied, no further action will be taken.

(3) If a practice fails to move into compliance within 90 days of identification of non-compliance with attested information, the Authority may issue a letter of non-compliance and amend the practice's PCPCH recognition to reflect the appropriate Tier level or revoke its PCPCH status.

(4) If non-compliance is identified, the Authority will make this information available to managed care plans and insurance carriers with which the Authority contracts.

(5) A practice that has had its PCPCH status revoked may be reissued after the Authority determines that compliance with PCPCH Standards has been achieved satisfactorily.

(6) In order for the Authority to receive federal funding for Medicaid clients receiving services through a PCPCH, documentation of certain processes are required by the Centers for Medicare and Medicaid Services. Documentation requirements can be found in OAR 410-141-0860. If non-compliance is due to lack of documentation required per OAR 410-141-0860, a referral may be made to the Division of Medical Assistance Programs' provider audit unit.

(7) If the Authority finds a lack of documentation per OAR 410-141-0860 to support the authorized tier level, the Authority may conduct an audit pursuant to the standards in OAR 943-120-1505

Stat. Auth: ORS 413.042, 414.655 & 442.210  
Stat. Implemented: 413.042, 414.655 & 442.210  
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 409-055-0080

### Insurance Carrier, Managed Care Plan, and Public Stakeholder Communication

(1) The Authority shall develop a system for making recognized PCPCH Tier status recognition information available to insurance carriers and managed care organizations.

(2) The Authority shall maintain and update monthly the recognized PCPCH Tier status lists.

# ADMINISTRATIVE RULES

(3) The Authority shall develop a system for making recognized PCPCH practice names available to the general public through the Program website.

(4) Practices who do not wish to have their name listed on the publicly available list should send an e-mail to PCPCH@state.or.us with the title "opt-out" in the subject line within 10 business days of receiving confirmation of Tier status per OAR 409-055-0040.

Stat. Auth: ORS 413.042, 414.655 & 442.210  
Stat. Implemented: 413.042, 414.655 & 442.210  
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12; OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

## 409-055-0090

### Reimbursement Objectives

(1) One objective of these standards is to facilitate appropriate reimbursement for PCPCHs consistent with their recognized Tier levels. The standards and Tier recognition process established in this rule are consistent with statutory objectives to align financial incentives to support utilization of PCPCHs, in recognition of the standards that are required to be met at different Tiers.

(2) Managed care plans and insurance carriers may obtain from the Authority the Tier level recognition of any practice.

(3) Within applicable programs, the Authority shall develop and implement reimbursement methodologies that reimburse practices based on recognition of Tier level, taking into consideration incurred practice costs for meeting the Tier criteria.

Stat. Auth: ORS 413.042, 414.655 & 442.210  
Stat. Implemented: 413.042, 414.655 & 442.210  
Hist.: OHP 2-2012, f. 2-29-12, cert. ef. 3-1-12

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

**Rule Caption:** Implements changes to temporary restaurant licensing standards due to passage of House Bill 2868 (2011).

**Adm. Order No.:** PH 3-2012

**Filed with Sec. of State:** 2-29-2012

**Certified to be Effective:** 3-1-12

**Notice Publication Date:** 2-1-2012

**Rules Adopted:** 333-157-0073, 333-157-0077

**Rules Amended:** 333-012-0053, 333-012-0055

**Subject:** The Oregon Health Authority, Public Health Division is permanently adopting and amending administrative rules in chapter 333, divisions 12 and 157. The proposed rules implement the provisions of House Bill 2868, passed during the 2011 Oregon Legislative Session, which changes the licensing model for temporary restaurant facilities. House Bill 2868 was a collaborative effort of the temporary restaurant industry and state and local regulatory officials to improve the licensing model by reducing the costs of operating temporary restaurants by industry but still allowing regulatory officials to assure adequate public health protection. House Bill 2868 created new licensing categories that extend the period of time that licenses are valid and allows local health departments to conduct a comprehensive review of the operation's food safety practices.

**Rules Coordinator:** Brittany Sande—(971) 673-1291

## 333-012-0053

### Licensing and Fees

(1) License applications and licenses issued must be on forms provided or approved by the Authority.

(2) The Local Public Health Authority must establish a single license fee per establishment or facility type. There may not be added fees based on local determination of unique features of an establishment or facility.

(3) Licensing categories must be based upon those specified in ORS 446.310, 448.035 and 624.490. The Local Public Health Authority may not create additional licensing categories.

(4)(a) Annual work hours available for a dedicated full time equivalent (FTE) for field staff in the food service program based on a 40-hour week is 1640 hours, of which 25 percent is allocated for office and administrative duties and consultation, and 75 percent is for field inspection activities;

(b) Standards for complete inspection functions, on average, including travel time, relative to facility size are as follows:

(A) 0–15 seats, 1-1/2 hours;

(B) 16–50 seats, 1-3/4 hours;

(C) 51–150 seats, 2 hours;

(D) Over 150 seats, 2-1/2 hours.

(c) An average recheck inspection rate of 40 percent with an average critical item recheck inspection taking 45 minutes including travel.

(5) The following standards are established to reflect the levels of effort and resources needed to carry out the delegated functions and provisions of ORS chapter 624:

(a) Workload indicators established in section (4) of this rule must be used to determine staffing levels budgeted for field inspection activities;

(b) Administrative costs must be limited to 15 percent of direct costs;

(c) A ratio of up to 0.35 FTE for clerical support and up to 0.25 FTE for supervision to field staff FTE respectively, must be observed;

(d) Charges for services and supplies may not exceed a ratio of 0.25 of personnel salary for direct program costs;

(e) In lieu of the administrative standards outlined in this rule, the Local Public Health Authority may determine staffing standards and actual costs of providing program services. The Local Public Health Authority must document and report to the Oregon Health Authority actual time spent and expenses incurred and may be subject to a fiscal audit as specified in OAR 333-012-0070(3).

(6) The Local Public Health Authority may adopt a fee schedule for facilities that require more than two recheck inspections per year.

(7) The Local Public Health Authority may adopt a fee schedule for seasonal temporary restaurants and intermittent temporary restaurants that require a recheck inspection.

(8) The Local Public Health Authority may set a fee for costs associated with conducting an operational review in accordance with guidelines established by the Oregon Health Authority.

(9) The Local Public Health Authority may set a fee for costs associated with plan review conducted under guidelines established by the Oregon Health Authority.

(10) The Local Public Health Authority may set a reinstatement fee for late license reinstatement.

(11) The Local Public Health Authority may recover the cost of the extra inspections required under OAR 333-157-0027, Increased Inspection Schedule, by charging a fee of up to one-half of the annual licensing fee otherwise assessable to the restaurant for each additional inspection.

(12) A license may be issued only after the Local Public Health Authority has received the fee and determined that the facility meets the requirements of the statutes and rules.

(13) The Local Public Health Authority may pro-rate fees for partial year operation as follows: From January 1 through September 30, a full license fee is required. From October 1 through December 31, half the annual fee must be assessed.

(14) If license fees assessed by the Local Public Health Authority are more than 20 percent above or below the fees established in ORS 624.490, the Local Public Health Authority must document and report to the Oregon Health Authority actual time spent and expenses incurred on program services and may be subject to a fiscal audit as specified in OAR 333-012-0070(3).

(15) All license fees collected by the Local Public Health Authority pursuant to ORS 446.425, 448.100 and 624.510 must be paid into the county treasury and placed in a special revenue fund or the general fund of the county treasury and placed to the credit of the Local Public Health Authority. Such monies must be used only for program services pursuant to ORS 446.425, 448.100 and 624.510. The Local Public Health Authority must assure on an annual basis that all fees collected are used solely for the purposes of administering the programs as described in this section.

(16) If the Local Public Health Authority requests a fiscal audit required in OAR 333-012-0070(3) be conducted by a private auditing agency, the Local Public Health Authority must pay the costs and a copy of audit report must be provided to the Oregon Health Authority.

Stat. Auth.: ORS 446.425, 448.100 & 624.510

Stats. Implemented: ORS 446.425, 448.100 & 624.510

Hist.: PH 13-2004, f. & cert. ef. 4-9-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06; PH 3-2012, f. 2-29-12, cert. ef. 3-1-12

## 333-012-0055

### Inspection Standards

(1) All licensed establishments and facilities, except bed and breakfast facilities, travelers' accommodations, hostels and temporary restaurants, must receive a minimum of one complete inspection for every six months of operation or fraction thereof. For vending machines, the Local Public Health Authority shall evaluate at least 10 percent of each licensee's machines during each inspection:

# ADMINISTRATIVE RULES

(a) Bed and breakfast facilities must be inspected once per year;  
(b) Travelers' accommodations and hostels must be inspected on a schedule in accordance with local public health priorities and with consideration of the following criteria:

- (A) Complaints received from a guest at a particular facility;
  - (B) A history of rule violations;
  - (C) A request for inspection or consultation from a licensee;
  - (D) Reports of illness or accidents associated with the facility;
  - (E) Change of owner or operator;
  - (F) The facility's method of sewage disposal, source of water and availability of local fire protection services;
  - (G) Length of time since the last inspection of the facility;
  - (H) A minimum of one inspection every two years is recommended.
- (c)(A) Single-event, seasonal and intermittent temporary restaurants must receive a minimum of one inspection during operation for each license issued;
- (B) Notwithstanding paragraph (1)(c)(A) of this rule benevolent single-event temporary restaurants may receive an inspection or a consultation in lieu of an inspection, as determined by the Local Public Health Authority.

(2) The Local Public Health Authority may substitute an alternative inspection procedure or intervention once per year in place of an inspection using alternative criteria approved by the Oregon Health Authority.

(3) The Local Public Health Authority must implement an increased inspection schedule for restaurants as described in OAR 333-157-0027. Up to two of the quarterly inspections may be based upon a menu review consultation, an announced inspection, a risk control plan or other method approved by the Oregon Health Authority.

(4) A pre-operational or construction inspection must be conducted after plan review and prior to operation of a new, remodeled, converted, renovated or altered establishment or facility. The pre-operational inspection is in addition to the requirement for a complete inspection in section (1) of this rule.

(5) A complete inspection to assign a public notice of sanitation must be conducted within 45 days after opening for a restaurant or bed and breakfast facility. This inspection counts toward one of the inspections required in section (1) of this rule.

(6) Inspection reports must be filled out completely and must include at least the following information:

(a) Specific problem and correction statements for all violations, including Oregon Administrative Rule references;

(b) Except in the food service programs, time limits must be specified for all corrections stated;

(c) Food Service — Inspections must be documented as specified in OAR chapter 333, division 157 Inspection and Licensing Procedures. In addition, the Local Public Health Authority must indicate on the inspection report how a critical violation has been corrected during complete and recheck inspections;

(d) Public Swimming Pools — Document pH, free residual chlorine, total chlorine, total alkalinity, total hardness, cyanuric acid (if used), water clarity (recorded as acceptable or unacceptable), water temperature, pressure and/or vacuum gauge readings and flow rate as measured by flow meter.

(7) The Local Public Health Authority must conduct recheck inspections of establishments and facilities to determine if timely corrective action has been taken on noted critical violations or public health hazards.

(8) The Local Public Health Authority must, at a minimum, furnish each Environmental Health Specialist with the following equipment or materials to conduct inspections:

(a) Temperature measuring devices, flashlight, inspection forms and computer inspection equipment, identification and business cards, rules, stickers and forms;

(b) Food Service — Sanitizing swabs, test strips for chlorine and quaternary ammonium;

(c) Public Swimming Pools — Current state-approved pool test kit and a 25-foot tape measure or equivalent device with the ability to accurately measure distance and depth;

(d) The Local Public Health Authority must provide food and water-borne illness investigation materials, specified in guidelines provided by the Oregon Health Authority, and a light meter for staff to share. The Food Program Policy Manual must be maintained and updated as well as other information required by the Oregon Health Authority.

(9) The Local Public Health Authority must, upon request, provide technical information and consultation to the public and those holding permits and licenses.

Stat. Auth.: ORS 446.425, 448.100 & 624.510

Stats. Implemented: ORS 446.425, 448.100 & 624.510

Hist.: HD 105, f. & ef. 2-5-76; HD 1-1979, f. & ef. 1-18-79; HD 9-1994, f. & cert. ef. 4-1-94; HD 14-1995, f. 12-28-95, cert. ef. 1-1-96; PH 13-2004, f. & cert. ef. 4-9-04; PH 3-2012, f. 2-29-12, cert. ef. 3-1-12

## 333-157-0073

### Temporary Restaurant Definitions

(1) "Intermittent temporary restaurant" means an establishment:

(a) That operates temporarily at a specific location in connection with multiple public gatherings, entertainment events, food product promotions or other events, at least two of which are arranged for by different oversight organizations; and

(b) Where food is prepared or served for consumption by the public.

(2) "Operational review" means the examination of a plan of operation for an establishment in order to ensure that the proposed operation conforms with applicable sanitation standards.

(3) "Oversight organization" means an entity responsible for organizing, managing or otherwise arranging for a public gathering, entertainment event, food product promotion or other event, including but not limited to ensuring the availability of water, sewer and sanitation services.

(4) "Seasonal temporary restaurant" means an establishment:

(a) That operates at a specific location in connection with multiple public gatherings, entertainment events, food product promotions or other events that are arranged for by the same oversight organization; and

(b) Where food is prepared or served for consumption by the public.

(5) "Single-event temporary restaurant" means an establishment:

(a) That operates in connection with a single public gathering, entertainment event, food product promotion or other event; and

(b) Where food is prepared or served for consumption by the public.

(6) "Substantial menu alteration" means a change of menu that increases the complexity of the menu of a seasonal temporary restaurant and intermittent temporary restaurant operation. For purposes of these rules, an increase in complexity occurs when the menu moves from:

(a) Service of ready-to-eat foods that requires no further preparation or cooking; to

(b) Foods that are prepared or cooked on-site and served directly to the consumer that day; to

(c) Foods that must be prepared in the operation in advance and reheated or cooled over the course of multiple days of operation.

Stat. Auth.: ORS 624.041

Stats. Implemented: ORS 624.041 & 2011 OL Ch. 664

Hist.: PH 3-2012, f. 2-29-12, cert. ef. 3-1-12

## 333-157-0077

### Temporary Restaurant Licensing and Inspection

(1) A person may not operate a single-event, intermittent or seasonal temporary restaurant without first procuring a license to do so from the Local Public Health Authority.

(2)(a) Application for an intermittent or seasonal temporary restaurant license shall be in writing in the form prescribed by the Authority and shall contain the name and address of the applicant, the specific location of the intermittent or seasonal temporary restaurant, a description of the public gatherings, entertainment events, food product promotions or other events to be served by the intermittent or seasonal temporary restaurant, an operational review and any other information the Authority may require. In addition to the application the applicant for an intermittent or seasonal temporary restaurant license shall pay to the Local Public Health Authority the appropriate license fee under ORS 624.490.

(b) The Local Public Health Authority shall issue a license to a benevolent organization to operate a single-event temporary restaurant if the benevolent organization has notified the Local Public Health Authority orally or in writing that the benevolent organization intends to operate a single-event temporary restaurant. A Local Public Health Authority may not charge a benevolent organization a license fee or inspection fee for a single-event temporary restaurant.

(3)(a) Intermittent and seasonal temporary restaurants must complete and submit an operational plan for review by the Local Public Health Authority prior to obtaining a license and operation of the establishment.

(b) Intermittent and seasonal temporary restaurants that do not complete an operational plan prior to operation may operate under one or more single-event temporary licenses until the operational plan can be completed and approved.

(c) After the operational plan has been completed by the Local Public Health Authority, another operational plan is not required for subsequent licenses, unless deemed necessary by the Local Public Health Authority.



# ADMINISTRATIVE RULES

(4) The single-event, intermittent or seasonal temporary restaurant license shall be posted in a conspicuous place on the premises of the licensee.

(5) An intermittent temporary restaurant license shall expire 30 days after issuance.

(6) A seasonal temporary restaurant license shall expire 90 days after issuance.

(7) A single-event temporary restaurant license shall terminate 30 days after issuance unless within 30 days the single-event temporary restaurant is discontinued or moved from the specific location for which the license was issued.

(8) An intermittent or seasonal temporary license shall terminate immediately if:

(a) The intermittent or seasonal temporary restaurant prepares or serves food for consumption by the public that is not in connection with a public gathering, entertainment event, food product promotion or other event held by an oversight organization;

(b) The location of the intermittent or seasonal temporary restaurant changes; or

(c) The menu is substantially altered as defined by OAR 333-157-0073(6).

(d) If a licensed operation undergoes a substantial menu alteration, then a new license and completed operational plan is required.

(9) If the license of an intermittent or seasonal temporary restaurant is terminated under section (8) of this rule, the intermittent or seasonal temporary restaurant may reapply for a license in accordance with section (2) of this rule.

(10) The Local Public Health Authority may suspend, deny or revoke a single-event, intermittent or seasonal temporary restaurant license if it appears, after a reasonable time has been given for correction of a sanitation violation, that the applicant does not meet applicable minimum sanitation standards as described in ORS 624.010 through 624.121 or in OAR 333-150-0000. Any suspension, denial or revocation action shall be taken in accordance with ORS Chapter 183.

(11) The Local Public Health Authority may conduct a reinspection of a seasonal or intermittent temporary restaurant if a critical violation is uncorrected and a separate follow-up visit is necessary to determine compliance.

(12) A seasonal or intermittent temporary restaurant that has uncorrected critical violations and for which an alternative procedure has not been approved shall be closed in accordance with ORS 624.096.

(13) The renewal of a single-event, intermittent or seasonal temporary restaurant license shall be in accordance with section (2) of this rule.

Stat. Auth.: ORS 624.041  
Stats. Implemented: ORS 624.041 & 2011 OL Ch. 664  
Hist.: PH 3-2012, f. 2-29-12, cert. ef. 3-1-12

## Oregon Health Insurance Exchange Chapter 945

**Rule Caption:** To adopt Model Rules of Procedure for ORHIX.

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

**Filed with Sec. of State:** 3-6-2012

**Certified to be Effective:** 3-6-12

**Notice Publication Date:** 2-1-2012

**Rules Adopted:** 945-001-0001, 945-001-0006, 945-001-0011

**Subject:** The Oregon Health Insurance Exchange Corporation is adopting new rules to address the need for model rules for procedure. This rule is developed in compliance with statutory requirements in SB 99 (2011) Section 3 (15).

Temporary Rules and Notice numbers attached to rules that have expired. Permanent Rules reflect new changes.

**Rules Coordinator:** Claudia Grimm—(503) 373-9404

### 945-001-0001

#### Model Rules of Procedure

The Oregon Health Insurance Exchange Corporation adopts the Attorney General Model Rules applicable to rulemaking, effective August 19, 2011, with the exception of OAR 137-001-0080.

[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 Health Insurance Exchange.]

Stat. Auth: ORS 183.341 & 2011 OL Ch. 415, Sec. 3(5)

Stats. Implemented: ORS 183.341 & 413.042

Hist.: OHIE 1-2012, f. & cert. ef. 3-6-12

### 945-001-0006

#### Notice of Proposed Rulemaking and Adoption of Temporary Rules

(1) Except as provided in ORS 183.335(7) or (12) or 183.341, before permanently adopting, amending, or repealing an administrative rule, the Oregon Health Insurance Exchange Corporation (Exchange) shall give notice of the intended action:

(a) To legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;

(b) To persons on the interested parties lists described in section (2) of this rule for the pertinent OAR chapter or pertinent subtopics or programs within an OAR chapter at least 28 days before the effective date of the rule;

(c) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(d) To other persons, agencies, or organizations that the Exchange is required to provide an opportunity to comment pursuant to state statute or federal law or as a requirement of receiving federal funding, at least 28 days before the effective date of the rule; and

(f) In addition to the above, the Exchange may send notice of intended action to other persons, agencies, or organizations that the Exchange, in its discretion, believes to have an interest in the subject matter of the proposed rule at least 28 days before the effective date of the rule.

(2) Pursuant to ORS 183.335(8), the Exchange shall maintain an interested parties list for each OAR chapter of rules for which the Exchange has administrative responsibility, and an interested parties list for subtopics or programs within those chapters. A person, group, or entity that desires to be placed on the list to receive notices regarding proposed permanent adoption, amendment, or repeal of a rule must make the request in writing or by electronic mail to the rules coordinator for the chapter. The request must include either a mailing address or an electronic mail address to which notices may be sent.

(3) Notices under this rule may be sent by hand delivery, state shuttle, postal mail, electronic mail, or facsimile. The Exchange recognizes state shuttle as "mail" and may use this means to notify other state agencies.

(a) An email notification under section (1) of this rule may consist of any of the following:

(A) An email that attaches the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(B) An email that includes a link within the body of the email, allowing direct access online to the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(C) An email with specific instructions within the body of the email, usually including an electronic Universal Resource Locator (URL) address, to find the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(b) The Exchange may use facsimile as an added means of notification, if necessary. Notification by facsimile under section (1) of this rule shall include the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact, or specific instructions to locate these documents online.

(c) The Exchange shall honor all written requests that notification be sent by postal mail instead of electronically if a mailing address is provided.

(4) If the Exchange adopts or suspends a temporary rule, the Authority shall notify:

(a) Legislators specified in ORS 183.335(15);

(b) Persons on the interested parties list described in section (2) of this rule for the pertinent OAR chapter, subtopics, or programs within an OAR chapter;

(c) Other persons, agencies, or organizations that the Exchange is required to notify pursuant to state statute or federal law or as a requirement of receiving federal funding; and

(d) In addition to the above, the Exchange may send notice to other persons, agencies, or organizations that the Exchange, in its discretion, believes to have an interest in the subject matter of the temporary rulemaking.

(5) In lieu of providing a copy of the rule or rules as proposed with the notice of intended action or notice concerning the adoption of a temporary rule, the Exchange may state how and where a copy may be obtained on paper, by electronic mail, or from a specified web site.

Stat. Auth: ORS 183.341 & 2011 OL Ch. 415, Sec. 3(5)

Stats. Implemented: ORS 183.330, 183.335 & 183.341

Hist.: OHIE 1-2012, f. & cert. ef. 3-6-12

# ADMINISTRATIVE RULES

## 945-001-0011

### Delegation of Rulemaking Authority

Any officer or employee of the Oregon Health Insurance Exchange Corporation who is identified on a completed Delegation of Authority form signed by the Director or Deputy Director of the Exchange and filed with the Secretary of State, Administrative Rules Unit, is vested with the authority to adopt, amend, repeal, or suspend administrative rules as provided on that form until the delegation is revoked by the Director or Deputy Director of the Exchange, or the person leaves employment with the Exchange.

Stat. Auth.: ORS 183.341 & 2011 OL Ch. 415, Sec. 3(5)

Stats. Implemented: ORS 183.330, 183.335 & 183.341

Hist.: OHIE 1-2012, f. & cert. ef. 3-6-12

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**Rule Caption:** To adopt Employee Criminal Records Check and Fitness Determination for ORHIX.

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

**Filed with Sec. of State:** 3-6-2012

**Certified to be Effective:** 3-6-12

**Notice Publication Date:** 2-1-2012

**Rules Adopted:** 945-010-0001, 945-010-0006, 945-010-0011, 945-010-0021, 945-010-0031, 945-010-0041, 945-010-0051, 945-010-0061, 945-010-0071, 945-010-0081, 945-010-0091, 945-010-0101

**Subject:** The Oregon Health Insurance Exchange Corporation is adopting new rules to address the need for criminal background and fitness determination checks and persons employed or applying for employment to the corporation. The rule is developed in compliance with statutory requirements in SB 99 (2011) Section 20.

Temporary Rules and Notice numbers attached to rules that have expired. Permanent Rules reflect new changes.

**Rules Coordinator:** Claudia Grimm—(503) 373-9404

## 945-010-0001

### Employee Criminal Records Check and Fitness Determination Rule

Statement of Purpose: These rules provide for the reasonable screening of subject individuals to determine if they have a history of criminal behavior such that they are not fit to be employed or volunteer in positions covered by OAR 945-010-0011. A determination by the Corporation that a subject individual is fit does not guarantee the individual a position with the corporation in any capacity.

Stat. Auth.: SB 99 (2011)

Stats. Implemented:

Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0006

### Definitions

As used in OAR chapter 945, division 010, unless the context of the rule requires otherwise, the following definitions apply:

(1) Conviction: A final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere (no contest); or any determination of guilt entered by a court of law against a subject individual in a criminal case unless that judgment has been reversed or set aside by a subsequent court decision.

(2) Corporation: The Oregon Health Insurance Exchange Corporation.

(3) Criminal Offender Information: Records and related data as to physical description and vital statistics; fingerprints received and compiled by the Oregon Department of State Police, Bureau of Criminal Identification, for purposes of identifying criminal offenders and alleged offenders; and records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole, and release.

(4) Criminal Records Check: One or more of the following three processes used by the Corporation to check the criminal history of a subject individual:

(a) A name-based check of criminal offender information conducted through use of the Law Enforcement Data System (LEDS) maintained by the Oregon Department of State Police, in accordance with the rules adopted and procedures established by the Oregon Department of State Police (LEDS Criminal Records Check);

(b) A check of Oregon criminal offender information through fingerprint identification, conducted by the Oregon Department of State Police at the Corporation's request (Oregon Criminal Records Check); or

(c) A nationwide check of federal criminal offender information through fingerprint identification, conducted by the Oregon Department of

State Police through the Federal Bureau of Investigation at the Corporation's request (Nationwide Criminal Records Check).

(5) Criminal records request form: A Corporation-approved form, completed by a subject individual, requesting the Corporation to conduct a criminal records check.

(6) False Statement: In association with an activity governed by these rules, a subject individual either:

(a) Provided the corporation with materially false information about his or her criminal history, such as, but not limited to, materially false information about his or her identity or conviction record; or

(b) Failed to provide to the corporation information material to determining his or her criminal history.

(7) Fitness Determination: A determination made by the corporation pursuant to the process established in OAR 945-010-0031 that a subject individual is or is not fit to be a corporation employee or to provide services in a position covered by 945-010-0011.

(8) Subject Individual: An individual identified in OAR 945-010-0021 as someone from whom the corporation may require a criminal records check.

Stat. Auth.: SB 99 (2011)

Stats. Implemented:

Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0011

### Subject Individual

The Health Insurance Exchange Corporation may require an individual to complete a criminal records check pursuant to these rules because the person:

(1) Works or has applied to work for the corporation; or

(2) Is or will be providing services to the corporation in the areas of:

(a) Information technology services;

(b) Payroll functions or financial transactions;

(c) Mailroom duties;

(d) Auditing responsibilities;

(e) Personnel or human resources functions;

(f) Tax or financial information; or

(g) Working with information that is confidential, including access to Social Security numbers, dates of birth or criminal background information.

Stat. Auth.: SB 99 (2011)

Stats. Implemented:

Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0021

### Criminal Records Check Required

The corporation may conduct, or request the Oregon Department of State Police to conduct, a criminal records check when:

(1) An individual meets the definition of a subject individual; or

(2) Required by federal law or regulation, by state or federal administrative rule or by contract or written agreement with the corporation.

Stat. Auth.: SB 99 (2011)

Stats. Implemented:

Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0031

### Criminal Records Check Process

(1) Disclosure of information by Subject Individual

(a) Preliminary to a criminal records check, a subject individual must complete and sign the corporation's criminal records request form and, if requested by the corporation, a fingerprint card. The corporation's criminal records request form will require the following information: name, birth date, social security number, physical characteristics, driver's license or identification card number and current address, prior residency in other states and any other identifying information deemed necessary by the corporation.

(b) A subject individual must complete and submit to the corporation the Criminal Records Request form and, if requested, a fingerprint card within three business days of receiving the forms. The corporation may extend the deadline for good cause.

(c) The corporation may require additional information from the subject individual as necessary to complete the criminal records check and fitness determination, such as, but not limited to, proof of identity; or additional criminal, judicial, or other background information.

(d) The corporation shall not request a fingerprint card from a subject individual under the age of 18 years unless the subject individual is emancipated pursuant to ORS 419B.550 et seq, or unless the corporation also requests the written consent of a parent or guardian. In such case, such parent or guardian and youth must be informed that they are not required to

# ADMINISTRATIVE RULES

consent. Notwithstanding, failure to consent may be construed as a refusal to consent under OAR 863-003-0050(3).

(2) When the corporation determines under OAR 945-010-0021 that a criminal records check is required, the corporation may request or conduct a LEDS Criminal Records Check, an Oregon Criminal Records Check a Nationwide Criminal Records Check or any combination thereof.

Stat. Auth.: SB 99 (2011)  
Stats. Implemented:  
Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0041

### Potentially Disqualifying Crimes

(1) Crimes relevant to a fitness determination:

- (a) All felonies;
- (b) All misdemeanors; or
- (c) Any United States Military crime or international crime.

(2) The corporation shall evaluate a crime on the basis of Oregon laws and, if applicable, federal laws or the laws of any other jurisdiction that are valid and in effect at the time of the fitness determination.

(3) At no time will a subject individual be determined to be not fit under these rules because of a juvenile record that has been sealed or deleted in agreement with ORS 419A.260 and 419A.262.

Stat. Auth.: SB 99 (2011)  
Stats. Implemented:  
Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0051

### Final Fitness Determination

(1) If a criminal records check is conducted, the corporation shall make a fitness determination about a subject individual based on:

- (a) Information given to the corporation by the subject individual;
- (b) Information received as a result of the criminal records check; and
- (c) Any false statements made by the subject individual and found during the fitness determination process.

(2) When considering these factors, the corporation may request additional information from the subject individual or any source inside or outside Oregon, including:

- (a) Law enforcement;
- (b) Criminal justice agencies; or
- (c) Courts.

(3) To obtain other criminal offender information from the subject individual, the corporation may request:

- (a) To meet with the person;
- (b) Written materials from the person; or
- (c) Authorization from the person to acquire relevant information from other sources.

(4) If requested, the subject individual must meet with or provide the requested information to the corporation within a reasonable period of time determined by the corporation.

(5) In making the final fitness determination, the corporation will consider:

- (a) The nature of the crime;
- (b) Facts that support the conviction or pending charge or that indicate the making of a false statement; and
- (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, or employment.

(d) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, or employment. Intervening circumstances include but are not limited to:

- (A) The passage of time since the commission of the crime;
- (B) The age of the subject individual at the time of the crime;
- (C) The likelihood of a repetition of offenses or of the commission of another crime;

(d) The subsequent commission of another relevant crime;

- (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(6) If a subject individual refuses to submit information or consent to a criminal records check, including fingerprint identification, the corporation shall deny the employment of the subject individual or deny any applicable position or authority to provide services. A person may not appeal any determination made based on a refusal to consent.

(7) If a subject individual is determined to be not fit, the subject individual may not be employed by the corporation or provide services as a volunteer, contractor or vendor to the corporation in a position covered by OAR 945-010-0011.

(8) A completed final fitness determination is a final order of the corporation unless the affected subject individual appeals by requesting either a contested case hearing as provided by OAR 945-010-0081 or an alternative appeals process as provided by 945-010-0081.

(9) The corporation shall inform the subject individual who has been determined not to be fit on the basis of a criminal records check via personal service or registered or certified mail to the most current address provided by the subject individual.

Stat. Auth.: SB 99 (2011)  
Stats. Implemented:  
Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0061

### Hiring On a Preliminary Basis

(1) If the corporation conducts a criminal records check pursuant to these rules, the corporation, in its sole discretion, may hire, appoint or accept services from a subject individual on a preliminary basis pending completion of criminal records check when:

(a) The subject individual has provided all information (including a fingerprint card, if requested) as required by the corporation pursuant to OAR 945-010-0031; and

(b) The corporation, in its sole discretion, determines that it is in the corporation's best interests to hire, appoint, or accept services from the subject individual on a preliminary basis.

(2) A subject individual hired, appointed, or otherwise engaged to perform services on a preliminary basis under this rule may provide services, or participate in training, orientation, or work activities as deemed appropriate by the corporation.

(3) Nothing in this rule shall be construed as requiring the corporation to hire, appoint, or accept services from a subject individual on a preliminary basis.

Stat. Auth.: SB 99 (2011)  
Stats. Implemented:  
Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0071

### Incomplete Fitness Determination

(1) The corporation will close a preliminary or final fitness determination as incomplete when:

(a) Circumstances change so that a person no longer meets the definition of a "subject individual" under OAR 945-010-0011;

(b) The subject individual does not provide materials or information under OAR 945-010-0031 within the time frames established under that rule;

(c) The corporation cannot locate or contact the subject individual;

(d) The subject individual fails or refuses to cooperate with the corporation's attempts to acquire other relevant information under OAR 945-010-0031;

(e) The corporation determines that the subject individual is not eligible or not qualified for the position for a reason unrelated to the fitness determination process; or

(f) The position is no longer open.

(2) A subject individual does not have a right to a contested case hearing under OAR 945-010-0081 or a right to an alternate appeals process under 945-010-0081 to challenge the closing of a fitness determination as incomplete.

Stat. Auth.: SB 99 (2011)  
Stats. Implemented:  
Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0081

### Contesting a Fitness Determination

(1) Purpose. Sections (2)–(5) of this rule set forth the contested case hearing process a subject individual must use to appeal a completed final fitness determination made under OAR 945-010-0051 that the individual is not fit to hold a position with, or provide services to the corporation as an employee, volunteer, contractor, or vendor. Section (6) of this rule identifies an alternative appeal process available only to current corporation employees, if applicable.

(2) Appeal Process

(a) To request a contested case hearing, the subject individual or the subject individual's legal representative must submit a written request for a contested case hearing to the address specified in the notice provided under OAR 945-010-0031. To be timely, the request must be received by the corporation at the specified address within 14 calendar days of the date stated on the notice. The corporation shall address a request received after expiration of the deadline as provided under 137-003-0528.



# ADMINISTRATIVE RULES

(b) When a timely request is received by the corporation under subsection (a), a contested case hearing shall be conducted by an administrative law judge assigned by the Office of Administrative Hearings, pursuant to the Attorney General's Uniform and Model Rules, "Procedural Rules, Office of Administrative Hearings" OAR 137-003-0501 to 137-003-0700, as supplemented by the provision of this rule.

(3) Discovery. The administrative law judge may protect information made confidential by ORS 181.534(15) or other applicable law as provided under OAR 137-003-0570(7) or (8).

(4) No Public Attendance. Contested case hearings on fitness determinations are closed to non-participants.

(5) Proposed and Final Order:

(a) Proposed Order. After a hearing, the administrative law judge will issue a proposed order.

(b) Exceptions. Exceptions, if any, shall be filed within fourteen (14) calendar days after service of the proposed order. The proposed order shall provide an address to which exceptions must be sent.

(c) Default. A completed final fitness determination made under OAR 945-010-0051 becomes final:

(A) unless the subject individual makes a timely request for a hearing; or

(B) when a party withdraws a hearing request, notifies the corporation or the administrative law judge that the party will not appear, or fails to appear at a hearing.

(6) Alternative Process. A subject individual currently employed by the corporation may choose to appeal a fitness determination either under the process made available by this rule or through a process made available by applicable personnel rules and policies, if any. A subject individual's decision to appeal a fitness determination through applicable personnel rules and policies is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(7) Remedy. The only remedy that may be awarded is a determination that the subject individual is fit or not fit. Under no circumstances shall the corporation be required to place a subject individual in any position, nor shall the corporation be required to accept services or enter into a contractual agreement with a subject individual.

(8) Challenging Criminal Offender Information. A subject individual may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation.

(a) To challenge information identified in this section of the rule, a subject individual may use any process made available by the agency that provided the information.

(b) If the subject individual successfully challenges the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or an agency reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation, the subject individual may request that the corporation conduct a new criminal records check and re-evaluate the original fitness determination made under OAR 863-003-0050 by submitting a new corporation criminal records request. This provision only applies if the position for which the original criminal history check is vacant and available.

(9) Appealing a fitness determination under section (2) or section (6) of this rule, challenging criminal offender information with the agency that provided the information, or requesting a new criminal records check and re-evaluation of the original fitness determination under section (8)(b) of this rule, will not delay or postpone the corporation's hiring process or employment decisions.

Stat. Auth.: SB 99 (2011)  
Stats. Implemented:  
Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0091

### Record Keeping, Confidentiality

Any information obtained in the criminal records check is confidential. The corporation must restrict the dissemination of information obtained in the criminal records check. Only those persons, as identified by the corporation, with a demonstrated and legitimate need to know the information, may have access to criminal records check records.

Stat. Auth.: SB 99 (2011)  
Stats. Implemented:  
Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## 945-010-0101

### Fees

(1) The corporation may charge a fee for acquiring criminal offender information for use in making a fitness determination. In any particular instance, the fee shall not exceed the fee(s) charged the corporation by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain criminal offender information on the subject individual.

(2) The corporation may charge a fee to the subject individual on whom criminal offender information is sought, or, if the subject individual is an employee of a corporation contractor and is undergoing a fitness determination in that capacity, the corporation may charge a fee to the subject individual's employer.

Stat. Auth.: SB 99 (2011)  
Stats. Implemented:  
Hist.: OHIE 2-2012, f. & cert. ef. 3-6-12

## Oregon Health Licensing Agency Chapter 331

**Rule Caption:** Specify hearing request and answer requirements for certain programs OHLA related to potential disciplinary action.

**Adm. Order No.:** HLA 1-2012(Temp)

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12 thru 8-27-12

**Notice Publication Date:**

**Rules Amended:** 331-020-0020

**Subject:** Amend OAR 331-020-0020 to delineate which programs under OHLA have more complexity and warrant a more specific response from the respondent when requesting a hearing. The following practices have been deemed more complex: direct entry midwifery, sex offender treatment therapy, respiratory care and polysomnography. The amendment would also allow the respondent to amend the response and answer within 10 day before the scheduled contested case hearing. Hearing requests under all other OHLA programs are deemed a general denial of the matters alleged in the notice and no specific response is necessary.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

## 331-020-0020

### Hearing Requests and Answers; Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Agency by the party or the party's attorney.

(2) An answer shall be made in writing to the Agency with any request for a hearing on a matter related to violations alleged under ORS 675.360 to 675.410, 687.405 to 687.495, 688.808 to 688.840, the rules adopted thereunder, or violations alleged under 676.612 when related to the practice of direct entry midwifery, sex offender treatment, respiratory care or polysomnography. The answer shall include the following:

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

(b) A short, concise statement of each relevant affirmative defense the party may have.

(3) When an answer is required:

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

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

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

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

(4) When an answer is required, the party or party's attorney may amend the response and answer, but no later than 10 days before the scheduled contested case hearing.

Stat. Auth.: ORS 183  
Stats. Implemented: ORS 183  
Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2012(Temp), f. & cert. ef. 3-1-12 thru 8-27-12

**Rule Caption:** Amend requirements for electrology including practice and sterilization standards.

**Adm. Order No.:** HLA 2-2012(Temp)

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12 thru 6-25-12

**Notice Publication Date:**

# ADMINISTRATIVE RULES

**Rules Adopted:** 331-910-0070, 331-910-0075, 331-910-0080, 331-910-0085

**Rules Amended:** 331-910-0010, 331-910-0015, 331-910-0020, 331-910-0025, 331-910-0040, 331-910-0045, 331-910-0055, 331-910-0065

**Subject:** Amend electrology licensing requirements including delineating which standards must be followed.

Adopt specific requirements for hand washing techniques and use of protective gloves. Clarify process used to clean, disinfect and sterilize reusable instruments including immersing reusable instruments in a protein dissolving detergent or enzyme cleaner instead of an ultrasonic unit. Allow for use of a dry heat sterilizer to sterilize reusable instruments.

Adopt general requirements related to safety and infection control including disposal process of waste including sharp objects, maintaining strength of certain disinfectants, storage of chemicals and cleanliness of the facility where services are provided.

Adopt client record requirements to ensure accurate records are kept for client safety and protection.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

## 331-910-0010

### Electrology Temporary License

(1) An electrology temporary license pursuant to ORS 690.365 is a temporary license to perform electrology services on a limited basis, not to exceed 15 consecutive calendar days. A electrology temporary license holder;

(a) May renew up to four times in a 12 month period from the date the Agency receives the initial application.

(b) Must submit all requests to renew on a form prescribed by the Agency and received 15 days before electrology services are provided unless otherwise approved by the Agency.

(c) Must submit notification of a change in work location at least 24 hours before services are performed on a form prescribed by the Agency; and

(d) Must work in a licensed facility.

(2) An electrology temporary license holder must adhere to standards within OAR 331-910-0065, 331-910-0070, 331-930-0005, 331-930-0010, 331-930-0015 and 331-930-0015.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0015

### Application Requirements for Electrology Temporary License

An individual applying for a Electrology Temporary License must:

(1) Meet the requirements of OAR 331 division 30;

(2) Submit a completed application form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees;

(3) Submit proof of being 18 years of age. Documentation may include identification listed under OAR 331-030-0000;

(4) Submit proof of having a high school diploma or General Education Degree (GED);

(5) Submit proof of current training in blood-borne pathogens; and

(6) Attest to six months of training or experience, within the last two years, performing electrology on a form prescribed by the Agency; or

(7) Submit affidavit of licensure pursuant to OAR 331-030-0040.

(8) Applications must be received 15 days before electrology services are provided.

(9) For the purpose of this rule training or experience includes attendance or participation at an instructional program presented, recognized, or under the sponsorship of any permanently organized institution, agency, or professional organization or association recognized by the Agency.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0020

### Electrology License

(1) An electrologist, licensed under ORS 690.365, may perform electrology services.

(2) An electrologist license is good for one year and becomes inactive on the last day of the month one year from the date of issuance.

(3) An electrology temporary license holder must adhere to standards within OAR 331-910-0065, 331-910-0070, 331-930-0005, 331-930-0010, and 331-930-0015.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0025

### Application Requirements for Electrology License

(1) An individual applying for licensure to practice electrology must:

(a) Meet the requirements of OAR 331 division 30;

(b) 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;

(c) Submit documentation showing proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000.

(d) Submit proof of having a high school diploma or general education degree (GED) equivalent.

(e) Provide documentation of completing a qualifying pathway.

(2) License Pathway 1 — Graduate from a Licensed Electrology School:

(a) Submit official transcript from a licensed electrology school showing proof of completion of required electrology curriculum as determined by the agency under OAR 331-910-0005;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination in accordance with OAR 331-910-0030(1)(a) within two years from the date of application;

(d) Submit passing score of an Agency approved practical examination in accordance with OAR 331-910-0030(1)(b) within two years from the date of application; and

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees.

(f) An applicant is not required to provide proof of official transcripts in a field of practice if the applicant was previously licensed as an electrologist in Oregon.

(4) License Pathway 2 — Reciprocity:

(a) 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 an electrologist. The license must have been issued by a regulatory body of another state or a national association recognized by the agency;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination in accordance with OAR 331-910-0030(1)(a) within two years from the date of application;

(d) Submit passing score of an Agency approved practical examination in accordance with OAR 331-910-0030(1)(b) within two years from the date of application; and

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0040

### Written Examination Retake Requirements

(1) Failed sections of a written or examination may be retaken as follows:

(a) After first failed attempt — applicant may not retake for seven calendar days;

(b) After second failed attempt — applicant may not retake for seven calendar days;

(c) After third failed attempt — applicant may not retake for 30 calendar days, must pay all additional fees and must submit an official tran-

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script certifying completion of an additional 100 hours of instruction in theory, focused on the approved curriculum outlined in OAR 331-910-0005 from a career school licensed under ORS 345 on a form prescribed by the Agency;

(d) After fourth failed attempt — applicant may not retake for seven calendar days;

(e) After fifth failed attempt — applicant may not retake for seven calendar days;

(f) After sixth failed attempt — applicant may not retake for 30 calendar days, must pay all additional fees and must submit an official transcript certifying completion of an additional 100 hours of instruction in theory, focused on the approved curriculum outlined in OAR 331-910-0005 from a career school licensed under ORS 345 on a form prescribed by the agency;

(g) After seventh failed attempt — ability to retake, requirements for retake, or both will be determined by the Agency on a case-by-case basis.

(2) Applicants retaking the examination must meet the requirements under OAR 331-030-0000.

Stat. Auth.: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0045

### Practical Examination Retake Requirements

(1) Failed practical examinations may be retaken at a date and time determined by the Agency. Applicants retaking a failed practical must notify the Agency within 30 days before the next scheduled examination date and pay all examination fees.

(2) Applicants who fail to pass the practical examination for electrology after three attempts (initial examination plus two retakes):

(a) Must wait 30 calendar days to retake the practical examination;

(b) Must pay all additional fees;

(c) Must submit an official transcript certifying completion of an additional 100 hours of instruction in theory, focused on the approved curriculum outlined in OAR 331-910-0005 from a career school licensed under ORS 345 on a form prescribed by the agency;

(3) After third failed attempt — ability to retake, requirements for retake, or both will be determined by the Agency on a case-by-case basis.

Stat. Auth.: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0055

### Continuing Education for Electrology License

A licensed electrologist must comply with the following continuing education requirements:

(1) Complete 8 clock hours of satisfactory continuing education courses either as one unit or combination of units, every year.

(2) Satisfactory continuing education courses must fit into the approved course of study outlined in OAR 331-910-0005, and must be obtained as follows:

(a) Four hours must involve participation or attendance at an instructional program presented, recognized, or under the auspices of any permanently organized institution, agency, or completion and certification by an approved national home study organization; and

(b) Four hours may be self-study which may include the following:

(A) Correspondence courses including online courses;

(B) Review of publications, textbooks, printed material, or audio cassette(s);

(C) Viewing of films, videos, or slides;

(3) A licensee must report compliance with the continuing education requirement through attestation on the license renewal document. Licensees will be subject to the provisions of OAR 331-910-0060 pertaining to periodic audit of continuing education.

(4) A licensee may carry up to 8 continuing education hours forward to the next renewal cycle.

(5) Continuing education is required for renewal, every year, even if the license has been inactive or suspended.

(6) A licensee must maintain proof of continuing education for five years following the date of the continuing education hours obtained, for auditing purposes.

Stat. Auth.: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0065

### Electrology Prohibitions

(1) Electrologists are prohibited from performing services on treatment areas with high propensity towards bacterial colonization, such as nostrils and ear canals.

(2) Electrology is prohibited on clients with a pacemaker.

Stat. Auth.: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0070

### Electrology Standards

(1) Electrologists may provide clients with written information on electrolysis procedures, for the purpose for asking specific questions regarding the client's general health, and that any recommendation for medical attention is not to be construed as a medical referral or diagnosis of a physical disease or ailment.

(2) Electrologists must first obtain written authorization from a physician when any of the following exists:

(a) Request for hair removal from moles; or

(b) Removal of eyelashes.

(3) Notwithstanding OAR 331-930-0015(2)(f) electrologists may use towels and linens when providing electrology services. When using towels and linens the following standards must be met:

(a) Clean linens must be used for each client;

(b) Use of a common towel is prohibited;

(c) Clean towels and linens must be enclosed in a clean storage area or in a closed container until needed;

(d) Used linens must be disposed of or stored in a closed or covered container until laundered; and

(e) Used linens must be laundered either by a regular commercial laundering or by a noncommercial laundering process which includes use of commercial laundry detergent manufactured for the specific purpose of cleaning clothes, linens or other washable fabric, and immersion in hot water during the wash and rinse cycle.

(4) Notwithstanding OAR 331-930-0020 electrologists must observe and adhere to the following hand washing and disposable glove standards when servicing clients:

(a) HAND WASHING: Hands must be washed before and after treatment of each client, and before putting on disposable gloves and immediately after disposable gloves are removed;

(b) Thorough hand washing must be by use of soap and water or other alternative hand washing product, immediately before and after serving each client. Use of bar soap is prohibited.

(5) Notwithstanding OAR 331-930-0020 an electrologist must observe and adhere to the following protective disposable glove standards when servicing clients:

(a) PROTECTIVE DISPOSABLE GLOVES: A new pair of disposable gloves must be worn during the treatment of each client;

(b) Hands must be washed in accordance with hand washing instructions listed in Subsection (4) of this rule before putting on disposable gloves and immediately after disposable gloves are removed;

(c) When a treatment session is interrupted disposable gloves must be removed and discarded. A new pair of disposable gloves must be put on when returning to the electrology service area.

(d) When disposable gloves are removed during a treatment session, hands must be washed in accordance with hand washing instructions listed in Subsection (7) of this rule and a new pair of disposable gloves used before continuing treatment on the client;

(e) Disposable gloves must be removed before leaving the area where electrology services are performed.

(f) Disposable gloves must be worn during the procedures of mechanical pre-cleaning, cleaning, rinsing, and drying of equipment and instruments;

(g) Torn or perforated disposable gloves must be removed immediately, and hand washing instructions listed in Subsection (4) of this rule must be followed.



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(h) The use of disposable gloves does not preclude or substitute for hand washing procedures.

(6) A client's skin must be thoroughly cleaned with an antiseptic.

Stat. Auth: ORS 676.607 & 676.615

Stats. Implemented: ORS 676.606, 676.607, 690.350, 690.365, 690.390 & 690.405

Hist.: HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0075

### Sterilization Standards for Electrology

(1) Needles are single use and must be used on one client then disposed of in a sharps container defined under OAR 331-930-0000.

(2) All reusable instruments that come in direct contact with a client's skin or are exposed to blood or bodily fluid must be sterilized before re-use on another client.

(3) New gloves must be worn during any sterilization procedure.

(4) The cleaning, disinfection and sterilization process listed in Subsection (5) of this rule is not required if single-use prepackaged sterilized instruments, obtained from suppliers or manufacturers are used.

(5) Approved cleaning, disinfection and sterilization process for reusable instruments includes the following ordered method after each use:

(a) Clean reusable instruments by manually brushing or swabbing visible foreign matter and rinsing the reusable instruments with warm water and an appropriate detergent solution to remove blood and bodily fluids;

(b) Disinfect reusable instruments by Immersing reusable instruments in a high level disinfectant. Instruments must be fully submerged to ensure contact with all surfaces for an amount of time specified in the manufacturer's instructions. All hinged instruments must be in the open position;

(c) Clean and disinfected reusable instruments must be rinsed, dried and placed in an ultrasonic unit that operates at 40 to 60 hertz which is filled with an appropriate ultrasonic solution including but not limited to an enzymatic cleaner or rinsed, patted dry and submerged and soaked in a protein dissolving detergent or enzyme cleaner, followed by a thorough rinse;

(d) Remove reusable instruments from the ultrasonic unit or protein dissolving detergent or enzyme cleaner. All instruments must be rinsed, dried, and individually packaged in sterilization pouches that include use of a chemical indicator strip to assure sufficient temperature during each sterilization cycle. The date the sterilization was performed must be applied to the sterilization pouch;

(e) Individually packaged reusable instruments must be sterilized by using an autoclave sterilizer (steam or chemical), or dry heat sterilizer registered and listed with the FDA;

(f) After sterilization, the reusable instruments must be stored in a dry, disinfected, closed cabinet or other tightly-covered container reserved for the storage of such reusable instruments.

(6) Use of a biological monitoring system ("spore tests") must be done at least once a month, verified through an independent laboratory, to assure all microorganisms have been destroyed and sterilization achieved.

(7) All sterilization pouches listed in subsection (5)(c) of this rule must contain a color indicator strip which measures temperature control and general functioning of the equipment.

(8) Biological spore test results listed in subsection (6) of this rule must be immediately available at all times for inspection by the Agency and kept at facility premises for a minimum of two years. Biological spore test results must be on laboratory letterhead and must contain the test date, and the name, model and serial number (if applicable) of the sterilizer tested.

(9) The autoclave sterilizer (steam or chemical), or dry heat sterilizer listed in subsection (5)(d) of this rule must be used, cleaned, and maintained in accordance with manufacturer's instructions and a copy of the manufacturer's recommended procedures for the operation of the autoclave sterilizer (steam or chemical), or dry heat sterilizer must be kept on file at the facility.

(10) The expiration date for sterilized reusable instruments is one year from the date of sterilization unless the integrity of the package is compromised.

(11) Sterilized reusable instruments may not be used if the package integrity has been breached, is wet or stained, or the expiration date has exceeded without first meeting the requirements listed in Subsection (5) of this rule.

(12) All reusable instruments used during electrology services must remain stored in sterile packages until just prior to the performance of an electrology services.

(13) If a biological spore test result listed in Subsection (6) of this rule, is positive, a licensee must discontinue the use of that autoclave sterilizer (steam or chemical), or dry heat sterilizer until it has been serviced and a negative spore test has been recorded before putting that sterilizer

back into service. Until a negative spore test has been received, the licensee must:

(a) Use an alternative autoclave sterilizer (steam or chemical), or dry heat sterilizer;

(b) Use only reusable instruments that have a sterilization date before the date the last negative spore test was recorded; or

(c) Use only single use instruments.

(14) Following a negative biological spore test pursuant to Subsection (6) of this rule, reusable instruments which were sterilized following the receipt of the negative spore test must be repackaged and sterilized pursuant to subsection (5) of this rule, before use.

Stat. Auth: ORS 676.607 & 676.615

Stats. Implemented: ORS 676.606, 676.607, 690.350, 690.365, 690.390 & 690.405

Hist.: HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0080

### General Standards for Electrology

(1) The cleanliness of any common area of separately licensed facilities in one premise is the responsibility of each license holder. All license holders may be cited for violations found in the common area.

(2) An electrologist licensed to perform services or a licensed facility owner must:

(a) Use and maintain appropriate equipment and instruments for providing services in a field of practice at the place of business;

(b) Use equipment and instruments in a manner described in the manufacturer's instructions which is consistent with the manufacturer's intended use of the device by the FDA;

(c) Use equipment and instruments that are not prohibited for use in a field of practice by the Agency or the FDA;

(d) Ensure a high-level disinfectant is used in accordance with manufacturer's instructions to disinfect surfaces where services are performed.

(e) Ensure chemicals are stored in labeled, closed containers.

(f) Ensure that single-use disposable paper products, single-use needles and protective gloves are used for each client. Use of towels and linens are prohibited except during electrology procedures.

(g) Ensure lavatories located within the facility are kept clean and in good working order at all times. Air blowers within lavatories can be substituted for disposable hand towels.

(h) Ensure all waste material related to a service in a field of practice be deposited in a covered container following service for each client.

(i) Ensure pets or other animals not be permitted in the business facility. This prohibition does not apply to service animals recognized by the American with Disabilities Act or to fish in aquariums or nonpoisonous reptiles in terrariums.

(j) Ensure all disinfecting solutions or agents be kept at adequate strengths to maintain effectiveness, be free of foreign material and be available for immediate use at all times the facility is open for business.

(k) Ensure waste disposed of in receptacles located in non-service areas is limited to materials, which are not practice-related or used in the performance of any client services.

(l) Ensure all waste items that come in direct contact with the client's skin that cannot be cleaned, disinfected and sterilized must be disposed of utilizing a "double bagging" technique: completely enclosed inside a discarded glove or disposed of in a sealable plastic bag that is separate from sealable trash or garbage liners in a covered waste receptacle immediately after use.

(m) Ensure disposable sharp objects that come in contact with blood and/or body fluids must be disposed of in a sharps container that is strong enough to protect the licensee and client and others from accidental cuts or puncture wounds that could happen during the disposal process.

(n) Adhere to all Centers for Disease Control and Prevention, Standard Precautions.

(o) Have unrestricted access or availability to a sink with hot and cold running water, as part of surrounding premises or adjacent to the facility. If sink is located within a restroom the licensee must ensure that the sink is disinfected with a high level disinfectant upon completion of a electrology procedure or following the sterilization of equipment.

(3) An electrologist licensee must wear eye goggles, shields or a mask if spattering is possible while providing services.

Stat. Auth: ORS 676.607 & 676.615

Stats. Implemented: ORS 676.606, 676.607, 690.350, 690.365, 690.390 & 690.405

Hist.: HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-910-0085

### Client Records

(1) Licensees must maintain client records. The record must include the following for each client:

# ADMINISTRATIVE RULES

- (a) Name, address, telephone number and date of birth of client;
  - (b) Date of each service, procedure location on the body and type of service performed on client;
  - (c) Name and license number of the licensee providing service. If the more than one licensee is providing services the licensee must initial the date of each service performed;
  - (d) Special instructions or notations relating to the client's medical or skin conditions including but not limited to diabetes, cold sores and fever blisters, psoriasis or eczema, pregnancy or breast-feeding/nursing.
  - (e) Complete list of the client's sensitivities to medicines or topical solutions;
  - (f) History of the client's bleeding disorders;
  - (g) Description of complications during procedure(s);
  - (h) Signature from the client that they have received the following written and verbal the aftercare instructions:
    - (A) Care following service;
    - (B) Possible side effects and complications; and
    - (C) Restrictions.
  - (i) Signature from the client that they have been informed, both verbally and in writing, of all information related to the electrology service including possible reactions, side effects and potential complications of the service and consent to obtaining the electrology service; and
- (2) A licensee may obtain advice from physicians regarding medical information needed to safeguard client and licensee. Advice from the physician must be documented in the client record.
  - (3) For the purpose of (1) and (2) of this rule records must be kept at facility premises for a minimum of three years and must be made immediately available to the agency upon request.
  - (4) Client records must be typed or printed in a legible format. Client records, which are not readable by the Agency, will be treated as incomplete.

Stat. Auth: ORS 676.607 & 676.615  
Stats. Implemented: ORS 676.606, 676.607, 690.350, 690.365, 690.390 & 690.405  
Hist.: HLA 2-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

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**Rule Caption:** Amend equipments for body piercing, tattoo and body art facilities including practice and sterilization standards.

**Adm. Order No.:** HLA 3-2012(Temp)

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12 thru 6-25-12

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**Rules Amended:** 331-900-0000, 331-900-0005, 331-900-0010, 331-900-0015, 331-900-0020, 331-900-0030, 331-900-0040, 331-900-0070, 331-900-0085, 331-900-0090, 331-900-0095, 331-900-0100, 331-915-0010, 331-915-0015, 331-915-0020, 331-915-0040, 331-915-0045, 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, 331-930-0000, 331-930-0015, 331-930-0020, 331-930-0025, 331-930-0030

**Rules Suspended:** 331-905-0000(T), 331-905-0005(T), 331-905-0010(T), 331-905-0015(T), 331-905-0020(T), 331-905-0025(T), 331-905-0030(T), 331-905-0035(T), 331-905-0040(T), 331-905-0045(T), 331-905-0050(T), 331-905-0055(T), 331-905-0060(T), 331-930-0005, 331-930-0010

**Subject:** Amend body piercing, earlobe piercing 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 licensees which aligns with the 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 accom-

modate facilities where hot and cold running water is not immediately accessible within the facility premises

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 75 hours of theory and practical training including 15 practical operations. This will allow an individual to be licensed to perform standard body piercing and specialty cheek piercings without having to be trained on how to pierce genitals. Amend specialty level one body piercing to include only certain genital piercings and require a total number of genital procedures within at least three different genital piercing categories. Amend specialty level two body piercing to include only certain genital piercings and require a total number of genital procedures within at least three different genital piercing categories.

Body piercing licensees who obtained their license prior to January 1, 2012, must qualify for licensure as a specialty cheek, specialty level one genital or specialty level two genital piercer. 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 license. Trainees must be under direct supervision. Require for education and training begin January 1, 2013, for specialty cheek piercing, specialty level one genital piercing and specialty level two genital piercing.

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.

Eliminate electrology from division 930. Amend standards division to include only body piercing and tattooing and specify when the standards apply to earlobe piercing. Repeal facility standards and standards for facilities in a residence and move to division 925. Add prohibited acts for body piercing and tattooing. Specify process for disposing of sharp objects and streamline cleaning, disinfection and sterilization process.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

# ADMINISTRATIVE RULES

## 331-900-0000

### Body Piercing Definitions

The following definitions apply to OAR chapter 331, division 900:

(1) "Affidavit of Licensure" has the meaning set forth in OAR 331-030-0040.

(2) "Agency" means the Oregon Health Licensing Agency.

(3) "APP" means Association of Professional Piercers.

(4) "Body piercing" has the definition set forth in ORS 690.350.

(5) "Earlobe piercing services" means services limited to the soft lower part of the external ear only, not to include cartilage.

(6) "Direct supervision" means the supervisor or instructor is present in the facility and actively involved in direct oversight and training of students.

(7) "Field of practice" has the definition set forth in ORS 690.350.

(8) "High-level disinfectant" means a chemical agent, registered with the EPA, which has demonstrated tuberculocidal activity.

(9) "Official transcript" means:

(a) An original document authorized by the appropriate office in the Oregon Department of Education and certified by a career school licensed under ORS chapter 345 indicating applicant identity information, field of practice(s) enrolled under, specific hour requirements for each field of practice if applicable, enrollment information and a signature by an authorized representative on file with the Agency. Original documents must be submitted directly to the Agency from the educational institution by United States Postal Service mail or other recognized mail service providers in a sealed envelope; or

(b) A document authorized by the appropriate office in the Oregon Department of Education and certified by career school licensed under ORS chapter 345 providing applicant identity information, field(s) of practice studied and completed, specific hour requirements for each field of practice if applicable, enrollment information and a signature by an authorized representative on file with the Agency. Non-original documents shall only be accepted when and in the manner approved by the Agency

(10) "Practitioner" means a person licensed to perform services included within a field of practice.

(11) "Single point piercing", also referred to as an anchor or microdermal, means a single point perforation of any body part for the purpose of inserting an anchor with a step either protruding or flush with the skin;

(12) "Standard body piercing" includes all body piercings with the exception of specialty cheek piercings, specialty level one genital piercings and specialty level two genital piercings defined under 331-905-0000. Standard body piercing services does not include testes, deep shaft (corpus cavernosa), uvula, eyelids, or sub-clavicle piercings.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0005

### Standard Body Piercing Education or Training

All education curriculum or training for standard body piercing must meet requirements set forth by the Oregon Health Licensing Agency prior to beginning training or education. The theory portion of the curriculum or training must be done prior to the practical portion of the curriculum or training.

(1) Education Requirements Standard Body Piercing Student: Standard body piercing career school course of study must include 1150 hours of theory and practical education. The education must include a minimum of 250 hours of theory instruction, 900 hours of practical experience and a minimum of 400 practical operations.

(2) The 400 practical operations required under (1) of this rule must include:

- (a) 100 practical operations observed by the student;
- (b) 100 practical operations in which the student participated; and
- (c) 200 practical operations performed by the student under direct supervision, but without assistance.

(3) The 250 hours of theory instruction required in (1) of this section must include the following:

- (a) Anatomy, Physiology & Histology: 70 hours;
- (b) Infection control: 50 hours;
- (c) Jewelry: 15 hours;
- (d) Equipment: 20 hours;
- (e) Environment: 15 hours;
- (f) Ethics and legalities: 15 hours;

(g) Emergencies: 5 hours;

(h) Client consultation: 30 hours.

(i) Oregon laws and rules: 20 hours; and

(j) Discretionary related to body piercing: 10 hours

(4) The 900 hours of practical experience required in (1) of this rule must include client consultation, cleaning, disinfection and sterilization.

(5) The 400 practical operations must include the content listed in section (4) of this rule and the standard body piercing procedures listed in subsections (a) through (q) below:

(a) Ear lobe: minimum of 10;

(b) Helix: minimum of 10;

(c) Conch: minimum of 10;

(d) Industrial: minimum of 10;

(e) Rook: minimum of 10;

(f) Tragus: minimum of 10;

(g) Tongue: minimum of 10;

(h) Navel: minimum of 10;

(I) Male nipple: minimum of 10;

(j) Female nipple: minimum of 10;

(k) Eyebrow: minimum of 10;

(l) Upper Lip: minimum of 10;

(m) Lower Lip: minimum of 10;

(n) Septum: minimum of 10;

(o) Nostril: minimum of 10;

(p) Single point: minimum of 15;

(q) Additional standard body piercings of choice: minimum of 35 procedures.

(6) As part of the approved course of study, all hours of theory must be completed prior to practical work being performed.

(7) Education must be conducted by Department of Education, Private Career School licensed instructor who holds an active standard body piercing license.

(8) A Department of Education, Private Career School licensed instructor must provide direct supervision of practical training on a one-to-one student/teacher ratio for students performing practical training while working on the general public.

(9) Supervised Training Requirements for Standard Body Piercing Trainee: Supervised training requirements for standard body piercing trainees: Standard body piercing training program must include 1150 hours of theory and practical education. The training must include a minimum of 250 hours of theory instruction, 900 hours of practical experience and a minimum of 400 practical operations.

(10) The 400 practical operations required under (9) of this rule must include:

(a) 100 practical operations observed by the student;

(b) 100 practical operations in which the student participated; and

(c) 200 practical operations performed by the student under supervision, but without assistance.

(11) The 250 hours of theory instruction required in (9) of this section must include the following:

(a) Anatomy, Physiology & Histology: 70 hours;

(b) Infection control: 50 hours;

(c) Jewelry: 15 hours;

(d) Equipment: 20 hours;

(e) Environment: 15 hours;

(f) Ethics and legalities: 15 hours;

(g) Emergencies: 5 hours;

(h) Client consultation: 30 hours.

(i) Oregon laws and rules: 20 hours; and

(j) Discretionary related to body piercing: 10 hours

(12) The 900 hours of practical experience required in (9) of this rule must include client consultation, cleaning, disinfection and sterilization.

(13) The 400 practical operations must include the content listed in section (12) of this rule and the standard body piercing procedures listed in subsections (a) through (q) below:

(a) Ear lobe: minimum of 10;

(b) Helix: minimum of 10;

(c) Conch: minimum of 10;

(d) Industrial: minimum of 10;

(e) Rook: minimum of 10;

(f) Tragus: minimum of 10;

(g) Tongue: minimum of 10;

(h) Navel: minimum of 10;

(I) Male nipple: minimum of 10;

(j) Female nipple: minimum of 10;



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- (k) Eyebrow: minimum of 10;
- (l) Upper Lip: minimum of 10;
- (m) Lower Lip: minimum of 10;
- (n) Septum: minimum of 10;
- (o) Nostril: minimum of 10;
- (p) Single point: minimum of 15;
- (q) Additional standard body piercings of choice: minimum of 35 procedures.

(14) As part of the approved training, all hours of theory must be completed prior to practical work being performed.

(15) Training must be completed in no less than nine months from the date the Agency issues standard body piercing trainee license.

(16) A supervisor must provide direct supervision of practical training on a one-to-one trainee to trainer ratio when the trainee is working on the general public.

(17) Supervisors of a standard body piercing trainee must adhere to OAR 331-900-0050.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0010

### Earlobe Piercing Temporary License

(1) An earlobe piercing temporary license is valid for one year, and may be renewed one time.

(2) An earlobe piercing temporary license may be issued to an individual for a total of two years, no additional applications or renewals will be accepted by the Agency.

(3) An earlobe piercing temporary license holder must adhere to all standards within OAR 331-900-0095, 331-930-0005, 331-925-0050, 331-925-0055, 331-930-0015, and 331-930-0030.

(4) An earlobe piercing temporary license holder, licensed under ORS 690.365, may provide earlobe piercing services only.

(5) Upon renewal, individuals who held a technician registration for ear piercing prior to January 1, 2012, must apply for and meet the application requirements for an earlobe piercing temporary license or apply for and meet the application requirements for a standard body piercing license.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0015

### Earlobe Piercing Temporary License Application Requirements

An individual applying for a Earlobe Piercing Temporary License must:

- (1) Meet the requirements of OAR 331 division 30;
- (2) Submit a completed application form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees;
- (3) Submit proof of being 18 years of age. Documentation may include identification listed under OAR 331-030-0000;
- (4) Submit proof of having a high school diploma or General Education Degree (GED);
- (5) Submit proof of current blood borne pathogens training from an Agency approved provider;
- (6) Submit proof of current basic first aid training from an Agency approved provider;
- (7) Pay examination fees;
- (8) Submit passing score of Agency approved written examinations in accordance with OAR 331-900-0060(1) and (2) within two years from the date of application;
- (9) Upon passage of all required examinations and before issuance of a license, the applicant must pay all license fees.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0020

### Standard Body Piercing Trainee License

(1) A standard body piercing trainee license is valid for one year, and may be renewed one time.

(2) A standard body piercing trainee license holder, licensed under ORS 690.365, may provide standard piercing services under the direct supervision of an Agency approved supervisor pursuant OAR 331-900-0050 and 331-900-0055.

(3) Supervisors of a standard body piercing trainee must adhere to OAR 331-900-0050.

(4) A standard body piercing trainee license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-925-0050, 331-925-0055 and OAR chapter 331, division 930.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0030

### Standard Body Piercing License

(1) A standard body piercing license holder, licensed under ORS 690.365, may perform standard body piercing services.

(2) A standard body piercing license is good for one year and becomes inactive on the last day of the month one year from the date of issuance.

(3) A standard body piercing license holder is prohibited from performing specialty level one services defined under OAR 331-905-0000 or specialty level two services defined under OAR 331-905-0000.

(4) Body piercers licensed prior to January 1, 2012, are prohibited from performing specialty level one services defined under OAR 331-905-0000 or specialty level two services defined under OAR 331-905-0000.

(5) Standard body piercing services does not include uvula, eyelids, or sub-clavicle piercings.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0040

### Temporary Standard Body Piercing License

(1) A temporary standard body piercing license pursuant to ORS 690.365 is a temporary license to perform standard body piercing services on a limited basis, not to exceed 15 consecutive calendar days. A temporary standard body piercing license holder:

(a) May renew up to four times in a 12 month period from the date the Agency receives the initial application;

(b) Must submit all requests to renew on a form prescribed by the Agency. Request to renew must be received at least 15 days before standard body piercing services are provided unless otherwise approved by the Agency;

(c) Must submit notification of a change in work location on a form prescribed by the Agency at least 24 hours before services are performed; and

(d) Must work in a licensed facility.

(2) A temporary standard body piercing license holder may only perform standard body piercing services.

(3) A standard body piercing trainee license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-925-0050, 331-925-0055 and OAR chapter 331, division 930.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0070

### Written Examination Retake Requirements

(1) Notwithstanding OAR 331-900-0060(1)(a) failed sections the written examination may be retaken as follows:

(a) After first failed attempt — applicant may not retake for seven calendar days;

(b) After second failed attempt — applicant may not retake for seven calendar days;

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(c) After third failed attempt — applicant may not retake for 30 calendar days, must pay all additional fees and must submit one of the following:

(A) An official transcript certifying completion of an additional 100 hours of instruction in theory, focused on the approved curriculum outlined in OAR 331-900-0005 from a career school licensed under 345 on a form prescribed by the agency; or

(B) Documentation from an Agency approved supervisor certifying completion of an additional 100 hours of training in theory, focused on the approved curriculum outlined in OAR 331-900-0005 on a form prescribed by the Agency.

(d) After fourth failed attempt — applicant may not retake for seven calendar days;

(e) After fifth failed attempt — applicant may not retake for seven calendar days;

(f) After sixth failed attempt — applicant may not retake for 30 calendar days, must pay all additional fees and must submit one of the following:

(A) An official transcript certifying completion of an additional 100 hours of instruction in theory, focused on the approved curriculum outlined in OAR 331-900-0005 from a career school licensed under 345 on a form prescribed by the Agency; or

(B) Documentation from an Agency approved supervisor certifying completion of an additional 100 hours of training in theory, focused on the approved curriculum outlined in OAR 331-900-0005 on a form prescribed by the Agency.

(g) After seventh failed attempt — ability to retake, requirements for retake, or both will be determined by the Agency on a case-by-case basis.

(2) Applicants retaking the examination must meet the requirements under OAR 331-030-0000.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0085

### Continuing Education for Standard Body Piercing License

A standard body piercing license holder must comply with the following continuing education requirements:

(1) Complete 10 clock hours of satisfactory continuing education, either as one unit or combination of units, every year.

(2) Satisfactory continuing education courses must fit into the approved course of study outlined in OAR 331-900-0005, and must be obtained as follows:

(a) Five hours must involve participation or attendance at an instructional program presented, recognized, or under the auspices of any permanently organized institution, agency, or completion and certification by an approved national home study organization; and

(b) Five hours may be self-study which may include the following:

(A) Correspondence courses including online courses;

(B) Review of publications, textbooks, printed material, or audio cassette(s);

(C) Viewing of films, videos, or slides;

(3) A licensee must report compliance with the continuing education requirement through attestation on the license renewal document. Licensees will be subject to the provisions of OAR 331-900-0090 pertaining to periodic audit of continuing education.

(4) Hours of continuing education, in excess of the requirement for renewal will not be carried forward.

(5) Continuing education requirements must be met every year, even if the license is inactive or suspended.

(6) A licensee must maintain proof of continuing education for five years following the date of the continuing education hours obtained, for auditing purposes.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0090

### Continuing Education: Audit, Required Documentation and Sanctions

(1) The Agency will audit a select percentage of licenses determined by the Board to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education attestation must submit to the agency, within 30 calendar days from the date of notification, satisfactory evidence of participation in required continuing education in accordance with OAR 331-900-0085.

(3) Documentation of attendance at a program or course provided by the sponsor must include:

(a) Name of sponsoring institution/association or organization;

(b) Title of presentation and description of content;

(c) Name of instructor or presenter;

(d) Date of attendance and duration in hours;

(e) Course agenda;

(f) Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance.

(4) Documentation substantiating the completion of continuing education through self-study must show a direct relation to subjects outlined in OAR 331-900-0005, be submitted on forms provided by the agency and include the following:

(a) Name of sponsor or source, type of study, description of content, date of completion and duration in clock hours;

(b) Name of approved correspondence courses or national home study issues;

(c) Name of publications, textbooks, printed material or audiocassette's, including date of publication, publisher, and ISBN issued.

(d) Name of films, videos, or slides, including date of production, name of sponsor or producer and catalog number.

(5) If documentation of continuing education is invalid or incomplete, the licensee must correct the deficiency within 30 calendar days from the date of notice. Failure to correct the deficiency within the prescribed time constitutes grounds for disciplinary action.

(6) Misrepresentation of continuing education or failing to meet continuing education requirements or documentation may result in disciplinary action, which may include, but is not limited to assessment of a civil penalty and suspension or revocation of the license.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0095

### Earlobe Piercing Standards and Prohibitions

(1) A temporary earlobe piercing license holder must:

(a) Use an earlobe piercing system that pierces an individual's earlobe by use of a sterile, encapsulated single-use stud with clasp.

(b) Use an earlobe piercing system made of non absorbent or non porous material which can be cleaned and disinfected according to manufacturer's instructions.

(c) Use single-use prepackaged sterilized ear piercing studs for each client.

(d) Store new or sterilized ear piercing systems separately from used or soiled instruments.

(e) Disinfect all parts of the piercing gun must with a high-level disinfectant which is a chemical agent, registered with the United States Environmental Protection Agency, to be effective against mycobacterium tuberculosis. A list of appropriate United States Environmental Protection Agency registered sterilizers, disinfectants and sanitizers is available at <http://www.epa.gov/oppad001/chemregindex.htm>

(2) A temporary earlobe piercer may only pierce with an earlobe piercing system; use of a needle is prohibited.

(3) Earlobe piercing system may only be used to pierce the earlobe. Use of an earlobe piercing system on other parts of the body or ear is prohibited.

(4) Piercing with a manual loaded spring operated ear piercing system is prohibited.

(5) Piercing the earlobe with any type of piercing gun which does not use the pre-sterilized encapsulated stud and clasp system is prohibited.

(6) Temporary earlobe piercers are permitted to have hot and cold running water within a restroom as part of surrounding premises or adjacent to the facility.

(7) Notwithstanding OAR 331-930-0020 a temporary earlobe piercing licensee must observe and adhere to the following hand washing and disposable glove standards when servicing clients:

(a) HAND WASHING: Hands must be washed or treated with an antibacterial hand sanitizer before and after treatment of each client, and before

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putting on disposable gloves and immediately after disposable gloves are removed;

(b) Thorough hand washing or treatment with an antibacterial hand sanitizer must be by use of soap and water or other alternative hand washing product, immediately before and after serving each client. Use of bar soap is prohibited.

(8) Notwithstanding OAR 331-930-0020 a temporary earlobe piercing licensee must observe and adhere to the following protective disposable glove standards when servicing clients:

(a) PROTECTIVE DISPOSABLE GLOVES: A new pair of disposable gloves must be worn during the treatment of each client;

(b) Hands must be washed in accordance with hand washing instructions listed in Subsection (7) of this rule before putting on disposable gloves and immediately after disposable gloves are removed;

(c) When a treatment session is interrupted disposable gloves must be removed and discarded. A new pair of disposable gloves must be put on when returning to the earlobe piercing service area.

(d) When disposable gloves are removed during a treatment session, hands must be washed in accordance with hand washing instructions listed in Subsection (7) of this rule and a new pair of disposable gloves used before continuing treatment on the client;

(e) Disposable gloves must be removed before leaving the area where earlobe piercing services are performed.

(f) Disposable gloves must be worn during the procedures of mechanical pre-cleaning, cleaning, rinsing, and drying of equipment and instruments;

(g) Torn or perforated disposable gloves must be removed immediately, and hand washing instructions listed in Subsection (7) of this rule must be followed.

(h) The use of disposable gloves does not preclude or substitute for hand washing procedures listed in Subsection (7) of this rule.

(6) A client's skin must be thoroughly cleaned with an antiseptic.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-900-0100

### Standard Body Piercing Practice Standards and Prohibitions

(1) Piercing is prohibited:

(a) On a person under 18 years of age unless the requirements of OAR 331-930-0030 are met.

(b) On the genital or nipple of a person under the age of 18 regardless of parental consent.

(c) On testes, deep shaft (corpus cavernosa), uvula, eyelids and sub-clavicle.

(2) Use of piercing guns is limited to piercing of the earlobe exclusively. No other part of the body or ear shall be pierced by use of a piercing gun.

(3) Piercing with a manual loaded spring operated piercing gun is prohibited.

(4) Piercing the earlobe with any type of piercing gun which does not use a pre-sterilized encapsulated stud and clasp system is prohibited.

(5) The Agency adopts the Association of Professional Piercers 2005 Procedure Manual by reference which must be used by licensees as a standard of care for body piercing best practices. The procedure manual can be located at <http://www.safepiercing.org/publications/procedure-manual/>

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0000

### Specialty Body Piercing Definitions

The following definitions apply to OAR chapter 331, division 900:

(1) "Affidavit of Licensure" has the meaning set forth in OAR 331-030-0040.

(2) "Agency" means the Oregon Health Licensing Agency.

(3) "APP" means Association of Professional Piercers.

(4) "Body piercing" has the definition set forth in ORS 690.350.

(5) "Direct supervision" means the supervisor or instructor is present in the facility and actively involved in direct oversight and training of students.

(6) "Field of practice" has the definition set forth in ORS 690.350.

(7) "Official transcript" means:

(a) An original document authorized by the appropriate office in the Oregon Department of Education and certified by a career school licensed under ORS chapter 345 indicating applicant identity information, field of practice(s) enrolled under, specific hour requirements for each field of practice if applicable, enrollment information and a signature by an authorized representative on file with the Agency. Original documents must be submitted directly to the Agency from the educational institution by United States Postal Service mail or other recognized mail service providers in a sealed envelope; or

(b) A document authorized by the appropriate office in the Oregon Department of Education and certified by career school licensed under ORS chapter 345 providing applicant identity information, field(s) of practice studied and completed, specific hour requirements for each field of practice if applicable, enrollment information and a signature by an authorized representative on file with the Agency. Non-original documents shall only be accepted when and in the manner approved by the Agency.

(8) "Practitioner" means a person licensed to perform services included within a field of practice.

(9) "Specialty level one genital piercing" includes the following:

(a) Male genital piercings including the scrotum, frenum, foreskin, or the perineum behind the scrotum, and the piercing of the penis through the urethra and exiting on the underside of the penis (called a "Prince Albert"); and

(b) Female genital piercing including the labia major, labia minor, frenulum labiorum pudenda (the perineum between the vagina and the anus), a piercings of the clitoral hood (called a "Princess Diana"), piercing of the perineum through the vaginal opening (fourchette) and piercings of the pubic mound.

(10) "Specialty level two genital piercing" includes the following:

(a) Male genital piercings including: a vertical piercing through the glans of the penis (called an "apadravya"), horizontal piercing through the glans of the penis (called an "ampallang"), a piercing through the corona or ridge of the glans of the penis (called a "dydoe"), a piercing of the penis entering through the urethra and exiting on the upper side of the penis (called a "reverse Prince Albert"); and

(b) Female genital piercings including the clitoris, a piercing in which jewelry is inserted below the hood behind the clitoris (called a "triangle"), and a piercing of the vagina through the urethra and exiting on the upper side of the vagina (called a "Princess Albertina").

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0003

### Specialty Cheek Piercing Education or Training

Beginning on January 1, 2013, all education curriculum or training for specialty cheek piercing must meet requirements set forth by the Oregon Health Licensing Agency prior to beginning training or education. The theory portion of the curriculum or training must be done prior to the practical portion of the curriculum or training.

(1) Education Requirements for Specialty Cheek Piercing Student: Specialty cheek body piercing career school course of study must include 75 hours of theory and practical education. The education must include a minimum of 20 hours of theory instruction, 55 hours of practical experience and a minimum of 15 practical operations.

(2) The 15 practical operations required must include:

(a) Three practical operations observed by the student;

(b) Three practical operations in which the student participated; and

(c) Nine practical operations performed by the student under direct supervision, but without assistance.

(3) The 20 hours of theory instruction required must:

(a) Facial Anatomy & Physiology: 10 hours;

(b) Emergencies related to cheek piercing: 5 hours;

(c) Client consultation related to cheek piercing: 5 hours.

(4) The 55 hours of required practical training must include client consultation, cleaning, disinfection and sterilization.

(5) The 15 practical operations must include the content listed in section (4) of this rule and the specialty cheek piercing procedure

(6) As part of the approved course of study, all hours of theory must be completed prior to practical work being performed.



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(7) Education must be conducted by Department of Education, Private Career School licensed instructor who holds an active specialty cheek piercing license.

(8) A Department of Education, Private Career School licensed instructor must provide direct supervision of practical training on a one-to-one student/teacher ratio for students performing practical training while working on the general public.

(9) Supervised Training Requirements for Specialty Cheek Piercing Trainee: The specialty cheek piercing training program consists of 75 hours of theory and practical training. The training must include a minimum of 20 hours of theory instruction, 55 hours of practical experience and a minimum of 15 practical operations.

(10) The 15 practical operations required must include:

- (a) Three practical operations observed by the student;
- (b) Three practical operations in which the student participated; and
- (c) Nine practical operations performed by the trainee under direct supervision, but without assistance.

(11) The 20 hours of theory instruction required must include:

- (a) Facial Anatomy & Physiology: 10 hours;
- (b) Emergencies related to cheek piercing: 5 hours;
- (c) Client consultation related to cheek piercing: 5 hours.

(12) The 55 hours of required practical training must include client consultation, cleaning, disinfection and sterilization.

(13) The 15 practical operations must include the content listed in section (4) of this rule and the specialty cheek piercing procedure

(14) As part of the approved training, all hours of theory must be completed prior to practical work being performed.

(15) Training must be completed in no less than three months from the date the Agency issues a specialty cheek piercing trainee license.

(16) A supervisor must provide direct supervision of practical training on a one-to-one trainee to trainer ratio for trainees performing practical training while the trainee is working on the general public.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415,

Hist.: HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0005

### Specialty Level One Genital Piercing Education or Training

Beginning on January 1, 2013, all education curriculum or training for specialty level one genital piercing must meet requirements set forth by the Oregon Health Licensing Agency prior to beginning training or education. The theory portion of the curriculum or training must be done prior to the practical portion of the curriculum or training.

(1) Education Requirements for Specialty Level One Genital Piercing Student: Specialty level one genital piercing career school course of study must include 150 hours of theory and practical education. The education must include a minimum of 30 hours of theory instruction, 120 hours of practical experience and a minimum of 50 practical operations.

(2) The 50 practical operations required must include:

- (a) 15 practical operations observed by the student;
- (b) 15 practical operations in which the student participated; and
- (c) 20 practical operations performed by the student under direct supervision, but without assistance.

(3) The 30 hours of theory instruction required must include:

- (a) Genital Anatomy & Physiology: 15 hours;
- (b) Ethics and legalities related to genital piercing: 5 hours;
- (c) Emergencies related to genital piercing: 5 hours;
- (d) Client consultation related to genital piercing: 5 hours.

(4) The 120 hours of required practical training must include client consultation, cleaning, disinfection and sterilization.

(5) The 50 piercings included in the practical training must include at least three different piercing procedures listed in Subsection (a) through (i) below and must include content listed in subsection (4) of this rule:

- (a) Frenum;
- (b) Scrotum;
- (c) Foreskin;
- (d) Perineum behind the scrotum (Guiche);
- (e) Piercing of the penis through the urethra and exiting on the underside of the penis (Prince Albert);
- (f) Labia majora;
- (g) Labia minora;
- (h) Piercing of the perineum through the vaginal opening (Fourchette);
- (i) Vertical piercing of the clitoral hood (Princess Diana);

(6) As part of the approved course of study, all hours of theory must be completed prior to practical work being performed.

(7) Education must be conducted by Department of Education, Private Career School licensed instructor who holds an active specialty level one genital piercing license.

(8) A Department of Education, Private Career School licensed instructor must provide direct supervision of practical training on a one-to-one student/teacher ratio for students performing practical training while working on the general public.

(9) Supervised Training Requirements for Specialty Level One Genital Piercing Trainee: Specialty level one genital piercing training program must include 150 hours of theory and practical education. The training must include a minimum of 30 hours of theory instruction, 120 hours of practical experience and a minimum of 50 practical operations.

(10) The 50 practical operations required must include:

- (a) 15 practical operations observed by the trainee;
- (b) 15 practical operations in which the trainee participated; and
- (c) 20 practical operations performed by the trainee under direct supervision, but without assistance.

(11) The 30 hours of theory instruction required must include 20 hours of genital anatomy and physiology, 5 hours of ethics related to genital piercings.

- (a) Genital Anatomy & Physiology: 15 hours;
- (b) Ethics and legalities related to genital piercing: 5 hours;
- (c) Emergencies related to genital piercing: 5 hours;
- (d) Client consultation related to genital piercing: 5 hours.

(12) The 120 hours of required practical training must include client consultation, cleaning, disinfection and sterilization.

(13) The 50 piercings included in the practical training must include at least three different piercing procedures listed in Subsection (a) through (i) below and must include content listed in subsection (12) of this rule:

- (a) Frenum;
- (b) Scrotum;
- (c) Foreskin;
- (d) Perineum behind the scrotum (Guiche);
- (e) Piercing of the penis through the urethra and exiting on the underside of the penis (Prince Albert);
- (f) Labia majora;
- (g) Labia minora;
- (h) Piercing of the perineum through the vaginal opening (Fourchette);
- (i) Vertical piercing of the clitoral hood (Princess Diana);

(14) As part of the approved training, all hours of theory must be completed prior to practical work being performed.

(15) Training must be completed in no less than three months from the date the Agency issues a specialty level one genital piercing trainee license.

(16) A supervisor must provide direct supervision of practical training on a one-to-one trainee to trainer ratio for trainees performing practical training while the trainee is working on the general public.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0010

### Specialty Level Two Genital Piercing Education or Training

Beginning on January 1, 2013, all education curriculum or training for specialty level two genital piercing must meet requirements set forth by the Oregon Health Licensing Agency prior to beginning training or education. The theory portion of the curriculum or training must be done prior to the practical portion of the curriculum or training.

(1) Education Requirements for Specialty Level Two Genital Piercing Student: Specialty level two genital piercing career school course of study must include 220 hours of theory and practical education. The education must include a minimum of 40 hours of theory instruction, 180 hours of practical experience and a minimum of 40 practical operations.

(2) The 40 practical operations required must include:

- (a) 10 practical operations observed by the student;
- (b) 10 practical operations in which the student participated; and
- (c) 20 practical operations performed by the student under direct supervision, but without assistance.

(3) The 40 hours of theory instruction required must include:

- (a) Anatomy and physiology related to cheek and genitals: 20 hours;
- (b) Ethics and legalities related to genital piercings: 5 hours;
- (c) Emergencies related to cheek and genital piercings: 10 hours;

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(d) Client consultation related to cheek and genital piercings: 5 hours.  
(4) The 180 hours of practice required must include client consultation, cleaning, disinfection and sterilization.

(5) The 40 piercings included in the practical training must include at least three different piercing procedures listed in Subsection (a) through (g) below and must include content listed in subsection (4) of this rule:

(a) Piercing of the penis entering through the urethra and exiting on the upper side of the penis (Reverse Prince Albert);

(b) Piercing through the corona or ridge of the glans of the penis (Dydoe);

(c) Horizontal piercing through the glans of the penis (Ampallang);

(d) Vertical piercing through the glans of the penis (Apadravya);

(e) Clitoris;

(f) Piercing in which jewelry is inserted below the hood behind the clitoris (Triangle);

(g) Piercing of the vagina through the urethra and exiting on the upper side of the vagina (Princess Albertina).

(6) As part of the approved course of study, all hours of theory must be completed prior to practical work being performed.

(7) Education must be conducted by Department of Education, Private Career School licensed instructor who holds an active specialty level two genital piercing license.

(8) A Department of Education, Private Career School licensed instructor must provide direct supervision of practical training on a one-to-one student/teacher ratio for students performing practical training while working on the general public.

(9) Supervised Training Requirements for Temporary Specialty Level Two Genital Piercing Licensee: Specialty level two genital piercing training program must include a minimum of 40 hours of theory instruction, 180 hours of practical experience and a minimum of 40 practical operations.

(10) The 40 practical operations required must include:

(a) 10 practical operations observed by the student;

(b) 10 practical operations in which the student participated; and

(c) 20 practical operations performed by the student under direct supervision, but without assistance.

(11) The 40 hours of theory instruction required must include:

(a) Anatomy and physiology related to cheek and genitals: 20 hours;

(b) Ethics and legalities related to genital piercings: 5 hours;

(c) Emergencies related to cheek and genital piercings: 10 hours;

(d) Client consultation related to cheek and genital piercings: 5 hours.

(12) The 180 hours of practice required must include client consultation, cleaning, disinfection and sterilization.

(13) The 40 piercings included in the practical training must include at least three different piercing procedures listed in Subsection (a) through (g) below and must include content listed in subsection (12) of this rule:

(a) Piercing of the penis entering through the urethra and exiting on the upper side of the penis (Reverse Prince Albert);

(b) Piercing through the ridge of the glans of the penis (Dydoe);

(c) Horizontal piercing through the glans of the penis (Ampallang);

(d) Vertical piercing through the glans of the penis (Apadravya);

(e) Clitoris;

(f) Piercing in which jewelry is inserted below the hood behind the clitoris (Triangle);

(g) Piercing of the vagina through the urethra and exiting on the upper side of the vagina (Princess Albertina).

(14) As part of the approved training, all hours of theory must be completed prior to practical work being performed.

(15) Training must be completed in no less than three months from the date the Agency issues a specialty level two genital piercing temporary license.

(16) A supervisor must provide direct supervision of practical training on a one-to-one trainee to trainer ratio for trainees performing practical training while the trainee is working on the general public.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0012

### Specialty Cheek Piercing License Issued to a Body Piercer Licensed Prior to January 1, 2012

(1) A specialty cheek piercing license holder may pierce the cheek.

(2) A specialty cheek piercing license is valid for one year and becomes inactive on the last day of the month one year from the date of issuance.

(3) A specialty cheek piercing license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-905-0065, OAR chapter 331 Division 925 when applicable, and OAR chapter 331, division 930.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415

Hist.: HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0014

### Application Requirements for a Specialty Cheek Piercer Licensed as a Body Piercer Prior to January 1, 2012

(1) An individual applying for licensure who obtained an Oregon body piercing license before January 1, 2012, to qualify for a specialty cheek piercing license, that individual must:

(a) Meet the requirements of OAR 331 division 30;

(b) 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;

(c) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(d) Submit proof of current blood borne pathogens training from an Agency approved provider;

(e) Submit proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000.

(f) Submit proof of having a high school diploma or General Education Degree (GED);

(g) Submit proof of having a current standard body piercing license which is active with no current or pending disciplinary action.

(h) Submit copies of client records demonstrating proof of having successfully performed a minimum of five specialty cheek piercing; and

(i) Pay all licensing fees.

(2) Experience claimed under subsections (1)(h) of this rule is subject to independent verification by the Agency.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415

Hist.: HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0015

### Specialty Level One Genital Piercing License Issued to a Body Piercer Licensed Prior to January 1, 2012

(1) A specialty level one genital piercing license holder may perform services standard body piercing services defined under OAR 331-905-0000.

(1) A specialty level one genital piercing license holder may perform services defined under OAR 331-905-0000(9).

(2) A specialty level one genital piercing license is valid for one year and becomes inactive on the last day of the month one year from the date of issuance.

(3) A specialty level one genital piercing license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-905-0065, OAR chapter 331 Division 925 when applicable, and OAR chapter 331, division 930.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0020

### Application Requirements for Specialty Level One Genital Piercer Licensed as Body Piercer Prior to January 1, 2012

(1) An individual applying for licensure who obtained an Oregon body piercing license before January 1, 2012, to qualify for a specialty level one genital piercing license, that individual must:

(a) Meet the requirements of OAR 331 division 30;

(b) 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;

(c) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(d) Submit proof of current blood borne pathogens training from an Agency approved provider;

(e) Submit proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000.

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(f) Submit proof of having a high school diploma or General Education Degree (GED);

(g) Submit proof of having a current standard body piercing license which is active with no current or pending disciplinary action.

(h) Submit copies of client records demonstrating proof of having successfully performed a minimum of 45 specialty level one genital piercings defined under OAR 331-905-0005(5). Client records must demonstrate proof of having performed at least three different piercing procedures listed in OAR 331-905-0005(5); and

(i) Pay all licensing fees.

(2) Experience claimed under subsections (1)(h) of this rule is subject to independent verification by the Agency.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0025

### Specialty Level Two Genital Piercing License Issued to a Body Piercer Licensed Prior to January 1, 2012

(1) A specialty level two genital piercing license holder may perform services defined under OAR 331-905-0000(10).

(2) A specialty level two genital piercing license is valid for one year and becomes inactive on the last day of the month one year from the date of issuance.

(3) A specialty level two genital piercing license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-905-0065, OAR chapter 331 Division 925 when applicable, and OAR chapter 331, division 930.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0030

### Application Requirements for Specialty Level Two Genital Piercer Licensed as a Body Piercer Prior to January 1, 2012

(1) An individual applying for licensure who obtained an Oregon body piercing license before January 1, 2012, to qualify for a specialty level two genital piercing license, that individual must:

(a) Meet the requirements of OAR 331 division 30;

(b) 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;

(c) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(d) Submit proof of current blood borne pathogens training from an Agency approved provider;

(e) Submit proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000.

(f) Submit proof of having a high school diploma or General Education Degree (GED);

(h) Submit proof of having a current specialty level one genital piercing license which is active with no current or pending disciplinary action.

(i) Submit copies of client records demonstrating proof of having successfully performed a minimum of 35 specialty level two genital piercings defined under OAR 331-905-0010(5). Client records must demonstrate proof of having performed at least three different piercing procedures listed in OAR 331-905-0010(5); and

(j) Pay all licensing fees.

(2) Experience claimed under subsections (1)(h) and (1)(i) of this rule is subject to independent verification by the Agency.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0032

### Specialty Cheek Piercing License

(1) A specialty cheek piercing license pursuant ORS 676.615 may perform cheek piercing.

(2) A specialty cheek piercing license is valid for one year and becomes inactive on the last day of the month one year from the date of issuance.

(3) A specialty cheek piercing license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-905-0065, OAR chapter 331 Division 925 when applicable, and OAR chapter 331, division 930.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415

Hist.: HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0034

### Application Requirements for Specialty Cheek Piercing License

(1) An individual applying for licensure to practice specialty cheek piercing must:

(a) Meet the requirements of OAR 331 division 30;

(b) 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;

(c) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(d) Submit proof of current blood borne pathogens training from an Agency approved provider;

(e) Submit proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000;

(f) Submit proof of having a high school diploma or GED;

(g) Submit proof of having a current standard body piercing license which is active with no current or pending disciplinary action.

(h) Provide documentation of completing a qualifying pathway.

(2) License Pathway 1 – Graduate from an Oregon Licensed Career School for Specialty Cheek Piercing:

(a) Submit official transcript from a specialty cheek piercing career school under ORS 345 and showing proof of completion of required specialty cheek piercing curriculum as approved by the Agency under OAR 331-905-0003 (1) through (8);

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination within two years before the date of application;

(d) Submit a passing score of an Agency approved practical examination in within two years before the date of application; and

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees.

(3) License Pathway 2 – Qualification through Specialty Cheek Piercing Trainee License:

(a) Submit documentation approved by the Agency showing proof of having completed required specialty cheek piercing training listed under OAR 331-905-0003(9) through (16), verified by a supervisor approved under OAR 331-905-0053, on a form prescribed by the Agency;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination within two years before the date of application;

(d) Submit a passing score of an Agency approved practical examination in within two years before the date of application; and

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415

Hist.: HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0035

### Specialty Level One Genital Piercing License

(1) A specialty level one genital piercing license pursuant ORS 676.615 may perform standard body piercing services defined under OAR 331-900-0000.

(2) A specialty level one genital piercing license may perform services defined under OAR 331-905-0000(9).

(3) A specialty level one genital piercing license is valid for one year and becomes inactive on the last day of the month one year from the date of issuance.

(4) A specialty level one genital piercing license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-905-0065, OAR chapter 331 Division 925 when applicable, and OAR chapter 331, division 930.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35



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Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0040

### Application Requirements for Specialty Level One Genital Piercing License

(1) An individual applying for licensure to practice specialty level one genital piercing must:

(a) Meet the requirements of OAR 331 division 30;

(b) 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;

(c) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(d) Submit proof of current blood borne pathogens training from an Agency approved provider;

(e) Submit proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000;

(f) Submit proof of having a high school diploma or GED;

(g) Submit proof of having a current standard body piercing license which is active with no current or pending disciplinary action.

(h) Provide documentation of completing a qualifying pathway.

(2) License Pathway 1 — Graduate from an Oregon Licensed Career School for Specialty Level One Genital Piercing:

(a) Submit official transcript from a specialty level one genital piercing career school under ORS 345 and showing proof of completion of required specialty level two genital piercing curriculum as approved by the Agency under OAR 331-905-0005 (1) through (8);

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination within two years before the date of application;

(d) Submit a passing score of an Agency approved practical examination within two years before the date of application; and

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees.

(3) License Pathway 2 — Qualification through Specialty Level One Genital Piercing Temporary License:

(a) Submit documentation approved by the Agency showing proof of having completed required specialty level one genital training listed under OAR 331-905-0005(9) through (17), and verified by a supervisor approved under OAR 331-905-0055, on a form prescribed by the Agency;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination within two years before the date of application;

(d) Submit a passing score of an Agency approved practical examination within two years before the date of application; and

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees.

Stat. Auth.: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0045

### Specialty Level Two Genital Piercing License

(1) A specialty level two genital piercing license may perform standard body piercings services defined under OAR 331-900-0000.

(2) A specialty level two genital piercing license may perform specialty level one genital piercing services defined under OAR 331-905-0000(9).

(3) A specialty level two genital piercing license may perform specialty level two genital piercing services defined under OAR 331-905-0000(10).

(4) A specialty level two genital piercing license is valid for one year and becomes inactive on the last day of the month one year from the date of issuance.

(5) A specialty level two genital piercing license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-905-0065, OAR chapter 331 Division 925 when applicable, and OAR chapter 331, division 930.

Stat. Auth.: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0050

### Application Requirements for Specialty Level Two Genital Piercing License

(1) An individual applying for licensure to practice specialty level two genital piercing must:

(a) Meet the requirements of OAR 331 division 30;

(b) 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;

(c) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(d) Submit proof of current blood borne pathogens training from an Agency approved provider;

(e) Submit proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000.

(f) Submit proof of having a high school diploma or General Education Degree (GED);

(g) Submit proof of having a current specialty level one genital piercing license which is active with no current or pending disciplinary action.

(h) Provide documentation of completing a qualifying pathway.

(2) License Pathway 1 — Graduate from an Oregon Licensed Career School for Specialty Level Two Genital Piercing:

(a) Submit official transcript from a specialty level two genital piercing career school under ORS 345 and showing proof of completion of required specialty level two genital piercing curriculum as approved by the Agency under OAR 331-905-0010 (1) through (8);

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written within two years before the date of application;

(d) Submit a passing score of an Agency approved practical examination within two years before the date of application; and

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees.

(3) License Pathway 2 — Qualification through Specialty Level One Genital Piercing Temporary License:

(a) Submit documentation approved by the Agency showing proof of having completed required specialty level two genital training listed under OAR 331-905-0010 (9) through (17), verified by a supervisor approved under to OAR 331-905-0060 on a form prescribed by the Agency;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination within two years before the date of application;

(d) Submit a passing score of an agency approved practical examination within two years before the date of application; and

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees.

Stat. Auth.: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35

Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0053

### Requirements for Specialty Cheek Genital Piercing Supervisor

(1) To be an approved supervisor for a specialty cheek piercing trainee an individual must:

(a) Submit a completed form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000;

(c) Submit proof of having been actively practicing standard body piercing which is active with no current or pending disciplinary action for at least two years prior to submitting application on a form prescribed by the Agency;

(d) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(e) Submit proof of current blood borne pathogens training from an Agency approved provider;

(f) Submit copies of client records demonstrating proof of having successfully performed a minimum of 15 specialty cheek piercings.

(g) Submit copies of client records demonstrating proof of having a minimum of two years of experience successfully performing the specialty cheek piercings procedures listed in paragraph (f) above; and

(h) Provide a list of three professional references on a form prescribed by the Agency.

(2) Experience claimed under subsections (1)(f) and (1)(g) of this rule is subject to independent verification by the Agency.

# ADMINISTRATIVE RULES

(3) A specialty cheek piercing supervisor must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-905-0065, OAR 331 division 25 when applicable, and OAR chapter 331, division 930.  
Stat. Auth.: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345  
Stats Implemented: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415  
Hist.: HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0055

### Requirements for Specialty Level One Genital Piercing Supervisor

(1) To be an approved supervisor for a specialty level one genital piercing trainee an individual must:

(a) Submit a completed form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000;

(c) Submit proof of having been actively practicing standard body piercing which is active with no current or pending disciplinary action for at least two years prior to submitting application on a form prescribed by the Agency;

(d) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(e) Submit proof of current blood borne pathogens training from an Agency approved provider;

(f) Submit copies of client records demonstrating proof of having successfully performed a minimum of 40 of each specialty level one genital piercings defined under OAR 331-905-0000(9). Client records must demonstrate proof of having performed at least three different piercing procedures listed in OAR 331-905-0005(5); and

(g) Submit copies of client records demonstrating proof of having a minimum of two years of experience successfully performing the piercing procedures listed in paragraph (f) above;

(h) Provide a list of three professional references on a form prescribed by the Agency.

(2) Experience claimed under subsections (1)(f), and (1)(g) of this rule is subject to independent verification by the Agency.

(3) A specialty level one genital piercing supervisor must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-905-0065, OAR 331 division 25 when applicable, and OAR chapter 331, division 930.

Stat. Auth.: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345  
Stats Implemented: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35  
Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0060

### Requirements for Specialty Level Two Genital Piercing Supervisor

(1) To be an approved supervisor for a specialty level two genital piercing trainee an individual must:

(a) Submit a completed form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000;

(d) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(e) Submit proof of current blood borne pathogens training from an Agency approved provider;

(f) Submit copies of client records demonstrating proof of having successfully performed a minimum of 40 of each specialty level two genital piercings defined under OAR 331-905-0000(10). Client records must demonstrate proof of having performed at least three different piercing procedures listed in OAR 331-905-0005(5); and

(g) Submit copies of client records demonstrating proof of having a minimum of two years of experience successfully performing the piercing procedures listed in paragraph (f) above;

(h) Provide a list of references on a form prescribed by the Agency.

(2) Experience claimed under subsections (1)(f) and (1)(g) of this rule is subject to independent verification by the Agency.

(3) A specialty level two genital piercing supervisor must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-905-0065, OAR 331 division 25 when applicable, and OAR chapter 331, division 930.

Stat. Auth.: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345  
Stats Implemented: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35  
Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-905-0065

### Informed Consent for Certain Body Piercing Procedures

(1) A specialty cheek piercer must provide information prescribed by the Agency to the client, regarding cheek piercing.

(2) A specialty level one genital piercer must provide information prescribed by the Agency to the client, regarding specialty level one genital piercings.

(3) A specialty level two genital piercer must provide information prescribed by the Agency to the client, regarding specialty level two genital piercings.

(4) Informed consent documents for body piercing procedures listed in Subsection (1), (2) and (3) of this rule is published on the Agency's website at <http://www.oregon.gov/OHLA/BAP/forms.shtml>.

(5) A specialty cheek piercer must disclose to each client receiving a specialty cheek piercing the number of cheek piercings in which the piercer has completed on clients and which the piercer can verify on a form prescribed by the Agency.

(6) A specialty level one genital piercer must disclose to each client receiving a specialty level one genital piercing the number of specific specialty level one genital piercings which the piercer has completed on clients and which the piercer can verify on a form prescribed by the Agency.

(7) A specialty level two genital piercer must disclose to each client receiving a specialty level two genital piercing the number of specific specialty level two genital piercings which the piercer has completed on clients and which the piercer can verify on a form prescribed by the Agency.

Stat. Auth.: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345  
Stats Implemented: ORS 676.607,676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, OL 2011, Ch. 346, Sec. 22 & 35  
Hist.: HLA 14-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-25-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-915-0010

### Tattoo License

(1) A tattoo artist licensed under ORS 690.365 may perform tattooing services.

(2) A tattoo license is good for one year and becomes inactive on the last day of the month one year from the date of issuance.

(3) A tattoo license holder must adhere to all standards within OAR 331-915-0065, 331-925-0050, 331-925-0055 and OAR chapter 331, division 930.

Stat. Auth.: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690.405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-915-0015

### Application Requirements for Tattoo License

(1) An individual applying for licensure to practice tattooing must:

(a) Meet the requirements of OAR 331 division 30;

(b) 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;

(c) Submit documentation having completed blood borne pathogens training from an agency approved;

(d) Submit documentation having completed cardiopulmonary resuscitation and basic first aid training from an agency approved provider;

(e) Submit documentation showing proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000.

(f) Submit proof of having a high school diploma or General Education Degree (GED);

(g) Provide documentation of completing a qualifying pathway.

(2) License Pathway 1 — Graduate from an Oregon Licensed Career School for Tattooing:

(a) Submit official transcript from a tattooing career school under ORS 345, and approved by the Agency showing proof of completion of required tattooing curriculum as determined by the agency under OAR 331-915-0005;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination in accordance with OAR 331-915-0030(1) within two years from the date of application;

(d) Submit passing score of an Agency approved practical examination in accordance with OAR 331-915-0030(2) within two years from the date of application;

# ADMINISTRATIVE RULES

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees.

(3) License Pathway 2 — Reciprocity:

(a) 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;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination in accordance with OAR 331-915-0030(1) within two years from the date of application; and

(d) Upon passage of all required examinations and before issuance of a license, applicant must pay all license fees.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-915-0020

### Temporary Tattoo License

(1) A temporary tattoo license pursuant to ORS 690.365 is a temporary license to perform tattooing services on a limited basis, not to exceed 15 consecutive calendar days. A temporary tattoo license holder;

(a) May renew up to four times in a 12 month period from the date the Agency receives the initial application.

(b) Must submit all requests to renew on a form prescribed by the Agency. Request must be received at least 15 days before tattoo services are provided unless otherwise approved by the Agency.

(c) Must submit notification of a change in work location at least 24 hours before services are performed on a form prescribed by the Agency;

(d) Must work in a licensed facility.

(3) A temporary tattoo license holder must adhere to all applicable standards within OAR 331-915-0065, 331-925-0050, 331-925-0055 and OAR chapter 331, division 930.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-915-0040

### Written Examination Retake Requirements

(1) Failed sections of the written examination may be retaken as follows:

(a) After first failed attempt — applicant may not retake for seven calendar days;

(b) After second failed attempt — applicant may not retake for seven calendar days;

(c) After third failed attempt — applicant may not retake for 30 calendar days, must pay all additional fees and must submit an official transcript certifying completion of an additional 100 hours of instruction in theory, focused on the approved curriculum outlined in OAR 331-915-0005 from a career school licensed under ORS 345 on a form prescribed by the agency;

(d) After fourth failed attempt — applicant may not retake for seven calendar days;

(e) After fifth failed attempt — applicant may not retake for seven calendar days;

(f) After sixth failed attempt — applicant may not retake for 30 calendar days, must pay all additional fees and must submit an official transcript certifying completion of an additional 100 hours of instruction in theory, focused on the approved curriculum outlined in OAR 331-915-0005 from a career school licensed under ORS 345 on a form prescribed by the Agency;

(g) After seventh failed attempt — ability to retake, requirements for retake, or both will be determined by the Agency on a case-by-case basis.

(2) Applicants retaking the examination must meet the requirements under OAR 331-030-0000.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-915-0045

### Practical Examination Retake Requirements

(1) Failed practical examinations may be retaken at a date and time determined by the Agency. Applicants retaking a failed practical must notify the Agency within 30 days before the next scheduled examination date and pay all examination fees

(2) Applicants who fail to pass the practical examination for tattooing after three attempts (initial examination plus two retakes):

(a) Must wait 30 calendar days to retake the practical examination;

(b) Must pay all additional fees;

(c) Must submit an official transcript certifying completion of an additional 100 hours of instruction in theory, focused on the approved curriculum outlined in OAR 331-910-0005 from a career school licensed under ORS 345 on a form prescribed by the agency;

(3) After fourth failed attempt — ability to retake, requirements for retake, or both will be determined by the Agency on a case-by-case basis.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0000

### Facility License

(1) A location, where services are performed in a field of practice must be a licensed facility defined under ORS 690.350 and licensed under 690.365.

(2) The holder of a facility license must be a natural person.

(3) A facility license is valid for one year and becomes inactive on the last day of the month one year from the date of issuance.

(4) A facility license is not transferable from person to person, business to business, or to a new location. Requirements under OAR 331-925-0005 must be met.

(5) An electrology, body piercing or tattoo facility licensed before January 1, 2012, are valid only for the fields of practice for which those licenses were issued. In order to add additional fields of practice the owner must apply and qualify for a new body art facility license pursuant to OAR 331-925-0005.

(6) A facility must adhere to all standards within OAR chapter 331, division 930.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0005

### Application Requirements for Facility Licensure

A facility license may be issued if the applicant:

(1) Meets the requirements of OAR 331 division 30;

(2) Submits the following:

(3) 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 fees;

(4) Submit proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000,

(5) Provides a map or directions to the facility if it is located in a rural or isolated area;

(6) Provides a list of licensees providing services in the facility.

(7) A current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007;

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0010

### Temporary Facility License

(1) A temporary facility license holder defined under ORS 690.350 and licensed under 690.365, may perform services in a field of practice under 690.350.



# ADMINISTRATIVE RULES

(2) The holder of a temporary facility license must be a natural person.

(3) A temporary facility license is valid for a limited time not to exceed 15 consecutive calendar days, at settings such as fairs, carnivals or bazaars.

(4) A facility must adhere to all standards within OAR chapter 331, division 930.

(5) A temporary facility license is not an event facility license pursuant to OAR 331-925-0030 which is comprised of individual booths where services in a field of practice are performed.

(6) If a facility owner licensed under OAR 331-925-0000 intends to operate a facility on a limited basis, away from the facility address on file with the Agency, they must obtain a temporary facility license.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0015

### Application Requirements for Temporary Facility License

To be issued a temporary facility license the applicant must:

(1) Meets the requirements of OAR 331 division 30;

(2) Submit the following:

(3) 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 fees;

(4) Proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000,

(5) A map or directions to the facility if it is located in a rural or isolated area;

(6) A list of licensees providing services in the facility.

(7) A current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007;

(8) A current copy of the Assumed Business Name (ABN) filing if applicant is operating under an assumed business name prior to applying for a facility license.

**NOTE:** ABN is not required if business includes the real and true name of each owner. Refer to Secretary of State, Corporations Division under ORS 648.005 through 648.990.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0020

### Mobile Facility License

(1) Mobile facility license defined under ORS 690.350 means an authorization issued under 690.365 to operate a facility outside of or away from a permanent physical location within an approved enclosed transportable vehicle, such as recreational vehicles or trailers, which has the ability to transport the business operation to multiple locations in the State of Oregon during specific approved periods of time.

(2) A mobile facility is limited to no more than 15 consecutive calendar days at one physical location.

(3) A mobile facility must adhere to all standards within OAR chapter 331, division 930.

(4) The holder of a mobile facility license must be a natural person.

(5) A mobile facility license is not transferable from person to person, business to business or mobile unit to mobile unit. Requirements under OAR 331-925-0025 must be met.

(6) A mobile facility license holder must comply with the following requirements:

(a) Submit written notification on a form prescribed by the Agency for each new physical location where services will be provided in a field of practice. The notification form must be received by the Agency at least 24 hours before services are performed at the new physical location and may be submitted by regular United States Postal Service or by electronic mail or in person at the office.

(b) Remain stationary while services in a field of practice are performed;

(c) Provide each client, verbally and in writing, with the mobile facility name, mobile facility license number, license number and name of the

person providing service, permanent address on file with the Agency and telephone number; and

(d) Must display the mobile facility name on file with the Agency on the outside of the mobile facility which is easily visible from the street.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0025

### Application Requirements for Mobile Facility License

To be issued a mobile facility license the applicant must:

(1) Meet the requirements of OAR 331 division 30;

(2) Submit the following:

(3) 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 fees;

(4) Documentation showing proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000;

(5) A map or directions to the facility if it is located in a rural or isolated area;

(6) A list of licensees providing services in the facility.

(7) A current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007;

(8) A current copy of the Assumed Business Name (ABN) filing if applicant is operating under an assumed business name prior to applying for a facility license.

**NOTE:** ABN is not required if business includes the real and true name of each owner. Refer to Secretary of State, Corporations Division under ORS 648.005 through 648.990.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0030

### Event Facility License

(1) Event facility license defined under ORS 690.350 means an authorization issued under 690.365 to operate a facility outside and away from a permanent physical location for specific approved period of time not to exceed 15 consecutive calendar days, for convention, educational, demonstration and exhibition purposes.

(2) An event facility is comprised of individual booths where services in a field of practice are provided.

(3) A representative of the event facility must be available at all times when services are being provided.

(4) An event facility must be inspected by the Agency before services are provided in a field of practice.

(5) An event facility must adhere to all standards within OAR chapter 331, division 930.

(6) Event facility owners must provide a hot and cold running water station for every 10 licensed individuals in a field of practice.

(7) The holder of an event facility license must be a natural person.

(8) An event facility license is not transferable from person to person, business to business, or location to location. Requirements under OAR 331-925-0035 must be met.

(9) For the purpose of this rule a "booth" is 10 feet by 10 feet or 100 square feet of floor space and limited to two licensees.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0035

### Application Requirements for an Event Facility License

To be issued an event facility license the applicant must:

(1) Meet the requirements of OAR 331 division 30;

(2) Submit completed application form prescribed by the Agency and payment of the required application fees which must be received by the Agency 30 days before the start of the event.

(3) Submit documentation showing proof of being 18 years of age documentation may include identification listed under OAR 331-030-0000;

# ADMINISTRATIVE RULES

(4) Provide a map or directions to the facility if it is located in a rural or isolated area;

(5) Submit current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007;

(6) Submit current copy of the Assumed Business Name (ABN) filing if applicant is operating under an assumed business name prior to applying for a facility license.

(7) Pay all licensing fees.

**NOTE:** ABN is not required if business includes the real and true name of each owner. Refer to Secretary of State, Corporations Division under ORS 648.005 through 648.990.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0040

### Renewal of a Facility or Mobile Facility License

(1) A licensee is subject to the provisions of OAR chapter 331, division 30 regarding the renewal of a license and provisions regarding authorization to practice, identification, and requirements for issuance of a duplicate license.

(2) Facility license renewal under OAR 331-925-0005 or 331-925-0025 this rule is valid for one year.

(3) **LICENSE RENEWAL:** To avoid delinquency penalties, a facility or mobile facility license renewal must be made prior to the license entering inactive status. The licensee must submit the following:

(a) Renewal application form;

(b) Payment of required renewal fee pursuant to 331-940-0000;

(4) **INACTIVE LICENSE RENEWAL:** A facility or mobile facility license may be inactive for up to three years. A licensee who is inactive is not authorized to practice. When renewing after entering inactive status, the licensee holder must submit the following:

(a) Renewal application form;

(b) Payment of delinquency and license fees pursuant to OAR 331-940-0000;

(5) **EXPIRED LICENSE:** A facility or mobile facility license that has been inactive for more than three years is expired and the license holder must reapply and meet the requirements listed in 331-925-0005 or 331-925-0025.

(6) **LICENSE RENEWAL — FACILITY LICENSE ISSUED PRIOR TO JANUARY 1, 2012.** Electrology, body piercing and tattoo facilities licensed before January 1, 2012 must apply and qualify for a new body art facility license pursuant to OAR 331-925-0005 on or before the electrology, body piercing or tattoo license becomes inactive.

(7) In addition to other requirements of subsection (3) and (4) of this rule, if a facility or mobile facility license changes name or assumed business name the facility must provide that information at the time of renewal:

(a) A current registration as required by Secretary of State, Corporations Division pursuant to under ORS 648.007; and

(b) A current copy of the Assumed Business Name (ABN) filing if applicant is operating under an ABN prior to renewing a facility license.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0050

### Facility Standards

Facility standards apply to all licensees under ORS 690.350 unless otherwise specified by rule.

(1) A facility owner licensed under OAR chapter 331, division 25 must:

(a) Require each individual working within the facility premises providing services in a field of practice be licensed with the Agency;

(b) Provide a screened or separated area away from public access and viewing, isolated from a reception or waiting area, when services are conducted upon breasts, nipples, genitals or buttocks;

(c) Allow the Agency's representative to inspect the facility or conduct an investigation. Obstructing or hindering the normal progress of an investigation or the inspection, threatening or exerting physical harm, or

enabling another individual or employee to impede an investigation or inspection may result in disciplinary action;

(d) Ensure waste from toilets or lavatories be discharged directly into a public sewer or by a method meeting the requirements of ORS Chapter 454;

(e) Have a sterilization area separated from public areas, service areas and restrooms where decontamination and sterilization of reusable instruments is performed. This rule does not apply to electrology license holders and temporary earlobe piercing license holders.

(f) All surfaces in areas where decontamination and sterilization of reusable instruments are performed must be non-porous;

(g) Hand washing accommodations must be provided in work areas where licensees are exposed to hazardous materials, which will have a harmful effect on or be absorbed through the skin if the contamination is not removed;

(h) Maintain washing accommodations in a clean and sanitary condition;

(i) Ensure all floors, walls and procedure surfaces including counters, tables, and chairs are easily cleanable, non-absorbent and non-porous where services are provided;

(2) When body piercing or tattoo services are provided in a cosmetology facility, body piercing or tattoo services must be separated from cosmetology services by use of a solid barrier to prevent contact with irritants. Electrology services are excluded from this rule.

(3) The facility must comply with all applicable rules and regulations of the Agency and other federal, state, county and local agencies. This includes the following:

(a) Building, fire, plumbing and electrical codes, and with exit and fire standards established by the Building Codes Agency, the Office of the State Fire Marshal;

(b) Oregon Indoor Clean Air Act as it appears in ORS 433.835 through 433.875.

(c) Occupational Safety and Health Act Blood Borne Pathogens Standards under 29 CFR 1910:1030 this includes but is not limited to: individuals providing services in a field of practice, facility owners; and other employees on the facility premises.

(d) ORS Chapter 654 and the Oregon Safe Employment Act if an employee/employer relationship exists.

(e) All applicable Occupational Safety and Health Act standards if an employee/employer relationship exists.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415

Hist.: HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-925-0055

### Standards for Facilities Located in Residence

A facility located in a residence must comply with all standards listed in OAR chapter 331, division 925 in addition to the following criteria, unless otherwise specified by rule:

(1) Have an identifying house number or a sign, which is easily visible from the street and indicates the location of the facility;

(2) Be equipped with the structures, accommodations, and equipment which the Agency requires for all facilities; and

(3) Have an entry that is separate from the entry to the living area of the home. The living area of the home must be separated from the facility by solid walls extending from floor to ceiling, with any connecting doors kept closed while the facility is in actual operation.

(4) If a facility was licensed prior to May 2004 and are performing electrology services only, they are exempt from Subsection (3) of this rule.

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, & 345

Stats Implemented: ORS 676.607, 676.615, 676.625, 690.365, 690.371, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415

Hist.: HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-930-0000

### Definitions

(1) "Agency" means the Oregon Health Licensing Agency.

(2) "EPA" means United States Environmental Protection Agency.

(3) "FDA" means Food and Drug Administration.

(4) "High-level disinfectant" means a chemical agent, registered with the EPA, which has demonstrated tuberculocidal activity.

(5) "Instruments" means equipment used during body piercing services. Types of instruments include but are not limited to needles, forceps, hemostats, tweezers, and jewelry.

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(6) "Sharps container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal. The container must be labeled with the "Biohazard" symbol.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-930-0005 Facility Standards

(1) A facility owner licensed under OAR chapter 331, division 25 must:

(a) Require each individual working within the facility premises providing services in a field of practice be licensed with the Agency;

(b) Provide a screened or separated area away from public access and viewing, isolated from a reception or waiting area, when services are conducted upon breasts, nipples, genitals or buttocks;

(c) Allow the Agency's representative to inspect the facility or conduct an investigation. Obstructing or hindering the normal progress of an investigation or the inspection, threatening or exerting physical harm, or enabling another individual or employee to impede an investigation or inspection may result in disciplinary action;

(d) Ensure waste from toilets or lavatories be discharged directly into a public sewer or by a method meeting the requirements of ORS Chapter 454;

(e) Have an enclosed sterilization area separate from public areas, service areas and restrooms where decontamination and sterilization of reusable instruments is performed. All surfaces in this area must be non-porous;

(f) Hand washing accommodations must be provided in work areas where licensees are exposed to hazardous materials, which will have a harmful effect on or be absorbed through the skin if the contamination is not removed;

(g) Maintain washing accommodations in a clean and sanitary condition;

(h) Ensure all floors, walls and procedure surfaces including counters, tables, and chairs are easily cleanable, non-absorbent and non-porous where services are provided;

(2) When body art services are provided in a cosmetology facility, body art services must be separated from cosmetology services by use of a solid barrier to prevent contact with irritants.

(3) The facility must comply with all applicable rules and regulations of the Agency and other federal, state, county and local agencies. This includes the following:

(a) Building, fire, plumbing and electrical codes, and with exit and fire standards established by the Building Codes Agency, the Office of the State Fire Marshal;

(b) Oregon Indoor Clean Air Act as it appears in ORS 433.875 through 433.875.

(c) Occupational Safety and Health Act Blood Borne Pathogens Standards under 29 CFR 1910:1030 this includes but is not limited to: individuals providing services in a field of practice, facility owners; and other employees on the facility premises.

(d) ORS Chapter 654 and the Oregon Safe Employment Act if an employee/employer relationship exists.

(e) All applicable Occupational Safety and Health Act standards if an employee/employer relationship exists.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; Suspended by HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-930-0010 Standards for Facilities Located in Residence

A facility located in a residence must comply with the provisions of all standards listed in OAR chapter 331, division 925 in addition to the following criteria:

(1) Have an identifying house number or a sign, which is easily visible from the street and indicates the location of the facility;

(2) Be equipped with the structures, accommodations, and equipment which the Agency requires for all facilities; and

(3) Have an entry that is separate from the entry to the living area of the home. The living area of the home must be separated from the facility

by solid walls extending from floor to ceiling, with any connecting doors kept closed while the facility is in actual operation.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; Suspended by HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-930-0015 General Standards for Body Piercing and Tattoo

General standards for all body piercing, including temporary earlobe piercing, and tattoo are listed within this rule, unless otherwise specified by rule.

(1) The cleanliness of any common area of separately licensed facilities in one premise is the responsibility of each license holder. All license holders may be cited for violations found in the common area.

(2) An individual licensed to perform services in a field of practice or a licensed facility owner must:

(a) Use and maintain appropriate equipment and instruments for providing services in a field of practice at the place of business;

(b) Use equipment and instruments in a manner described in the manufacturer's instructions which is consistent with the manufacturer's intended use of the device by the FDA;

(c) Use equipment and instruments that are not prohibited for use in a field of practice by the Agency or the FDA;

(d) Ensure a high-level disinfectant is used in accordance with manufacturer's instructions to disinfect surfaces where services are performed.

(e) Ensure chemicals are stored in labeled, closed containers.

(f) Ensure that single-use disposable paper products, single-use needles, sterilized jewelry and protective gloves are used for each client. Use of towels and linens are prohibited except during electrology procedures.

(g) Have unrestricted access or availability to a sink with hot and cold running water, as part of surrounding premises or adjacent to the facility but separate from a restroom unless operating as a temporary earlobe piercing licensee. Temporary earlobe piercing hot and cold running water standards are listed in OAR 331-900-0095.

(h) Ensure lavatories located within the facility are kept clean and in good working order at all times. Air blowers within lavatories can be substituted for disposable hand towels.

(i) Ensure all waste material related to a service in a field of practice be deposited in a covered container following service for each client.

(j) Ensure pets or other animals not be permitted in the business facility. This prohibition does not apply to service animals recognized by the American with Disabilities Act or to fish in aquariums or nonpoisonous reptiles in terrariums.

(k) Ensure all disinfecting solutions or agents be kept at adequate strengths to maintain effectiveness, be free of foreign material and be available for immediate use at all times the facility is open for business.

(l) Ensure waste disposed of in receptacles located in non-service areas is limited to materials, which are not practice-related or used in the performance of any client services.

(m) Ensure all waste items that come in direct contact with the client's skin that cannot be cleaned, disinfected and sterilized must be disposed of utilizing a "double bagging" technique: completely enclosed inside a discarded glove or disposed of in a sealable plastic bag that is separate from sealable trash or garbage liners in a covered waste receptacle immediately after use.

(o) Ensure disposable sharp objects that come in contact with blood and/or body fluids must be disposed of in a sharps container that is strong enough to protect the licensee and client and others from accidental cuts or puncture wounds that could happen during the disposal process.

(p) Adhere to all Centers for Disease Control and Prevention, Standard Precautions.

(3) A licensee must wear eye goggles, shields or a mask if spattering is possible while providing services.

(4) All substances shall be dispensed from containers in a manner to prevent contamination of the unused portion. Single use tubes or containers and applicators shall be discarded following the service.

(5) All body piercing and tattooing is prohibited:

(a) On a person who is inebriated or appears to be incapacitated by the use of alcohol or drugs;

(b) On a person who shows signs of recent intravenous drug use;

(c) On a person with sunburn or other skin diseases or disorders of the skin such as open lesions, rashes, wounds, puncture marks in areas of treatment;



# ADMINISTRATIVE RULES

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-930-0020

### Standards for Client Services

Client servicing standards for all body piercing, except temporary earlobe piercing, and tattoo services are listed within this rule. Client servicing standards for temporary earlobe piercing is listed in OAR 331-900-0095.

- (1) A licensee must wash hands:
- (a) Prior to donning gloves to set-up of instruments used for conducting body art procedures;
- (b) Immediately prior to donning gloves to perform a body art procedure;
- (c) Immediately after removing gloves at the conclusion of performing a body art procedure and after removing gloves at the conclusion of procedures performed in the sterilization area;
- (d) When leaving the work area;
- (e) When coming in contact with blood or bodily fluids;
- (f) Before and after performing the following acts not limited to eating, drinking, smoking, applying lip cosmetics or lip balm, handling contact lenses, or using the bathroom; or
- (g) When hands are visibly soiled.
- (2) Hand washing must include thoroughly washing the hands in warm, running water with liquid soap using friction on all surfaces of the hands and wrists, then rinsing hands and drying hands with a clean, disposable paper towel.
- (3) A new pair of disposable gloves must be worn during the treatment of each client;
- (4) A minimum of one pair of disposable gloves must be used for each of the following stages of the body art procedure:
  - (a) Set-up of instruments used for conducting body art procedures and skin preparation of the body art procedure area;
  - (b) The body art procedure and post-procedure teardown; or
  - (c) Cleaning and disinfection of the procedure area after each use/between clients.
- (5) Once gloves have been removed, they must be disposed of immediately and hand washing instructions listed in Subsection (2) of this rule must be followed.
- (6) Torn or perforated gloves must be removed immediately, and hand washing instructions listed in Subsection (2) of this rule must be followed and gloves changed following hand washing.
- (7) Disposable gloves must be removed before leaving the area where body art procedures are performed.
- (8) When a licensee leaves the body art procedure area in the middle of a body art procedure, gloves must be removed before leaving the procedure area and a new pair of gloves put on when returning to the procedure area.
- (9) The use of disposable gloves does not preclude or substitute for hand washing procedures.
- (10) A client's skin must be thoroughly cleaned with an antiseptic solution.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-930-0025

### Approved Sterilization Standards

Sterilization standards for all body piercing, except temporary earlobe piercing are listed within this rule. Sterilization standards for temporary earlobe piercing are listed in OAR 331-900-0095.

- (1) Needles must be single uses on one client then disposed of.
- (2) All reusable instruments that come in direct contact with a client's skin or are exposed to blood or bodily fluid must be cleaned, disinfected and sterilized before re-use on another client.
- (3) New gloves must be worn during any sterilization procedure.
- (4) The cleaning, disinfection and sterilization process listed in subsection (5) of this rule is not required if single-use prepackaged sterilized reusable instruments, obtained from suppliers or manufacturers are used.

(5) Approved cleaning, disinfection and sterilization process for reusable instruments includes the following ordered method after each use:

(a) Clean reusable instruments by manually brushing or swabbing visible foreign matter and rinsing the reusable instruments with warm water and an appropriate detergent solution to remove blood and bodily fluids;

(b) Disinfect reusable instruments by placing reusable instruments in a disinfection tub filled with a high-level disinfectant. Reusable instruments must be fully submerged to ensure contact with all surfaces for an amount of time specified in the manufacturer's instructions. All hinged reusable instruments (including but not limited to piercing forceps) must be in the open position;

(c) Clean and disinfected reusable instruments must be rinsed, dried and placed in an ultrasonic cleaner filled with an appropriate ultrasonic solution including but not limited to an enzymatic cleaner. The ultrasonic unit must be used according to the manufacturer's instructions. The ultrasonic unit must operate at 40 to 60 kilohertz. All hinged reusable instruments (including but not limited to piercing forceps) must be in the open position;

(d) Remove reusable instruments from the ultrasonic unit. All reusable instruments must be rinsed, air dried, and individually packaged in sterilization pouches that includes use of a chemical indicator strip to assure sufficient temperature during each sterilization cycle, the date the sterilization was performed must be applied to the sterilization pouch;

(e) Individually packaged reusable instruments must be sterilized by using an autoclave sterilizer, steam or chemical registered and listed with the FDA;

(f) A steam sterilization integrator must be used to monitor the essential conditions of steam sterilization for each autoclaved load or cycle. Reactions must be recorded in a log book for each sterilization cycle.

(g) After sterilization, the reusable instruments must be stored in a dry, disinfected, closed cabinet or other tightly-covered container reserved for the storage of such reusable instruments.

(6) Use of a biological monitoring system ("spore tests") must be done at least once a month, verified through an independent laboratory, to assure all microorganisms have been destroyed and sterilization achieved.

(7) The ultrasonic unit listed in subsection (5)(c) of this rule must be used, cleaned, and maintained in accordance with manufacturer's instructions and a copy of the manufacturer's recommended procedures for the operation of the ultrasonic unit must be kept on file at the body art facility.

(8) All sterilization pouches with indicator strips listed in subsection (5)(d) of this rule must contain a chemical/temperature and/or humidity sensitive tapes, strips or pellets for monitoring each sterilization cycle.

(9) Sterilization pouches with indicator strips listed in subsection (5)(e) of this rule and steam sterilization integrators listed in (5)(f) of this rule must be available at all times for inspection by the Agency. Steam sterilization integrators must be and kept for a minimum of thirty days.

(10) Biological spore test results listed in subsection (6) of this rule must be immediately available at all times for inspection by the Agency and kept at facility premises for a minimum of two years.

(11) The autoclave listed in subsection (5)(e) must be used, cleaned, and maintained in accordance with manufacturer's instructions and a copy of the manufacturer's recommended procedures for the operation of the autoclave must be kept on file at the body art facility.

(12) The expiration date for sterilized reusable instruments is one year from the date of sterilization unless the integrity of the package is compromised.

(13) Sterilized reusable instruments may not be used if the package integrity has been breached, is wet or stained, or the expiration date has exceeded without first meeting the requirements listed in Subsection (5) of this rule.

(14) All reusable instruments used in body art procedures must remain stored in sterile packages until just prior to the performance of a body art procedure.

(15) If a spore test result listed in subsection (6) of this rule, is positive, a licensee must discontinue the use of that sterilizer (autoclave) until it has been serviced and a negative spore test has been recorded before putting that sterilizer back into service. Until a negative spore test has been received, the licensee must:

(a) Use an alternative sterilizer (autoclave);

(b) Use only reusable instruments that have a sterilization date on or before the date before the last negative spore test was recorded; or

(c) Use only single use instruments.

(16) Following a negative spore test pursuant to subsection (6) of this rule, reusable instruments which were sterilized following the receipt of the

# ADMINISTRATIVE RULES

negative spore test must be repackaged and sterilized pursuant to subsection (5) of this rule, before use.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

## 331-930-0030

### Client Records and Information

Client records standards and requirements for all body piercing and tattoo artist licensees are listed within this rule.

(1) Licensees must maintain client records. The record must include the following for each client:

- (a) Name, address, telephone number and date of birth of client;
- (b) Date of each service, procedure location on the body and type of service performed on client;
- (c) Name and license number of the licensee providing service;
- (d) Special instructions or notations relating to the client's medical or skin conditions including but not limited to diabetes, cold sores and fever blisters, psoriasis or eczema, pregnancy or breast-feeding/nursing.

(e) Complete list of the client's sensitivities to medicines or topical solutions;

- (f) History of the client's bleeding disorders;
- (g) Type of jewelry used if the service is a body piercing procedure;
- (h) Description of complications during procedure(s);
- (i) Signature from the client that they have received the following written and verbal aftercare instructions:

- (A) Care following service;
- (B) Possible side effects and complications; and
- (C) Restrictions.

(j) Signature from the client that they have been informed, both verbally and in writing, of all information related to the body art service including possible reactions, side effects and potential complications of the service and consent to obtaining the body art service; and

(k) Signature from the client that they have been provided both verbally and in writing, information listed in OAR 331-900-0110 and 331-905-0065.

(l) Proof of age or consent consisting of one of the following:

(A) For body piercing or tattoo services if the client is of over 18, a copy of a government issued photographic identification. A copy of the government issued photographic identification must be included in the client record;

(B) For body piercing services only, if the client is a minor written parental or legal guardian consent is required. The written parental or legal guardian consent must be submitted to the licensee by the parent or legal guardian prior to piercing the minor. The consenting parent or legal guardian must be 18 years of age and present government issued photographic identification at time of written consent. A copy of the government issued photographic identification must be included in the client record.

(C) For body piercing services only, if the client is an emancipated minor, copies of legal court documents proving emancipation and government issued photographic identification is required.

(2) A licensee may obtain advice from physicians regarding medical information needed to safeguard client and licensee. Advice from the physician must be documented in the client record.

(3) For the purpose of (1) and (2) of this rule records must be kept at facility premises for a minimum of three years and must be made immediately available to the agency upon request.

(4) Client records must be typed or printed in a legible format. Client records, which are not readable by the Agency, will be treated as incomplete.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 3-2012(Temp), f. & cert. ef. 3-1-12 thru 6-25-12

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**Rule Caption:** Waive certain types of fees to drastically reduce BAP's ending balance by June 30, 2013.

**Adm. Order No.:** HLA 4-2012(Temp)

**Filed with Sec. of State:** 3-5-2012

**Certified to be Effective:** 3-5-12 thru 9-1-12

**Notice Publication Date:**

## Rules Amended: 331-940-0000

**Subject:** The Board of Body Art Practitioner's ending cash balance as of the closing month of January 2012 was of \$570,040. The agency needs to significantly reduce 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 waiving facility application and licensing fees and practitioner renewal fees for licenses issued prior to January 1, 2012. In addition, the temporary rule extends the waiving of 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.

**Rules Coordinator:** Randall Everitt—(503) 373-2084

## 331-940-0000

### Fees

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

#### (a) Application:

- (A) Standard Body Piercing — \$50.
- (B) Specialty Body Piercing Level 1 — \$50.
- (C) Specialty Body Piercing Level 2 — \$50.
- (D) Electrology — \$50.
- (E) Tattoo — \$50.
- (F) Reciprocity Per Field of Practice — \$150.
- (G) Facility — \$100.
- (H) Mobile Facility — \$100.
- (I) Event Facility — \$100.
- (J) Temporary Facility License — \$100.
- (K) Temporary Practitioner Per Field of Practice — \$50.
- (L) Standard Body Piercing Trainee — \$50.
- (M) Ear Lobe Piercing Temporary — \$25.

#### (b) Examination:

- (A) Written — \$50.
  - (B) Practical — \$100.
- #### (c) Original Issuance of License:
- (A) Standard Body Piercing Trainee — \$50.
  - (B) Standard Body Piercing — \$50.
  - (C) Specialty Body Piercing Level 1 — \$50.
  - (D) Specialty Body Piercing Level 2 — \$50.
  - (E) Electrology — \$25.
  - (F) Tattoo — \$50.
  - (G) License for a Field of Practice by Reciprocity — \$50.
  - (H) Facility — \$150.
  - (I) Mobile Facility — \$150.
  - (J) Event Facility:

- (i) Up to 100 booths: \$725.
- (ii) 101 to 200 booths: \$1,450.
- (iii) 201 to 300 booths: \$2,175.
- (iv) 301 to 400 booths: \$2,900.
- (v) 401 to 500 booths: \$3,625.
- (K) Temporary Practitioner Per Field of Practice — \$20.
- (L) Temporary Facility — \$50.
- (M) Earlobe Piercing Temporary — \$25.

#### (d) Renewal of License Online:

- (A) Standard Body Piercing — \$45.
- (B) Electrology — \$20.
- (C) Tattoo — \$45.
- (D) Temporary Earlobe — \$20.
- (E) Body Art Facility — \$125.
- (F) Mobile Facility License — \$125.

#### (e) Renewal of License Over-the-Counter or Through the Mail:

- (A) Standard Body Piercing Trainee — \$50.
- (B) Standard Body Piercing — \$50.
- (C) Specialty Body Piercing Level 1 — \$50.
- (D) Specialty Body Piercing Level 2 — \$50.
- (E) Electrology — \$25.
- (F) Tattoo — \$50.

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- (G) Temporary Earlobe — \$25.
- (H) Temporary Practitioner Per Field of Practice — \$20.
- (I) Body Art Facility — \$150.
- (J) Mobile Facility License — \$150.
- (f) **Other administrative fees:**
  - (A) Delinquency — \$50 per year, up to three years.
  - (B) Replacement License — \$25.
  - (C) Duplicate License — \$25 per copy with maximum of three.
  - (D) Affidavit of Licensure — \$50.
  - (E) Information Packets — \$10.
  - (F) Administrative Processing Fee — \$25.

(3) Individuals taking the body piercing written and practical examination from January 1, 2012 through June 30, 2013, will have their examination fees waived as long as funding remains available.

(4) Facility application and licensing fees for facilities licensed prior to January 1, 2012, will have their application and licensing fees waived between January 1, 2012 and June 30, 2013 or as long as funding remains available.

(5) Practitioners who were permanently licensed prior to January 1, 2012, will have their renewal fee waived between January 1, 2012 and June 30, 2013 or as long as funding remains available.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415  
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35  
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 4-2012(Temp), f. & cert. ef. 3-5-12 thru 9-1-12

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**Oregon Health Licensing Agency,  
Board of Cosmetology  
Chapter 817**

**Rule Caption:** Amend civil penalty assessment rules and repeal practicing as on or an individual with a communicable disease.

**Adm. Order No.:** BOC 1-2012(Temp)

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-12-12 thru 9-1-12

**Notice Publication Date:**

**Rules Amended:** 817-090-0025, 817-090-0035, 817-090-0045, 817-090-0105, 817-120-0005

**Subject:** It is necessary to amend OAR 817-090-0025, 817-090-0035, and 817-090-0045 because the Oregon Health Licensing Agency (Agency) and the Board of Cosmetology (Board) do not have statutory authority to assess civil penalties for violations of ORS chapter 676 or OAR chapter 331 under OAR chapter 817.

It is necessary to amend OAR 817-090-0105 and 817-120-0005 because it is unlawful under the American with Disabilities Act (ADA) for a state to prevent an individual from practicing cosmetology based on that individual's HIV/AIDS (communicable disease) status.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

## 817-090-0025

### Schedule of Penalties for Facility and Independent Contractor Registration Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of facility license and independent contractor registration laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Operating or purporting to operate a facility without a valid facility license is a violation of ORS 690.015(2)(b) or 690.015(2)(e):

- (a) Never licensed:
  - (A) 1st offense: \$500;
  - (B) 2nd offense: \$1000;
  - (C) 3rd offense: \$2500.
- (b) Inactive or expired license:
  - (A) 1st offense: \$200;
  - (B) 2nd offense: \$500;
  - (C) 3rd offense: \$1,000.
- (c) Certificate, Authorization, or Registration Suspended or Revoked:
  - (A) 1st offense: \$2,500;
  - (B) 2nd offense: \$5,000;

(C) 3rd offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(2) Operating or purporting to operate as an independent contractor without independent contractor registration or with a dormant independent contractor registration is a violation of ORS 690.015 (2)(d) or 690.015(2)(e):

- (a) 1st offense: \$200;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(3) Allowing an uncertified employee or uncertified individual under a person's supervision and control to practice in a field of practice is a violation of ORS 690.015(2)(g):

(a) Employee or individual with suspended who has never been certified:

- (A) 1st offense: \$500;
- (B) 2nd offense: \$1,000;
- (C) 3rd offense: \$2,500.

(b) Employee or individual with inactive, suspended, revoked, or expired certification:

- (a) 1st offense: \$200;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(4) Failing to meet the specifications and standards required under OAR 817-010-0007 in a facility is a violation of 817-020-0006 (1)(e) and may result in an emergency suspension of the facility license until the violation is corrected.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Stats. Implemented: ORS 676.992, 690.015, 690.165 & 690.167  
Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 4-2011(Temp), f. & cert. ef. 9-13-11 thru 3-11-12; BOC 1-2012(Temp), f. 3-1-12, cert. ef. 3-12-12 thru 9-1-12

## 817-090-0035

### Schedule of Penalties for Practitioner Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of practitioner licensing laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 apply.

(1) Performing, attempting to perform, or purporting to perform services in a field of practice without proper certification, authorization, registration or permit is a violation of ORS 690.015(2)(a) or 690.015(2)(e).

(a) Certificate, authorization, registration, or permit inactive or expired:

- (A) 1st offense: \$200;
- (B) 2nd offense: \$500;
- (C) 3rd offense: \$1000.
- (b) Certificate, authorization, registration, permit never held:
  - (A) 1st offense: \$1,000;
  - (B) 2nd offense: \$2,500;
  - (C) 3rd offense \$5,000.
- (c) Certificate, authorization, or registration suspended or revoked:

- (A) 1st offense: \$2,500;
- (B) 2nd offense: \$5,000;
- (C) 3rd offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(2) Performing or attempting to perform services in a field of practice in an unlicensed facility is a violation of ORS 690.015(2)(c):

- (a) 1st offense: \$200;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(3) Performing in a field of practice by a student when not on the premises of an educational institution in which he or she is enrolled is a violation of OAR 817-100-0005:

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2,500.

Stat. Auth: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert.



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ef. 7-1-96, Renumbered from 817-090-0020; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 4-2011(Temp), f. & cert. ef. 9-13-11 thru 3-11-12; BOC 1-2012(Temp), f. 3-1-12, cert. ef. 3-12-12 thru 9-1-12

## 817-090-0045

### Schedule of Penalties for Certificate/License/Registration/ Permit Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of certificate/license/registration/permit laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 apply.

(1) Altering with fraudulent intent or fraudulent use of a license, certificate, registration, permit or authorization issued by the agency is a violation of ORS 690.015(2)(j) or 690.015(2)(k):

- (a) 1st offense: \$1,500;
- (b) 2nd offense: \$3,500;
- (c) 3rd offense: \$5,000.

(2) Failing to post a valid license, registration, certificate, permit or authorization issued by the agency in public view is a violation of ORS 690.095 and OAR 817-035-0110:

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

(3) Failing to post the most recent inspection certificate in public view within the facility is a violation of OAR 817-035-0110:

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Stats. Implemented: ORS 676.615, 676.992, 690.015, 690.165 & 690.167  
Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 4-2011(Temp), f. & cert. ef. 9-13-11 thru 3-11-12; BOC 1-2012(Temp), f. 3-1-12, cert. ef. 3-12-12 thru 9-1-12

## 817-090-0105

### Schedule of Penalties for Client Health and Safety Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of 331-020-0060 apply.

(1) Failing to use a neck strip or a towel to prevent contact between the skin of a client's neck and a hair cloth or cape is a violation of OAR 817-010-0040(1):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(2) Failing to use a disposable cover on the head of a client who is trying on a hairpiece or to clean and label used hair goods as "used" prior to resale is a violation of OAR 817-010-0085:

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(3) Failing to wear single-use disposable protective gloves while having open sores or skin lesions during any performance of service on a client is a violation of OAR 817-015-0030(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(4) Performing services without washing one's hands immediately before and after serving each client is a violation of OAR 817-015-0030(1):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(5) Failing to maintain client records for each client receiving esthetics or nail technology services, maintain client records on the premises of the facility or allow an enforcement officer access to review client records upon request is a violation of OAR 817-015-0065 or 817-015-0070:

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(6) Failing to maintain required documentation of an FDA Class I or Class II manual or mechanical device or equipment, or to provide required

documentation upon request is a violation of OAR 817-010-0065(10) or (14):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205  
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 4-2011(Temp), f. & cert. ef. 9-13-11 thru 3-11-12; BOC 1-2012(Temp), f. 3-1-12, cert. ef. 3-12-12 thru 9-1-12

## 817-120-0005

### Practice Standards

(1) Practitioners must be guided by the highest standards of professional conduct.

(2) Practitioners shall act and practice in a manner which safeguards the public's health, safety, and welfare.

(3) All practitioners shall be appropriately clothed while providing services and shall be subject to public decency laws.

Stat. Auth.: ORS 676.605, 676.615 & 690.165  
Stats. Implemented: ORS 676.605, 676.615 & 690.165  
Hist.: BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-120-0010, BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 4-2011(Temp), f. & cert. ef. 9-13-11 thru 3-11-12; BOC 1-2012(Temp), f. 3-1-12, cert. ef. 3-12-12 thru 9-1-12

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

**Rule Caption:** Extend implementation date of risk information packets to July 1, 2012.

**Adm. Order No.:** DEM 1-2012(Temp)

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 4-12-12 thru 9-30-12

**Notice Publication Date:**

**Rules Amended:** 332-025-0120

**Subject:** Amend OAR 338-025-0120 to extend the implementation date for risk information packets to be given to clients by licensed direct entry midwives (LDM). Beginning on July 1, 2012 an LDM must provide risk information regarding out-of-hospital birth, malpresentation birth (breech), multiple gestations (twins), vaginal birth after cesarean (VBAC), and births exceeding 42 weeks gestation (post-dates) to clients, as prescribed by the Oregon Health Licensing Agency (Agency) and published on the Agency Website.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

## 332-025-0120

### Informed Consent and Risk Information Practice Standards

(1) Informed consent means the consent obtained following a thorough and easily understood explanation of the information to the mother or mother's guardian.

(2) The explanation must be both verbal and written.

(3) An LDM must document the verbal explanation and the written informed consent process in the client's record. Informed consent information must include the following:

- (a) Definition of procedure or process;
- (b) Benefits of procedure or process;
- (c) Risk(s) of procedure or process;
- (d) Description of adverse outcomes;
- (e) Risk of adverse outcomes; and
- (f) Alternative procedures or processes and any risk(s) associated with them.

(4) An LDM must obtain mother's dated signature acknowledging she has received, reviewed, and understands the information, and has made an informed choice.

(5) Beginning on July 1, 2012, each LDM must provide risk information as published on the agency's website [www.Oregon.gov/OHLA](http://www.Oregon.gov/OHLA), and obtain informed consent for the following circumstances:

- (a) Out-of-hospital birth;
- (b) Vaginal birth after cesarean (VBAC);
- (c) Breech;

# ADMINISTRATIVE RULES

- (d) Multiple gestations; and
  - (e) Pregnancy exceeding 42 weeks gestation.
- Stat. Auth.: ORS 487.485 & 676.615  
Stats. Implemented: ORS 687.425, 687.480, 687.485, 676.606 & 676.607  
Hist.: DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 2-2011(Temp), f. & cert. ef. 5-19-11 thru 11-15-11; Renumbered from 332-025-0080 by DEM 5-2011, f. & cert. ef. 9-26-11; DEM 6-2011(Temp), f. 10-14-11, cert. ef. 10-15-11 thru 4-11-12; DEM 1-2012(Temp), f. 3-1-12, cert. ef. 4-12-12 thru 9-30-12

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**Rule Caption:** Lower License fees to \$1,200 and provide a \$1,200 discount for first time qualified Midwifery applicants seeking licensure.

**Adm. Order No.:** DEM 2-2012(Temp)

**Filed with Sec. of State:** 3-9-2012

**Certified to be Effective:** 3-9-12 thru 9-5-12

**Notice Publication Date:**

**Rules Amended:** 332-040-0000

**Subject:** The Oregon Health Licensing Agency (OHLA), Board of Direct Entry Midwifery is lowering original license and licensure renewal fees from \$1,800 per year to \$1,200 per year per Legislative direction and ratification through Senate Bill 1579 of the 2012 Legislative Session. The OHLA will give a \$1,200 licensure fee discount for first time fully qualified Direct Entry Midwife licensure applicants residing in Oregon. Applicants must meet all qualifications in accordance with OAR 332-015-0030.

Application Fee: \$150. License Fee: \$1,200. Discount: \$1,200. Cost to first time applicants: \$1,350 - \$1,200 = \$150.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

## 332-040-0000

### Fees

(1) An applicant and licensee are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency pursuant to ORS 676.607 are as follows:

- (a) Application:
- (A) License: \$150.
- (B) License by reciprocity: \$750.
- (b) Examination — Oregon laws & rules: \$50.
- (c) Original issuance of license (including by reciprocity): \$1,200 for one year.
- (d) Renewal — License: \$1,200 for one year;
- (e) Reactivation of license: \$150.
- (f) Other administrative fees:
- (A) Delinquency fee: \$50 for each year in expired status up to three years.
- (B) Replacement of license, including name change: \$25.
- (C) Duplicate license document: \$25 per copy, with a maximum of three.

(D) Affidavit of licensure for reciprocity: \$50.

(E) An additional \$25 administrative processing fee will be assessed if a non-sufficient funds or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

(3) Applicants for original issuance of direct entry midwifery license may be granted a \$1,200 original license fee discount, upon application for licensure. The license fee discount is available to individuals who meet all application requirements for direct entry midwifery licensure under OAR 332-015-0030 and reside in Oregon. Only applicants who have not held a direct entry midwifery license in Oregon qualify for the discount.

Stat. Auth.: ORS 676.607, 676.615 & 687.435

Stats. Implemented: ORS 676.607 & 687.435

Hist.: DEM 4-2011, f. & cert. ef. 9-26-11; DEM 7-2011, f. 12-20-11, cert. ef. 1-1-12; DEM 2-2012(Temp), f. & cert. ef. 3-9-12 thru 9-5-12

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## Oregon Medical Board Chapter 847

**Rule Caption:** Eliminates the \$225 supervising physician application fee and \$52 criminal records check fee.

**Adm. Order No.:** OMB 9-2012(Temp)

**Filed with Sec. of State:** 3-2-2012

**Certified to be Effective:** 3-2-12 thru 8-29-12

**Notice Publication Date:**

**Rules Amended:** 847-005-0005

**Subject:** The temporary rule amendment eliminates the \$225 fee for the supervising physician application and eliminates the \$52 fee for criminal records checks for an applicant or licensee of the Oregon Medical Board.

**Rules Coordinator:** Nicole Krishnaswami—(971) 673-2667

## 847-005-0005

### Fees

- (1) Fees to be effective upon adoption:
  - (a) Doctor of Medicine/Doctor of Osteopathy (MD/DO) Initial License Application — \$375.
  - (b) MD/DO Registration: Active, Military/Public Health, and Teleradiology, Inactive, Locum Tenens, and Telemedicine — \$232/year\*\*.
  - (c) MD/DO Emeritus Registration — \$50/year.
  - (d) Limited License, SPEX/COMVEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate, Special — \$185.
  - (e) Acupuncture Initial License Application — \$245.
  - (f) Acupuncture Registration: Active, Inactive, and Locum Tenens — \$148/year\*\*.
  - (g) Acupuncture Limited License, Special, Visiting Professor, Postgraduate — \$75.
  - (h) Physician Assistant Initial License Application — \$245.
  - (i) Physician Assistant Registration: Active, Inactive, and Locum Tenens — \$175/year\*\*.
  - (j) Physician Assistant Limited License, Special, Postgraduate — \$75.
  - (k) Podiatrist Initial Application — \$340.
  - (l) Podiatrist Registration: Active, Inactive, and Locum Tenens — \$222/year\*\*.
  - (m) Podiatrist Emeritus Registration — \$50/year.
  - (n) Podiatrist Limited License, Special, Postgraduate — \$185.
  - (o) Workforce Data Fee — \$5/license period.
  - (p) Miscellaneous: All Fines and Late Fees:
    - (A) MD/DO Registration Renewal Late Fee — \$159.
    - (B) Acupuncture Registration Renewal Late Fee — \$80.
    - (C) Physician Assistant Registration Renewal Late Fee — \$80.
    - (D) Podiatrist Registration Renewal Late Fee — \$159.
  - (q) Electronic Prescription Monitoring Program — \$25/year per license\*\*\*.
  - (r) Dispensing MD/DO/DPM Failure to Register — \$159.
  - (s) Oral Specialty or Competency Examination (\$1,000 deposit required) — Actual costs.
  - (t) Affidavit Processing Fee for Reactivation — \$50.
  - (u) Licensee Information Requests:
    - (A) Verification of Licensure — Individual Requests (1-4 Licenses) — \$10 per license.
    - (B) Verification of Licensure — Multiple (5 or more) — \$7.50 per license.
    - (C) Verification of MD/DO License Renewal — \$150 Biennially.
    - (D) Malpractice Report — Individual Requests — \$10 per license.
    - (E) Malpractice Report — Multiple (monthly report) — \$15 per report.
    - (F) Disciplinary — Individual Requests — \$10 per license.
    - (G) Disciplinary Report - Multiple (quarterly report) — \$15 per report.
  - (v) Base Service Charge for Copying — \$5 + .20/page.
  - (w) Record Search Fee (+ copy charges see section (v) of this rule):
    - (A) Clerical — \$20 per hour\*.
    - (B) Administrative — \$40 per hour\*.
    - (C) Executive — \$50 per hour\*.
    - (D) Medical — \$75 per hour\*.
  - (x) Data Order:
    - (A) Standard Data License Order — \$150 each.
    - (B) Custom Data License Order — \$150.00 + \$40.00 per hour Administrative time.
    - (C) Address Label Disk — \$100 each.
    - (D) Active and Locum Tenens MD/DO list — \$75 each.
    - (E) DPM, PA, or AC list — \$10 each.
    - (F) Quarterly new MD/DO, DPM, PA, or AC list — \$10 each.

(2) All Board fees and fines are non-refundable, and non-transferable.

\*Plus photocopying charge above, if applicable.

\*\*Collected biennially except where noted in the Administrative Rules. All active MD/DO registration fees include \$10.00 for the Oregon Health and Science University Library, and are collected biennially.

\*\*\*Per SB 355 (2009), physician, podiatric physician and physician assistant licensees authorized to prescribe or dispense controlled substances in Oregon assessed \$25/year; funds transferred to the Department of Human Services, minus administrative costs, to support the Electronic Prescription Monitoring Program.

# ADMINISTRATIVE RULES

Licenses with Active, Locum Tenens, Telemonitoring, Teleradiology, and Telemedicine status are included. Licensees with a limited license are not included.  
Stat. Auth.: ORS 677.265  
Stats. Implemented: ORS 677.265  
Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & cert. ef. 8-5-88; ME 14-1988, f. & cert. ef. 10-20-88; ME 1-1989, f. & cert. ef. 1-25-89; ME 5-1989 (Temp), f. & cert. ef. 2-16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. & cert. ef. 8-3-99; BME 14-1999, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03; BME 16-2003, f. & cert. ef. 10-23-03; BME 17-2004, f. & cert. ef. 9-9-04; BME 6-2005, f. & cert. ef. 7-20-05; BME 15-2006, f. & cert. ef. 7-25-06; BME 1-2007, f. & cert. ef. 1-24-07; BME 1-2008, f. & cert. ef. 1-22-08; BME 15-2008, f. & cert. ef. 7-21-08; BME 1-2009, f. & cert. ef. 1-22-09; BME 15-2009(Temp), f. & cert. ef. 9-11-09 thru 3-8-10; BME 1-2010, f. & cert. ef. 1-26-10; OMB 10-2011(Temp), f. & cert. ef. 7-13-11 thru 1-4-12; OMB 18-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; OMB 22-2011, f. & cert. ef. 10-18-11; OMB 33-2011(Temp), f. 12-28-11, cert. ef. 1-1-12 thru 6-29-12; OMB 3-2012, f. & cert. ef. 2-10-12; OMB 9-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12

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**Rule Caption:** Eliminates the \$52 fee for criminal records checks on an applicant or licensee.

**Adm. Order No.:** OMB 10-2012(Temp)

**Filed with Sec. of State:** 3-2-2012

**Certified to be Effective:** 3-2-12 thru 8-29-12

**Notice Publication Date:**

**Rules Amended:** 847-020-0155

**Subject:** Temporary rule amendment eliminates the \$52 fee for criminal records checks on an applicant or licensee of the Oregon Medical Board.

**Rules Coordinator:** Nicole Krishnaswami—(971) 673-2667

## 847-020-0155

### State and Nationwide Criminal Records Checks, Fitness Determinations

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or renewed a license that is issued by the Board.

(2) These rules are to be applied when evaluating the criminal history of an applicant or licensee and conducting fitness determinations based upon such history. The fact that an applicant or licensee has cleared the criminal history check does not guarantee the granting or renewal of a license.

(3) The Board may require fingerprints of all applicants for a medical (MD/DO), podiatric (DPM), physician assistant (PA), and acupuncturist (LAc) license, licensees reactivating their license, licensees renewing their license and licensees under investigation to determine the fitness of an applicant or licensee. These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a Criminal History Check and a National Criminal History Check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police.

(4) The Board shall determine whether an applicant or licensee is fit to be granted a license based on the criminal records background check, any false statements made by the applicant or licensee regarding the criminal history of the individual, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If an applicant is determined to be unfit, the applicant may not be granted a license. If the licensee is determined to be unfit, the licensee's license may not be reactivated or renewed. The Board may make a fitness determination conditional upon applicant's or licensee's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(5) Except as otherwise provided in section (2), in making the fitness determination the Board shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the applicant or licensee at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(6) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.

(7) In order to conduct the Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(8) Criminal offender information is confidential. Dissemination of information received under HB 2157 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

(9) The Board will permit the individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(10) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests and court records that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.414-183.470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

(12) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, the application is considered incomplete.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265(9) & 181.534

Hist. BME 20-2006(Temp), f. & cert. ef. 9-14-06 thru 3-12-07; BME 4-2007, f. & cert. ef. 1-24-07; BME 4-2008, f. & cert. ef. 1-22-08; OMB 20-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; OMB 5-2012, f. & cert. ef. 2-10-12; OMB 10-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12

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**Rule Caption:** Eliminates the fee for supervising physician applications.

**Adm. Order No.:** OMB 11-2012(Temp)

**Filed with Sec. of State:** 3-2-2012

**Certified to be Effective:** 3-2-12 thru 8-29-12

**Notice Publication Date:**

**Rules Amended:** 847-050-0027

**Subject:** Temporary amendment eliminates the fee for supervising physician applications.

**Rules Coordinator:** Nicole Krishnaswami—(971) 673-2667

## 847-050-0027

### Approval of Supervising Physician

(1) Prior to using the services of a physician assistant under a practice agreement, a supervising physician or primary supervising physician of a supervising physician organization must be approved as a supervising physician by the Board.

(2) The primary supervising physician of a supervising physician organization must apply as a supervising physician with the Board and must attest that each supervising physician in the supervising physician



# ADMINISTRATIVE RULES

organization has reviewed statutes and rules relating to the practice of physician assistants and the role of a supervising physician.

(3) Physicians applying to be a supervising physician or the primary supervising physician of a supervising physician organization must:

- (a) Submit a supervising physician application; and
- (b) Take an online course and pass an open-book exam on the supervising physician requirements and responsibilities given by the Board. A passing score on the exam is 75%. If the supervising physician applicant fails the exam three times, the physician's application will be reviewed by the Board. A supervising physician applicant who has failed the exam three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the exam, before being given a fourth and final attempt to pass the examination. If the applicant does not pass the exam on the fourth attempt, the physician's application may be denied.

(4) The physician may be subject to Board investigation prior to approval or may be limited or denied approval as a supervising physician for the following:

- (a) There are restrictions upon or actions against the physician's license;
- (b) Fraud or misrepresentation in applying to use the services of a physician assistant.
- (5) The Board may defer taking action upon a request for approval as a supervising physician pending the outcome of the investigation of the physician for violations of ORS 677.010-677.990.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510

Hist.: ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 5-1984, f. & ef. 1-20-84; ME 8-1985, f. & ef. 8-5-85; ME 5-1986, f. & ef. 4-23-86; ME 21-1989, f. & cert. ef. 10-20-89; ME 2-1990, f. & cert. ef. 1-29-90; ME 5-1994, f. & cert. ef. 1-24-94; ME 9-1995, f. & cert. ef. 7-28-95; BME 13-2003, f. & cert. ef. 7-15-03; OMB 2-2011, f. & cert. ef. 2-11-11; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 11-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12

## Oregon State Marine Board Chapter 250

**Rule Caption:** Rule amendment provides definition terminology consistency.

**Adm. Order No.:** OSMB 3-2012

**Filed with Sec. of State:** 3-14-2012

**Certified to be Effective:** 3-14-12

**Notice Publication Date:** 12-1-2011

**Rules Amended:** 250-010-0650

**Subject:** This rule amendment provides consistency in definition terminology as requested by the Legislative Counsel.

**Rules Coordinator:** June LeTarte—(503) 378-2617

### 250-010-0650

#### Aquatic Invasive Species Prevention Permit

(1) Definitions:

(a) "Manually powered boat" means any watercraft as defined in ORS 830.005(2), but not a motorboat as defined in 830.005(6).

(b) "Aquatic Invasive Species Prevention Permit" is an authorization issued by the Oregon State Marine Board (Board) or through designated agents that certifies payment to the Aquatic Invasive Species Prevention Fund.

(c) "Board" means the Oregon State Marine Board.

(d) "Valid temporary permit" means a temporary aquatic invasive species prevention permit generated from a person purchasing a permit from a designated Internet agent.

(e) "Eleemosynary" means an organization supported by gifts or charity which is operated primarily as a part of organized activities for the purpose of teaching youth's scout craft, camping, seamanship, self-reliance, patriotism, courage and kindred virtues.

(2) Permit Rules:

(a) A person may not operate a manually powered boat that is 10 feet or more in length, or a motorboat of any length, or a sailboat 12 feet or more in length, on the waters of this state without first obtaining an aquatic invasive species prevention permit from the Board or designated agent.

(b) The aquatic invasive species prevention permit for manually powered boats may be issued as either an annual or biennial permit to be carried or otherwise displayed on the boat. The biennial permit is valid for two calendar years and will cost double the annual permit as described in ORS 830.570 and 830.575.

(c) The owner of a boat for which fees for a certificate of number or registration under ORS 830.790(1)(a)(b)(c) are required will pay an aquatic invasive species prevention permit surcharge of \$5 per biennium at the time of boat registration.

(A) The registration validation stickers are in lieu of an Aquatic Invasive Species Prevention Permit.

(B) The validation stickers are non-transferable.

(d) Persons age 14 and older operating manually powered boats that are 10 feet or more in length shall have a valid aquatic invasive species prevention permit or valid temporary permit on board when the boat is in use on the waters of this state.

(e) Out-of-state motorboats and out-of-state sailboats 12 feet in length or more that are of the same boat category that would be required to be registered in Oregon per ORS 830.790, shall carry a non-resident aquatic invasive species prevention permit on board when in use on waters of the state.

(f) Boats required to carry permits must present their permit for inspection upon request by a law enforcement officer.

(A) Motor boats and sailboats 12 feet in length or more, registered in Washington or Idaho, that launch directly into waters that form a common interstate boundary, or launch in Oregon tributaries within one mile of these waters, that have a current boat registration, Coast Guard documentation, or an aquatic invasive species prevention permit issued by the States of Idaho or Washington, are exempt from the non-resident Oregon aquatic invasive species prevention permit.

(B) Manually powered boats from Idaho that are 10 feet or longer and affixed with an Idaho Aquatic Invasive Species Prevention sticker, and all manually powered boats from Washington, are exempt from Oregon aquatic invasive species permit carriage requirements when launching into waters that form a common interstate boundary, or when launching into Oregon tributaries within one mile of these waters.

(g) Manually powered boats and out-of-state motor boat permits are transferrable only within their respective boat categories. The name on the permit does not need to match the name of the person operating the boat. Persons may purchase multiple permits for use by family and friends.

(h) Operators of manually powered boat liveries, and guides using manually powered watercraft for group-guided activities, may qualify to purchase aquatic invasive species prevention permits at a discounted rate described in ORS 830.575. To qualify for the discounted rate:

(A) These operators shall register with the Board by documenting current business status as a livery.

(B) All boats rented by the livery must be clearly labeled with the livery name.

(i) Clubs or organizations that possess or own boats for communal use by members, participants, racing teams, or for public educational purposes except as exempted under this rule, may purchase aquatic invasive species prevention permits under the name of the organization or the club's presiding officer or secretary.

(A) For racing shells, dragon boats or resident boats exempt from registration under OAR 250-010-0150(2), aquatic invasive species prevention permits numbering not less than the maximum number of boats in use on the water at any given time during a planned event may be held by the event organizer, coach or other designated person at the event site as long as the permits are readily available for inspection by a peace officer.

(B) A \$5 annual or \$10 biennial aquatic invasive species permit may be held as described in (2)(i)(A) for events involving motorized race boats which are owned by Oregon residents but that are otherwise exempt from registration under OAR 250-010-0150(2).

(j) The Board or designated agent may issue a temporary aquatic invasive species prevention permit to an individual who pays for the permit using a Board designated Internet agent.

(A) The temporary aquatic invasive species prevention permit will be valid for 14 days from the date of issue listed on the temporary permit.

(B) Each temporary permit shall contain a unique number that corresponds to the electronic record for the individual named on the permit and to the annual permit.

(k) A person is considered in violation of the provisions contained this rule and subject to the penalties prescribed by law when they:

(A) Alter an aquatic invasive species prevention permit; or

(B) Produce or possess an unauthorized replica of an aquatic invasive species prevention permit; or

(C) Exhibit an altered aquatic invasive species prevention permit to a peace officer.

(l) The aquatic invasive species prevention permit expires on December 31 of the year indicated on the permit.

# ADMINISTRATIVE RULES

(m) The following vessels or classifications are exempt from the requirement to carry an aquatic invasive species prevention permit:

- (A) State-owned boats
- (B) County-owned boats
- (C) Municipality-owned boats
- (D) Eleemosynary-owned boats which a supervising adult can confirm through documentation are engaged in an organization-related activity.

(E) A ship's lifeboat used solely for lifesaving purposes.

- (F) Seaplanes
- (G) Federal government-owned boats
- (H) Surfboards, sailboards and kite boards.

Stat. Auth.: ORS 830 & HB 2220

Stats. Implemented: ORS 830.110

Hist.: OSMB 4-2009, f. 10-30-09, cert. ef. 1-1-10; OSMB 1-2010(Temp), f. & cert. ef. 1-5-10 thru 6-30-10; OSMB 6-2010(Temp), f. & cert. ef. 1-15-10 thru 6-30-10; OSMB 7-2010, f. & cert. ef. 5-6-10; OSMB 3-2011, f. 1-14-11, cert. ef. 2-1-11; OSMB 12-2011(Temp), f. & cert. ef. 8-18-11 thru 1-31-12; OSMB 2-2012, f. 1-13-12, cert. ef. 2-1-12; OSMB 3-2012, f. & cert. ef. 3-14-12

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

**Rule Caption:** Amends rule to eliminate the prohibition against possession or use of firearms on University property.

**Adm. Order No.:** PSU 1-2012(Temp)

**Filed with Sec. of State:** 3-12-2012

**Certified to be Effective:** 3-12-12 thru 9-7-12

**Notice Publication Date:**

**Rules Amended:** 577-031-0135

**Subject:** The proposed amendment to Portland State University's Student Conduct Code is needed in response to the Oregon Court of Appeals decision in Oregon Firearm Education Foundation v. Oregon State Board of Higher Education and to align the University's rules and policies with the State Board of Higher Education's rules and policies regarding firearms on campus.

A copy of the text of the rule with the proposed amendments is attached.

**Rules Coordinator:** Diane Kirk—(503) 725-2656

**577-031-0135**

**Proscribed Conduct by the State Board of Higher Education**

The following constitutes conduct as proscribed by the State Board of Higher Education for which a student or Recognized Student Organization or group is subject to disciplinary action:

(1) Obstruction or disruption of teaching, research, administration, disciplinary procedures or other University activities, including the University's public service functions or other authorized activities on University-owned or -controlled property.

(2) Obstruction or disruption interfering with freedom of movement, either pedestrian or vehicular, on University-owned or -controlled property.

(3) Possession or use of explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on University-owned or -controlled property, unless authorized by law, Board or PSU rules or policies.

(4) Detention or physical abuse of any person or conduct which is intended to threaten imminent bodily harm or endanger the health of any person on University-owned or -controlled property.

(5) Malicious damage, misuse or theft of University property, or the property of any other person where such property is located on University-owned or controlled property, or, regardless of location, is in the care, custody or control of the University.

(6) Refusal by any person while on University property to comply with an order of the President of the University, or appropriate authorized official or officials, to leave such premises because of conduct proscribed by the Code, when such conduct constitutes a danger to personal safety, property, or other appropriate University activities on such premises.

(7) Unauthorized entry to or use of University facilities, including buildings and grounds.

(8) Illegal use, possession or distribution of drugs on University-owned or -controlled property.

(9) Inciting others to engage in any of the conduct or to perform any of the acts prohibited in this Code. Inciting means that advocacy of proscribed conduct that calls upon the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent

danger to the functions and purposes of the University, including the safety of persons, and the protection of its property.

(10) Violating the State Board of Higher Education's Policy for Intercollegiate Athletics as described in Section 8 of its Internal Management Directives, specifically including the subsection entitled Code of Ethics.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 3-1994, f. & cert. ef. 10-26-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09; PSU 1-2012(Temp), f. & cert. ef. 3-12-12 thru 9-7-12

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**Public Utility Commission  
Chapter 860**

**Rule Caption:** In the Matter of Corrections to OAR 860-039-0005.

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

**Filed with Sec. of State:** 2-22-2012

**Certified to be Effective:** 2-22-12

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

**Rules Amended:** 860-039-0005

**Subject:** The Commission adopted changes to the definitions found in OAR 860-039-0005 by Order No. 11-338 (Docket AR 548). The rule changes adopted in AR 548 were filed with the Secretary of State and became effective on September 7, 2011. On September 8, 2011, the Commission adopted general waiver provisions to nearly all divisions of its rules by Order No. 11-346 (Docket AR 554). When the proposed rules for AR 554 were drafted, the changes to OAR 860-039-0005 had not yet been adopted and were not reflected in the proposed rules. When the Commission adopted the AR 554 changes, due to a scrivener error, it failed to capture in the adopted rule language the definition changes adopted on the previous day. This rulemaking reinstates the changes to the definitions that were previously adopted by the Commission but inadvertently removed by the subsequent adoption of changes in AR 554.

**Rules Coordinator:** Diane Davis—(503) 378-4372

**860-039-0005**

**Scope and Applicability of Net Metering Facility Rules**

(1) OAR 860-039-0010 through 860-039-0080 (the "net met(1) OAR 860-039-0010 through 860-039-0080 (the "net metering rules") establish rules governing net metering facilities interconnecting to a public utility as required under ORS 757.300. Net metering is available to a customer-generator only as provided in these rules. These rules do not apply to a public utility that meets the requirements of ORS 757.300(9).

(2) Upon request or its own motion, the Commission may waive any of the Division 039 rule for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

(a) A public utility and net metering applicant may mutually agree to reasonable extensions to the required times for notices and submissions of information set forth in these rules for the purpose of allowing efficient and complete review of a net metering application.

(b) If a public utility unilaterally seeks waiver of the timelines set forth in these rules, the Commission must consider the number of pending applications for interconnection review and the type of applications, including review level and facility size.

(3) As used in OAR 860-039-0010 through 860-039-0080:

(a) "ANSI C12.1 standards" means the standards prescribed by the 2001 edition of the American National Standards Institute, Committee C12.1 (ANSI C12.1), entitled "American National Standard for Electric Meters - Code for Electricity Metering," approved by the C12.1 Accredited Standard Committee on July 9, 2001.

(b) "Applicant" means a person who has filed an application to interconnect a net metering facility to an electric distribution system.

(c) "Area network" means a type of electric distribution system served by multiple transformers interconnected in an electrical network circuit in order to provide high reliability of service. This term has the same meaning as the term "secondary grid network" as defined in IEEE standard 1547 Section 4.1.4 (published July 2003).

(d) "Contiguous" means a single area of land that is considered to be contiguous even if there is an intervening public or railroad right of way, provided that rights of way land on which municipal infrastructure facilities exist (such as street lighting, sewerage transmission, and roadway controls) are not considered contiguous.

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(e) "Customer-generator" means the person who is the user of a net metering facility and who has applied for and been accepted to receive electricity service at a premises from the serving public utility.

(f) "Electric distribution system" means that portion of an electric system which delivers electricity from transformation points on the transmission system to points of connection at a customer's premises.

(g) "Equipment package" means a group of components connecting an electric generator with an electric distribution system, and includes all interface equipment including switchgear, inverters, or other interface devices. An equipment package may include an integrated generator or electric production source.

(h) "Fault current" means electrical current that flows through a circuit and is produced by an electrical fault, such as to ground, double-phase to ground, three-phase to ground, phase-to-phase, and three-phase.

(i) "Generation capacity" means the nameplate capacity of the power generating device(s). Generation capacity does not include the effects caused by inefficiencies of power conversion or plant parasitic loads.

(j) "Good utility practice" means a practice, method, policy, or action engaged in or accepted by a significant portion of the electric industry in a region, which a reasonable utility official would expect, in light of the facts reasonably discernable at the time, to accomplish the desired result reliably, safely and expeditiously.

(k) "IEEE standards" means the standards published in the 2003 edition of the Institute of Electrical and Electronics Engineers (IEEE) Standard 1547, entitled "Interconnecting Distributed Resources with Electric Power Systems," approved by the IEEE SA Standards Board on June 12, 2003, and in the 2005 edition of the IEEE Standard 1547.1, entitled "IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems," approved by the IEEE SA Standards Board on June 9, 2005.

(L) "Impact study" means an engineering analysis of the probable impact of a net metering facility on the safety and reliability of the public utility's electric distribution system.

(m) "Interconnection agreement" means an agreement between a customer-generator and a public utility, which governs the connection of the net metering facility to the electric distribution system, as well as the ongoing operation of the net metering facility after it is connected to the system. An interconnection agreement will follow the standard form agreement developed by the public utility and filed with the Commission.

(n) "Interconnection facilities study" means a study conducted by a utility for the customer-generator that determines the additional or upgraded distribution system facilities, the cost of those facilities, and the time schedule required to interconnect the net metering facility to the utility's distribution system.

(o) "Net metering facility" means a net metering facility as defined in ORS 757.300(1)(d).

(p) "Non-residential customer" means a retail electricity consumer that is not a residential customer, except "non-residential customer" does not include a customer who would be a residential customer but for the residency provisions of subsection (r) of this rule.

(q) "Point of common coupling" means the point beyond the customer-generator's meter where the customer-generator facility connects with the electric distribution system.

(r) "Public utility" has the meaning set forth in ORS 757.005 and is limited to a public utility that provides electric service.

(s) "Residential customer" means a retail electricity consumer that resides at a dwelling primarily used for residential purposes. "Residential customer" does not include retail electricity customers in a dwelling typically used for residency periods of less than 30 days, including hotels, motels, camps, lodges, and clubs. "Dwelling" includes, but is not limited to, single-family dwellings, separately-metered apartments, adult foster homes, manufactured dwellings, and floating homes.

(t) "Spot network" means a type of electric distribution system that uses two or more inter-tied transformers protected by network protectors to supply an electrical network circuit. A spot network may be used to supply power to a single customer or a small group of customers.

(u) "Written notice" means a required notice sent by the utility via electronic mail if the customer-generator has provided an electronic mail address. If the customer-generator has not provided an electronic mail address, or has requested in writing to be notified by United States mail, or if the utility elects to provide notice by United States mail, then written notices from the utility shall be sent via First Class United States mail. The utility shall be deemed to have fulfilled its duty to respond under these rules on the day it sends the customer-generator notice via electronic mail or deposits such notice in First Class mail. The customer-generator shall be

responsible for informing the utility of any changes to its notification address.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.300

Hist.: PUC 8-2007, f. & cert. ef. 7-27-07; PUC 5-2011, f. & cert. ef. 9-7-11; PUC 6-2011, f. & cert. ef. 9-14-11; PUC 1-2012, f. & cert. ef. 2-22-12

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**Rule Caption:** In the Matter of Adopting the 2012 Edition of the National Electrical Safety Code.

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

**Filed with Sec. of State:** 3-9-2012

**Certified to be Effective:** 3-9-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 860-024-0010

**Subject:** This rulemaking adopted the 2012 edition of the National Electrical Safety Code (NESC) to stay current with national standards and practices used in the construction, operation, and maintenance of electric supply lines and communication lines.

**Rules Coordinator:** Diane Davis—(503) 378-4372

**860-024-0010**

**Construction, Operation, and Maintenance of Electrical Supply and Communication Lines**

Every operator shall construct, operate, and maintain electrical supply and communication lines in compliance with the standards prescribed by the 2012 Edition of the National Electrical Safety Code approved June 3, 2011, by the American National Standards Institute.

[Publications: Publications referenced are available for review from the Commission.]

Stat. Auth.: ORS 183, 756, 757 & 759

Stats. Implemented: ORS 757.035

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 173, f. & ef. 1-14-76 (Order No. 76-037); PUC 1-1978, f. 1-13-78, ef. 2-13-78 (Order No. 78-076); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 6-1990, f. & cert. ef. 5-25-90 (Order No. 90-833); PUC 11-1993, f. & cert. ef. 6-23-93 (Order No. 93-809); PUC 13-1994, f. & cert. ef. 8-31-94 (Order No. 94-1243); PUC 7-1997, f. & cert. ef. 2-6-97; PUC 9-2002, f. & cert. ef. 2-26-02; PUC 6-2007, f. & cert. ef. 5-14-07; PUC 5-2008, f. & cert. ef. 12-29-08; PUC 2-2012, f. & cert. ef. 3-9-12

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**Rule Caption:** In the Matter of Revisions to OAR 860-038-0480 to Implement House Bill 2960 (Cool Schools).

**Adm. Order No.:** PUC 3-2012

**Filed with Sec. of State:** 3-15-2012

**Certified to be Effective:** 3-15-12

**Notice Publication Date:** 12-1-2011

**Rules Amended:** 860-038-0480

**Rules Repealed:** 860-038-0480(T)

**Subject:** This rulemaking adopts permanent amendments to OAR 860-038-0480 to implement 2011 legislative changes to the distribution of public purpose funds collected by electric utilities under ORS 757.612. The temporary amendments effective September 30, 2011, are repealed. The permanent amendments implement the legislative changes requiring distribution of the funds to school districts rather than education service districts and include an annual reporting requirement for the Oregon Department of Energy to show the amount of public purpose funds received for administrative activities in support of the school districts under ORS 757.612.

**Rules Coordinator:** Diane Davis—(503) 378-4372

**860-038-0480**

**Public Purposes**

(1) Each electric company that offers direct access to its retail electricity consumers and each electricity service supplier that provides electricity services to direct access consumers in the electric company's service territory will collect a public purpose charge from its retail electricity consumers until January 1, 2026.

(2) Except as provided in section (6) of this rule, electric companies and electricity service suppliers will bill and collect from each of their retail electricity consumers a public purpose charge equal to 3 percent of the total revenues billed to those consumers for electricity services, distribution, ancillary services, metering and billing, transition charges, and other types of costs that were included in electric rates on July 23, 1999.

(3) The electricity service suppliers will remit monthly to each electric company the public purpose charges they collect from the customers of each electric company.



## ADMINISTRATIVE RULES

(4) The electricity service suppliers will remit monthly the public purpose charges collected from direct service industrial consumers they serve to the electric company in whose service territory the direct service industrial site is located.

(5) The electric company whose territory abuts the greatest percentage of the site of an aluminum plant that averages more than 100 average megawatts of electricity use per year will collect monthly from the aluminum company a public purpose charge. The aluminum company will remit to the appropriate electric company a public purpose charge equal to 1 percent of the total revenue from the sale of electricity services to the aluminum plant from any source. Annually, the aluminum company will submit to the electric company an affidavit from a certified public accountant verifying that the costs for electricity services at the site of the aluminum plant and the remittance of the public purpose charges are accurate for the previous calendar year.

(6) A retail electricity consumer, including an aluminum plant as described in section (5) of this rule, may receive credits against its public purpose charges for qualifying expenditures incurred for new energy conservation and the above-market costs of new renewable energy resources at any site if the following qualifications for becoming a self-directing consumer are met:

(a) The consumer has used more than one average megawatt of electricity at any such site in the prior calendar year; and

(b) The consumer has received final certification from the Oregon Department of Energy for expenditures for new energy conservation and/or new renewable energy resources.

(7) Self-directing consumers may not claim a public purpose credit for energy conservation measures that were started prior to July 23, 1999. For energy conservation measures that were started on or after July 23, 1999, but prior to the implementation of direct access, a self-directing consumer may claim a public purpose credit if either of the following conditions is met:

(a) The energy conservation measure did not receive funding from an electric company conservation program and was certified by the Oregon Department of Energy after July 23, 1999; or

(b) The energy conservation measure did receive funding from an electric company conservation program and was certified by the Oregon Department of Energy after July 23, 1999, but the self-directing consumer repaid the amount of such funding (cost of audit and incentives plus interest) no later than 90 days following the implementation of direct access; provided that, a self-directing consumer shall not be required to repay the amount of any energy conservation audit related to a conservation measure if the audit was completed prior to January 1, 2000. The cost of an audit that identifies multiple energy conservation measures shall be prorated among such measures.

(c) For purposes of this subsection, "started" means that a contract has been executed to install or implement an energy conservation measure.

(8) The Oregon Department of Energy will establish specific rules and procedures that are consistent with these rules for qualifying a self-directing consumer's expenditures.

(9) The electric company will apply the self-direction credit, determined by the Oregon Department of Energy, toward the consumer's public purpose obligation.

(10) Each electric company will establish five separate accounts for the public purpose charges to be funded from its collections of public purpose charges as follows:

(a) Energy conservation in schools;

(b) New cost-effective local energy conservation and new market transformation;

(c) Above-market costs of new renewable energy resources;

(d) New low-income weatherization; and

(e) Construction and rehabilitation of low-income housing.

(11) Each electric company will allocate the public purpose funds it collects (billed less uncollectible amounts) from electricity service suppliers and consumers to the five public purpose accounts as follows:

(a) Energy conservation in schools — 10.0 percent;

(b) Local and market transformation conservation — 56.7 percent;

(c) Above market costs of new renewable energy resources — 17.1 percent;

(d) Low-income weatherization — 11.7 percent; and

(e) Low-income housing — 4.5 percent.

(12) Each electric company will adjust the local and market transformation conservation and above market costs of new renewable energy resources accounts specified in subsections 11(b) and (c) of this rule for the

credits returned to self-directing customers for conservation or renewable resource expenditures certified by the Oregon Department of Energy.

(13) Each electric company will distribute funds from the public purpose accounts at least monthly as follows:

(a) The funds for conservation in schools to the school districts located in its service territory;

(b) The funds for local and market transformation conservation as directed by the Commission;

(c) The funds for renewable energy resources as directed by the Commission;

(d) The funds for low-income weatherization to the Housing and Community Services Department; and

(e) The funds for low-income housing to the Housing and Community Services Department Revolving Account.

(14) Should the Oregon Department of Energy request reimbursement for costs of administering public purpose funds in accordance with its responsibilities under ORS 757.612(3)(e), the electric companies must, within 30 days, provide reimbursement as provided in ORS 757.612(3)(c). The Oregon Department of Energy's reimbursement request must be limited to activities related to implementing public purpose programs and be consistent with its legislatively approved budget limitation allotted to administer the schools program. On March 1 of each year, the Oregon Department of Energy must provide to the Commission an accounting of the reimbursements received the preceding calendar year for administrative activities performed under ORS 757.612(3)(e).

(15) Each electric company will coordinate with the Oregon Department of Energy to determine, by January 1 of each year, the allocation of public purpose funds for schools to the school districts according to the following methodology:

(a) From the Department of Education, collect current total weighted average daily membership (ADMw) as defined in ORS 327.013 and average daily membership (ADM) for each school district that contains schools served by the electric company;

(b) For each of the school districts, compute the ratio of ADM in schools served by the electric company to total ADM;

(c) For each school district, multiply its total ADMw by the ratio of ADM in schools served by the electric company to total ADM. The result is an estimate of ADMw in schools served by the electric company;

(d) Add the estimates of ADMw for each school district; and

(e) Compute the percentage of the total ADMw represented by each school district. These are the percentages that will be used to allocate the public purpose funds for schools to school districts for the 12-month period beginning on January 1 of each year.

(16) The electric company may be reimbursed for the reasonable administrative costs it incurs to collect and distribute the public purpose funds. Those administrative costs will be deducted from the total amount of public purpose funds collected by the electric company before the funds are allocated to the five public purpose accounts. The electric company will also pay from the total public purpose funds collected or from a specific fund any other administrative costs the Commission directs to be paid for implementation of the public purpose requirements. The entities responsible for administering the public purpose funds will pay for their costs of implementing the public purpose requirements from the public purpose funds they receive from the electric company.

(17) The electric companies and the administrators of the public purpose funds will collect sufficient information so that biennial reports can be made to the Legislature on what has been accomplished with the public purpose funds and how those funds have benefited the consumers of each electric company. Specifically, information must be collected so that the reporting requirements of ORS 757.617 can be fulfilled.

(a) Each electric company must report the total funds collected by source (that is, electric company customers, electricity service suppliers and self-directing consumers) for public purposes, the amounts distributed to the administrators of each public purpose fund, and its administrative costs;

(b) Each administrator of public purpose funds must report, at a minimum:

(A) The amount of funds received;

(B) The amount of funds spent;

(C) Its administrative costs; and

(D) Its results, for example, measures installed, projects funded, energy saved, homes weatherized, and low-income homes built/rehabilitated.

Stat. Authority: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 1-2001, f. & cert. ef. 1-5-01; PUC 2-2001, f. & cert. ef. 1-5-01; PUC 11-2002, f. & cert. ef. 3-8-02; PUC 13-2004, f. & cert. ef. 8-31-04; PUC 7-2007, f. & cert. ef. 5-15-07;

# ADMINISTRATIVE RULES

PUC 13-2007, f. & cert. ef. 12-31-07; PUC 3-2011, f. & cert. ef. 6-17-11; PUC 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; PUC 3-2012, f. & cert. ef. 3-15-12

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

**Rule Caption:** Adjusts the dollar limit on joint and several liability of professional corporations due to inflation.

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

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 160-010-0400

**Subject:** As directed by ORS 58.187, this rule adjusts the dollar limit on joint and several liability of professional corporations due to inflation.

**Rules Coordinator:** Ginger Spotts—(503) 986-2333

## 160-010-0400

### Professional Corporation Limit on Joint and Several Liability

(1) The Secretary of State, assisted by the Office of Economic Analysis, Department of Administrative Services, has calculated the inflation factor affecting joint and several liability caps of Professional Corporations to be 1.553656, following the formula prescribed in ORS 58.187.

(2) Therefore, joint and several liability claims under ORS 58.185(5) & (8) made against a single shareholder shall not exceed \$450,000.

(3) The total joint and several liability for a single claim made against one or more licensed Oregon shareholders under ORS 58.185 (5) and (8) shall not exceed \$3,100,000.

(4) As required by ORS 58.187(1), the Corporation Division hereby adopts said figures.

Stat. Auth.: ORS 58.187

Stats. Implemented: ORS 58.187

Hist.: CORP 1-2000, f. & cert. ef. 2-1-00; CORP 1-2006, f. & cert. ef. 2-1-06; CORP 1-2012, f. & cert. ef. 3-1-12

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**Rule Caption:** ABN amendment signature requirement, waiver of reinstatement limit for entities, and jurisdiction for conversions.

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

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12

**Notice Publication Date:** 2-1-2012

**Rules Adopted:** 160-010-0030, 160-010-0450

**Rules Amended:** 160-010-0310

**Subject:** These rules update the signature requirement for filing the assumed business name amendment. These rules allow for a waiver of the 5 year limit for reinstatement on corporations, limited liability companies, and business trusts. In addition, these rules require jurisdiction to be included in the articles of conversion when a domestic entity converts to a foreign business entity.

**Rules Coordinator:** Ginger Spotts—(503) 986-2333

## 160-010-0030

### Assumed Business Name Amendment

In addition to the signatures required by 648.125(2), an assumed business name amendment that adds a registrant or registrants must be signed by the registrant, if the registrant is an individual, by the officer of a foreign or domestic corporation who is authorized to sign, if the registrant is a foreign or domestic corporation, by a general partner of a foreign or domestic limited partnership, if the registrant is a foreign or domestic limited partnership, by a manager or member of a foreign or domestic limited liability company, if the registrant is a foreign or domestic limited liability company, or by a trustee of a foreign or domestic business trust, if the registrant is a foreign or domestic business trust.

Stat. Auth.: ORS 648.125

Stats. Implemented: ORS 648.025

Hist.: CORP 2-2012, f. & cert. ef. 3-1-12

## 160-010-0310

### Eligibility for Waiver of Reinstatement Limit

The five year limit for reinstating a corporation, limited liability company, partnership, or business trust whose status has been administratively dissolved pursuant to ORS 60.647, 63.647, 65.647, 67.655, 70.430,

128.597, or 554.302 may be waived by the Secretary of State if the entity requests the waiver and provides evidence of the entity's continued existence as an active concern during the period of administrative .

(1) A dissolved business entity that wishes to reinstate shall submit to the Corporation Division a reinstatement application, current annual report, appropriate fee, and documentation showing evidence of continued existence during dissolution.

(2) Continued existence of the entity as an active concern shall be shown by:

(a) Documentation provided by the entity demonstrating continued operation or existence, such as a signed statement by a certified public accountant or licensed attorney, tax or financial records, and

(b) Additional documentation the Secretary of State may require.

Stat. Auth.: ORS 56.022

Stats. Implemented: ORS 60.654, 63.654, 65.654, 67.665, 70.440, 128.599, & 554.307

Hist.: CORP 1-2009, f. & cert. ef. 9-3-09; CORP 2-2012, f. & cert. ef. 3-1-12

## 160-010-0450

### Conversion of a Business Entity

When a domestic business entity is converting to a foreign business entity, the articles of conversion shall include the jurisdiction of the foreign business entity.

Stat. Auth.: ORS 56.022

Stats. Implemented: ORS 60.472, 62.607, 63.470, 67.342, & 70.505

Hist.: CORP 2-2012, f. & cert. ef. 3-1-12

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**Rule Caption:** Changes to Farm Product and Agricultural Lien Forms.

**Adm. Order No.:** CORP 3-2012

**Filed with Sec. of State:** 3-1-2012

**Certified to be Effective:** 3-1-12

**Notice Publication Date:** 2-1-2012

**Rules Adopted:** 160-050-0115

**Rules Amended:** 160-050-0200, 160-050-0210

**Subject:** These rules state the content required for EFS filing's and includes a statement of lien attestation.

**Rules Coordinator:** Ginger Spotts—(503) 986-2333

## 160-050-0115

### Statutory Lien Attestation

(1) The written notice of claim of lien, as described in ORS 87.242 (2), shall include a statement verified by an attestation under penalty of perjury.

(2) The form of the attestation shall be signed by the lien claimant, and shall include the following sentence in prominent letters immediately above the signature of the lien claimant: "I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

Stat. Auth.: ORS 87.246

Stats. Implemented: ORS 87.242

Hist.: CORP 3-2012, f. & cert. ef. 3-1-12

## 160-050-0200

### EFS Requirements

(1) An EFS must be filed on a form prescribed and approved by the Secretary of State. The form shall be designated "EFS-1."

(2) The information on the Form EFS-1 should meet the following requirements:

(a) Name, address and telephone number of the secured party:

(A) The name and address of the secured party are required;

(B) The secured party name or names must be entered completely and precisely;

(C) The name of an individual must be entered in order of last name (surname), first name, and, if any, middle initial or name;

(D) Assumed business names and business entity names must appear beginning with first word or character that is not an article or punctuation mark;

(E) The address of the secured party must be the address where information pertaining to the security interest maybe obtained;

(F) The telephone number of the secured party is requested.

(b) Name and address of each debtor:

(A) The name and address of each debtor is required;

(B) The name of each debtor must be entered completely and precisely;

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(C) The name of an individual must be entered in order of last name (surname), first name, and, if any, middle initial or name;

(D) Assumed business names and business entity names must be entered beginning with the first word or character that is not an article or punctuation mark;

(E) The address of the debtor is the mailing address of such person;

(c) Farm Product name or code:

(A) Each farm product that is produced in Oregon is assigned a four-digit numerical code. The codes are located on the back side of the Form EFS-1;

(B) The farm product code is required;

(C) Each filing party is responsible for listing the appropriate farm product code for a farm product on which the EFS or notice of security interest is being filed;

(D) The four-digit product code for each farm product subject to the security interest must be entered. A table of product codes appears on the back of the Form EFS-1;

(d) Crop year:

(A) The crop year, for crops grown in soil, is the calendar year in which it is harvested or to be harvested;

(B) For animals, the crop year is the calendar year in which they are born or acquired;

(C) For poultry or eggs, the crop year is the calendar year in which they are sold or to be sold;

(D) If an EFS does not show a crop year, it will be regarded as applicable to the crop or farm product in question for every year the EFS is effective;

(E) The crop year is a two-digit or four-digit code representing the actual year;

(F) The crop year must be shown on the Form EFS-1, unless every year of the farm product in question, for the duration of the EFS, is subject to the particular security interest.

(e) County Code:

(A) Each county in Oregon is assigned a two-digit numerical code. The county code represents the county in which the farm product is produced or is to be produced. The county codes are located on the back side of the Form EFS-1;

(B) The county code is required;

(C) Below is a list of the county codes for Oregon:

- (i) Baker — 01;
- (ii) Benton — 02;
- (iii) Clackamas — 03;
- (iv) Clatsop — 04;
- (v) Columbia — 05;
- (vi) Coos — 06;
- (vii) Crook — 07;
- (viii) Curry — 08;
- (ix) Deschutes — 09;
- (x) Douglas — 10;
- (xi) Gilliam — 11;
- (xii) Grant — 12;
- (xiii) Harney — 13;
- (xiv) Hood River — 14;
- (xv) Jackson — 15;
- (xvi) Jefferson — 16;
- (xvii) Josephine — 17;
- (xviii) Klamath — 18;
- (xix) Lake — 19;
- (xx) Lane — 20;
- (xxi) Lincoln — 21;
- (xxii) Linn — 22;
- (xxiii) Malheur — 23;
- (xxiv) Marion — 24;
- (xxv) Morrow — 25;
- (xxvi) Multnomah — 26;
- (xxvii) Polk — 27;
- (xxviii) Sherman — 28;
- (xxix) Tillamook — 29;
- (xxx) Umatilla — 30;
- (xxxi) Union — 31;
- (xxxii) Wallowa — 32;
- (xxxiii) Wasco — 33;
- (xxxiv) Washington — 34;
- (xxxv) Wheeler — 35;
- (xxxvi) Yamhill — 36.

(D) The county code(s) must be listed for each product code shown.

(f) Amount of farm product (where applicable):

(A) The amount of farm product may or may not be shown on every EFS and master list entry;

(B) The need to supply this additional information arises only where some of the debtor's farm product is subject to the security interest and some is not;

(C) If the EFS does not show an amount, this constitutes a representation that all of such product owned by the debtor is subject to the security interest in question;

(D) The amount shown must be sufficient to enable a reader of the information to identify what part of the debtor's farm product owned by the debtor is subject to the security interest, and what is not;

(E) Twenty characters have been allotted on the master list for providing information on the amount of farm product. The description of the amount should not be more than 20 characters.

(g) Brief Description of farm product:

(A) A brief description of the farm product maybe shown on the EFS and master list entry.

(B) The need to supply this additional information arises only where some of the debtor's farm product is subject to the security interest and some is not.

(C) Seventy-five characters have been allotted on the master list for providing information on the description of the farm product. The farm product description should not be more than 75 characters.

(h) Signature of the debtor, unless the debtor has executed a security agreement granting a security interest in the farm products to the secured party.

(3) The EFS will be rejected if it does not contain the name and address of the debtor, name and address of the secured party, farm product code, county code, or if it is not accompanied by the EFS filing fee.

(4) For the purposes of filing an effective financing statement, an electronically submitted document shall be considered an original document under ORS 80.115.

Stat. Auth.: ORS 80.106 & 80.115

Stats. Implemented: ORS 80.115

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0030; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 2-2006, f. & cert. ef. 2-6-06; CORP 1-2008, f. & cert. ef. 1-15-08; CORP 3-2012, f. & cert. ef. 3-1-12

## 160-050-0210

### Amendment, Continuation, Assignment and Lapse of EFS

(1) An EFS may be amended, assigned, continued or lapsed by the secured party of record. An amendment, assignment, continuation or lapse must be filed on a form prescribed and approved by the Secretary of State. The form shall be designated "Form EFS-3."

(2) The EFS-3 must include the document number assigned by the Secretary of State to the original effective financing statement.

(3) The EFS-3 shall include the full and current information for the filing for all the elements listed in 160-050-0200(2).

(4) After January 1, 2012, the amendment of an EFS supersedes the current registration of the effective financing statement, but does not serve as a continuation of the registration, unless its effectiveness is extended as provided in 160-050-0210(8).

(5) A Secured Party must sign, authorize or otherwise authenticate an EFS-3 that declares the lapse of an EFS.

(6) Unless the Debtor has executed a security agreement granting a security interest in the farm products to the secured party, the Debtor must sign, authorize or otherwise authenticate the EFS-3.

(7) For the purposes of uniformity, "lapse" will be considered synonymous with "termination" under ORS 79.0513 and this chapter. The EFS-3 form may refer to a "termination," instead of a "lapse."

(8) The EFS remains effective for a period of five years from the date of filing. Its effectiveness may be extended by an additional five years by filing a continuation statement within six months before the expiration of the current five-year period.

(9) Under the conditions described in ORS 80.115(4), if there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value under the security interest, the secured party should file a statement of termination or lapse.

(10) Upon the expiration of the effective period of an EFS, the EFS lapses, unless effectively extended pursuant to ORS 80.115 and OAR 160-050-0210.

Stat. Auth.: ORS 80.106 & 80.11

Stats. Implemented: ORS 80.115



# ADMINISTRATIVE RULES

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 7-1987(Temp), f. & ef. 5-13-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0040; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 2-2006, f. & cert. ef. 2-6-06; CORP 1-2008, f. & cert. ef. 1-15-08; CORP 3-2012, f. & cert. ef. 3-1-12

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**Teacher Standards and Practices Commission**  
**Chapter 584**

**Rule Caption:** Adopts new program and unit standards and procedures for accreditation.

**Adm. Order No.:** TSPC 3-2012

**Filed with Sec. of State:** 3-9-2012

**Certified to be Effective:** 3-9-12

**Notice Publication Date:** 10-1-2011

**Rules Adopted:** 584-010-0022, 584-017-1005, 584-017-1008, 584-017-1010, 584-017-1012, 584-017-1015, 584-017-1020, 584-017-1022, 584-017-1025, 584-017-1030, 584-017-1032, 584-017-1035, 584-017-1038, 584-017-1040, 584-017-1042, 584-017-1045, 584-017-1048, 584-017-1050, 584-017-1052, 584-017-1055, 584-018-0100, 584-018-0105, 584-018-0110, 584-018-0115, 584-018-0120, 584-018-0125, 584-018-0130, 584-018-0135, 584-018-0140, 584-018-0205, 584-018-0315, 584-018-0405, 584-018-0410, 584-018-0415, 584-018-0505, 584-018-0510, 584-018-0515

**Rules Amended:** 584-010-0001, 584-010-0010, 584-010-0015, 584-010-0020, 584-010-0025, 584-010-0030, 584-010-0035, 584-010-0045, 584-010-0050, 584-010-0055, 584-010-0060, 584-010-0090, 584-010-0100

**Rules Repealed:** 584-010-0080, 584-010-0140

**Subject: ADOPT:** 584-010-0022 – *Procedure for New and Continued Program Review Visits* – defines procedures for site visits.

584-017-1005 – *Effective Date and Applicability to Unit Programs* – Establishes effective date of rules.

584-017-1008 – *Conceptual Framework* – guidelines for licensure program’s vision.

584-017-1010 – *Request for Waiver of Rules* – outlines procedures for rule waivers.

584-017-1012 – *Waivers of Academic Requirements and Appeals on Academic Decisions* – outlines request for preparation waivers to the Commission.

584-017-1015 – *Knowledge Skills and Professional Dispositions* – Defines expectations for educator knowledge, skills and dispositions for all licensees.

584-017-1020 – *Knowledge of School Law for Licensed Educators* – Defines school law requirements.

584-017-1022 – *Assessment System and Unit Evaluation* – Defines assessment systems licensure programs must have.

584-017-1025 – *Consortium* – Defines membership of advisory consortium.

584-017-1030 – *Evidence of Effectiveness for Initial I Teaching License Preparation* – Defines evidence required for first-time teacher work samples.

584-017-1032 – *Evidence of Effectiveness for Continuing Teaching License Preparation* – Defines evidence required for advanced teacher work samples.

584-017-1035 – *Verification of Program Completion for All Licensure Programs* – Outlines procedures for verifying licensure program completion to the Commission.

584-017-1038 – *Field Experience and Clinical Practice* – Defines Clinical Practice and other field experiences.

584-017-1040 – *Partial Waivers for Field or Clinical Requirements in the Event of School District Closures* – Defines unit waivers for partial clinical requirements.

584-017-1042 – *Field or Clinical Experiences* – Explains field placements.

584-017-1045 – *Student Teaching* – Explains field placements.

584-017-1048 – *Internship Agreements* – Explains field placements.

584-017-1050 – *Diversity and Inclusion* – Defines standards for program faculty and candidate diversity and inclusion.

584-017-1052 – *Faculty Qualifications, Performances and Development* – Defines standards for program faculty.

584-017-1055 – *Unit Governance and Resources* – Defines resources foundations required for unit approval.

584-018-0100 – *Objectives for Initial Teachers Generally* – Standards for new teacher preparation.

584-018-0105 – *Knowledge, Skills, Abilities and Professional Dispositions for Initial I Teaching Licensure* – Defines expectations for educator knowledge, skills and dispositions for all new school teachers.

584-018-0110 – *Knowledge, Skills, Abilities and Professional Dispositions for Continuing Teaching Licensure* – Defines expectations for educator knowledge, skills and dispositions for all advanced teachers.

584-018-0115 – *Early Childhood Education Authorization* – Licensure grade levels.

584-018-0120 – *Elementary Authorization* – Licensure grade levels.

584-018-0125 – *Middle Level Authorization* – Licensure grade levels.

584-018-0130 – *High School Authorization* – Licensure grade levels.

584-018-0135 – *Endorsements Requiring Multiple Authorization Levels* – Licensure grade levels.

584-018-0140 – *Adding Authorization Levels to Existing Initial and Continuing Teaching Licenses* – Adding licensure grade levels.

584-018-0205 – *Knowledge, Skills, Abilities, Professional Dispositions and Educational Leadership for Initial Administrator Licensure* – Defines expectations for educator knowledge, skills and dispositions for all new school administrators.

584-018-0315 – *Authorization Levels for School Counselors* – Defines grades levels for this license.

584-018-0405 – *Knowledge, Skills, Abilities and Professional Dispositions for Initial School Psychologist Licensure* – Defines expectations for educator knowledge, skills and dispositions for all new school psychologists.

584-018-0410 – *Knowledge, Skills, Abilities and Professional Dispositions for Continuing School Psychologist Licensure* – Defines expectations for educator knowledge, skills and dispositions for advanced school psychologists.

584-018-0415 – *Authorization Levels for School Psychologists* – Defines grades levels for this license.

584-018-0505 – *Knowledge, Skills, Abilities and Professional Dispositions for Initial School Social Worker Licensure* – Defines expectations for educator knowledge, skills and dispositions for new school social workers.

584-018-0510 – *Knowledge, Skills, Abilities and Professional Dispositions for Continuing School Social Worker Licensure* – Defines expectations for educator knowledge, skills and dispositions for advanced school social workers.

584-018-0515 – *Authorization Levels for School Social Workers* – Defines grades levels for this license.

**AMEND:** 584-010-0001 – *Purpose of Unit and Program Approval*: Updates rule to include the commission’s 2011 revision of standards and units to align with national standards for teacher preparation.

584-010-0010 – [Program Approval] *Unit Accreditation for Teachers, Administrators and Personnel Service Specialists*: Clarifies unit accreditation requirements and corrects statues cited.

584-010-0015 – *Preconditions for First-Time Unit or Program Approval*: Updates first-time unit approval requirements. Corrects statues cited.

584-010-0020 – *Procedure for Unit Accreditation Visits*: [On Site Review of Licensure Units and Programs] Updates procedure for Unit accreditation visits. Corrects statues cited.

584-010-0025 – *Recommendations Following [On Site] Unit Accreditation Visits*: Clarifies Executive Director recommendations to the commission following a unit site visit. Recommendations

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include Unconditional Approval, Approval with Conditions and Probationary Approval for “at-risk institutions”. Updates statutes cited.

584-010-0030 – *Commission Action Following On-Site Review*: Clarifies rule language and adds the approval of unit with an established probation period and designating the unit as “at risk institution”. Updates statutes cited.

584-010-0035 – *Submitting Program Modification, Additions or Elimination to the Commission*: Corrects reference to [Coordinator] to Director of Teacher Education.

584-010-0045 – *Major Modification of Programs*: Minor language corrections. Updates statutes cited.

584-010-0050 – *Annual Report from the Unit*: Updates due date for annual report submission to the commission. Clarifies unit reporting requirements and corrects statutes cited.

584-010-0055 – *Review of Programs Not Previously Approved*: Clarifies requirements for programs not previously approved by the commission.

584-010-0060 – *Denial of Program Approval and Appeal*: Adds language if the commission’s decision to deny approval is accompanied with a recommendation for immediate withdrawal is necessary to protect the students, an appeal shall act as a stay of determination until final decision of the appeal. Updates statutes cited.

584-010-0090 – *Program Completion Fast Track, Field Operation Audit*: Corrects the statutes cited.

584-010-0100 – *Reports of Program Completion for the Commission*: Corrects statutes cited.

**Rules Coordinator:** Lynn Beaton—(503) 373-0981

## 584-010-0001

### Purpose of Unit and Program Approval

(1) The Oregon Legislative Assembly has delegated to the Teacher Standards and Practices Commission the authority to establish standards for approval of educator preparation programs through Oregon Revised Statutes 342.147 and 342.165.

(2) In 1987, the Teacher Standards and Practices Commission established the first standards for approval of college and university preparation programs based on competence of prospective educators rather than prescribed courses.

(3) In 1997, the Commission revised standards to reflect changes in education and to focus preparation on the competence of candidates.

(4) The Commission’s standards emphasize qualitative rather than quantitative aspects of units and programs.

(5) In 2011, the Commission revised standards for units and programs to reflect changes in the national standards for teacher preparation, to focus preparation on the competence of candidates and to emphasize a continuous improvement process based on assessment and data.

(6) The standards for program approval are contained in Divisions 17, 18, and 65 of these administrative rules.

(7) Units must meet all standards to receive unconditional approval for a program pursuant to OAR 584-010-0025 Recommendations Following On-Site Review.

(8) The Commission has adopted handbooks and manuals that govern the procedures for unit review and program review and contain the rubrics for accreditation standards evaluation. Once adopted, these handbooks and manuals may only be amended upon official action by the Commission.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 6-2002, f. & cert. ef. 10-23-02;

Renumbered from 584-017-0001, TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0010

### Unit Accreditation for Teachers, Administrators, and Personnel Service Specialists

(1) Commission rules for unit accreditation and program approval apply to all educator licensure programs doing business in the state of Oregon. The rules in effect at the time of a unit site visit shall be the rules upon which the unit is evaluated.

(2) Units providing off-campus programs administered by the unit with instruction provided at sites other than the main campus will have the off-site programs evaluated as part of the institution’s professional education unit.

(a) Off campus programs include programs taught on weekends or nights that may be delivered through technology or other means in another city;

(b) Off campus program means a program that is not located on the campus where the administrative offices of the unit are located. [See definition of “Off Campus Programs” in OAR 584-010-0006 above.]

(3) Unless otherwise stipulated, Commission approval of a program shall expire on August 31 of the final year of the approved period.

(a) It is the unit’s responsibility to apply for renewal or a Commission-approved extension in advance of the expiration of the unit or program approval period.

(b) Units undergoing an NCATE or CAEP visit and a state visit at the same time will coordinate their joint visits with the TSPC Director of Teacher Education. The state reserves the right to deny approval of the NCATE visit date if the date conflicts with previously scheduled Commission obligations.

(4) The Commission shall determine compliance with the standards on the basis of:

(a) Information and evidence submitted by the unit;

(b) The findings and recommendations of the on-site review team;

(c) The results of staff audits of selected elements of the program conducted pursuant to OAR 584-010-0090; and

(d) Information obtained through any surveys administered by the Commission.

(5) In addition to annual reports, periodic reports may be required from the unit upon evidence that the program, institution or unit has undergone major modifications as defined in OAR 584-010-0045.

(a) An interim visit may only occur after the unit has had an opportunity to present evidence the program has not undergone an unapproved major modification[s] as defined in OAR 584-010-0045 and only after a full vote of the Commission.

(6) Units receive program approval for a period determined by the Commission, but will generally be for five or seven years. At the end of the approved period, or any lesser period as designated by the Commission, the Commission will re-evaluate the program through the program approval process and in accordance with the rules adopted in Divisions 10, 17, 18 and 65 of these administrative rules.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TS 16, f. 12-19-77, ef. 1-1-78; TS 5-1980, f. & ef. 9-11-80; TS 5-1986, f. 7-31-86, ef. 9-1-87; TS 1-1991, f. & cert. ef. 1-2-91; TS 1-1992, f. & cert. ef. 1-15-92; TS 7-1992, f. 12-17-92, cert. ef. 1-15-93; TS 5-1993, f. & cert. ef. 10-7-93; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 3-2005(Temp), f. & cert. ef. 4-15-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0015

### Preconditions for First-Time Unit or Program Approval

(1) Prior to approval for any licensure program, a unit must satisfy the preconditions set forth below. Once the Commission has reviewed these preconditions, the Commission shall determine by resolution in a public meeting whether the preconditions have been met and whether the unit is eligible to apply for approval to deliver a licensure program in teaching, administration, school counseling, school psychology or school social work.

(2) Programs from units or institutions that have never been approved by the Commission must satisfy the following preconditions prior to submitting a proposal for approval to deliver a licensure program:

(a) A college or university seeking unit recognition for program approval must obtain full regional accreditation from the Northwest Commission on Colleges and Universities or another appropriate institutional regional accrediting agency recognized by the U.S. Department of Education;

(b) Approval by the Oregon Office of Degree Authorization or its equivalent authorizing body, and if an Oregon public institution, by the Oregon State Board of Higher Education or its equivalent authorizing body;

(c) A letter from the institution’s administrative body recognizing and identifying the professional educational unit as having responsibility and authority for the preparation of licensed educators;

(d) Evidence that a dean, director or chair has been officially designated as head of the unit and is assigned the authority and responsibility for its overall administration and operation;

(e) Written policies and procedures that will guide the operations of the unit, including but not limited to: student handbooks; procedures on admission; program waivers; and student appeal rights;

(f) The unit’s conceptual framework that establishes the shared vision for a unit’s efforts in preparing educators to work in prekindergarten-12

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schools and provides direction for programs, courses, teaching, candidate performance, scholarship, leadership, service and unit accountability;

(g) Evidence that the unit regularly monitors and evaluates its operations, the quality of its offerings, the performance of its candidates, and the effectiveness of its graduates; and

(h) Evidence the unit has published criteria for admission to and exit from all initial teacher preparation and advanced programs and can provide summary reports of candidate performance at exit from the program.

(3) Programs seeking first-time approval to offer any educator preparation licensure program must demonstrate that the unit proposing the program has already satisfied the pre-conditions set forth above or that they have received the approval of a pre-approved unit to offer an educator licensure program.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TS 3-1988, f. & cert. ef. 4-7-88; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0020

### Procedure for Unit Accreditation Visits

(1) Institutional Reports:

(a) Institutional Reports are for the unit accreditation visit.

(b) Units scheduled for a unit accreditation visit will provide an institutional report (IR) to the Commission at least six months in advance of the scheduled unit accreditation visit.

(2) Unit Accreditation visit guidelines may be found in the Oregon Site Review Manual adopted by the Commission.

(3) Commission Staff Responsibility: At least twelve months prior to the scheduled on-site visit, the Commission staff will:

(a) Furnish the unit with copies of applicable rules, policies and procedures;

(b) Set the dates for the visit;

(c) Appoint a unit accreditation and program review team. Every attempt will be made to include representatives from a broad sector of educators including teachers, administrators and teacher educators;

(d) Appoint a review team chair responsible for working with the unit, making program review and accreditation team assignments and completing the written program review report and the site visit report;

(e) Send a draft of the final report to the unit head for review and response; and

(f) Consult with the Executive Director regarding recommendations to the Commission pursuant to OAR 584-017-0025 following the completion of the site review team report.

(4) On-Site Review Team Responsibilities: During the accreditation visit, the review team will:

(a) Conduct an on-site visit;

(b) Reach consensus about whether there is sufficient evidence to meet Commission or national standards to support new or continuing unit and program accreditation and whether the evidence or lack of evidence supports Areas for Improvement (AFI's); and

(c) Contribute to the final report by writing up the findings and evidence associated with the standards to which they were assigned;

(d) Cooperate with national accrediting teams if participating during a joint state and national visit; and

(e) Assist in the review and drafting of the final report.

(5) Team Chair Responsibilities:

(a) At the conclusion of the visit, conduct an exit review with the unit;

(b) Ensure completion of the written report based on the findings of the review team members;

(c) Circulate a draft of the final report to the TSPC state consultant and the review team members for review and input; and

(e) Send a draft of the final report to Commission staff.

(6) The Final Site Review Team Report:

(a) The final report shall include:

(A) A citation of evidence showing compliance with or deviation from Commission adopted unit or program standards. The citation must include a complete list of contacts, interviews conducted and exhibits that were reviewed; and

(B) A citation of Areas for Improvement (AFI).

(b) The final site review team report will be sent to the unit head and the chief executive officer of the institution.

(c) The unit may submit a rejoinder to the review team's findings to the Executive Director at least six weeks prior to the Commission meeting at which the final report will be reviewed by the Commission. Failure to submit a rejoinder will result in the Executive Director making recommen-

ations to the Commission based only on the findings of the on-site review team.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TS 16, f. 12-19-77, ef. 1-1-78; TS 3-1984, f. & ef. 8-3-84; TS 1-1987, f. & ef. 3-3-87; TS 1-1991, f. & cert. ef. 1-2-91; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 3-2012, f. & cert. ef. 3-9-12

## 84-010-0022

### Procedure for New and Continued Program Review Visits

(1) Program Review Reports: (a) Completion of the Program Review Report is required prior to new or continued program recognition;

(b) Program review reports must comply with the procedures and formats outlined in the Site Review Manual adopted by the Commission; and

(c) Program review rubrics will be found in the Commission-adopted program review professional standards publication.

(2)(a) Program Review Reports for programs seeking first time unit accreditation and program recognition must be submitted at least six months prior to the anticipated unit accreditation presentation to the Commission.

(b) State or Specialized Professional Association (SPA) program reports for programs seeking new accreditation may be submitted at any time so long as the unit is already accredited by the Commission.

(c) Program Review Reports for programs seeking continued recognition must be submitted to Commission staff no later than twelve months prior to the Commission-scheduled unit accreditation visit.

(d) Recommendations by the state or SPA Program Review Team will be submitted directly to the Commission. The team may make one of the following recommendations:

(A) Approval with a designation of "State Recognition;"

(B) Approval with conditions with a designation of "Recognition with Conditions;" or

(C) Non Approval.

(e) The Commission may accept or reject the state or SPA Program Review Team's recommendations.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0025

### Recommendations Following Unit Accreditation Visits

(1) The Executive Director will consider all the elements outlined in OAR 584-010-0010(4) and make recommendations to the Commission regarding unit accreditation.

(2) The Executive Director may prepare resolutions proposing any combination of the following:

(a) Unconditional approval;

(b) Approval with conditions. The unit will present plans for removal of the conditions and correction of areas for improvement as designated by the Commission;

(c) Probationary approval and designation as an "at-risk institution." The unit must correct the conditions and areas for improvement within two years; and

(d) Non-approval and designation as a "low-performing institution."

(3) The Executive Director will submit the proposed recommendations and resolutions to the unit prior to the Commission meeting at which the final review team report will be considered.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TS 3-1984, f. & ef. 8-3-84; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0030

### Commission Action Following On-Site Review

(1) After consideration of the Executive Director's recommendations, the Commission may take one of the following actions:

(a) Approving the unconditionally unit for a period not to exceed five or seven years. The Commission may grant an accreditation period that does not align with the NCATE or CAEP accreditation cycle;

(b) Approving the unit conditionally for a period designated by the Commission but not to exceed five years. The Commission may require the unit to submit progress reports on identified conditions or correction of areas for improvement.

(c) Approving the unit with an established probationary period and designating the unit as an "at risk institution." The Commission may schedule additional on-site visits to the unit in order to verify progress reports; or



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(d) Denying unit approval and designating the unit as “low-performing.”

(2) If the Commission denies unit approval, the Commission may grant limited continuance of identified programs or grant sufficient time for candidates in a program to complete work that is underway for a reasonable period of time.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TS 3-1984, f. & ef. 8-3-84; TS 1-1987, f. & ef. 3-3-87; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0035

### Submitting Program Modifications, Additions or Elimination to the Commission

(1) Units will submit plans to the Commission for review of program modifications; addition of new programs for endorsements or grade-level authorizations; and elimination of obsolete programs.

(2) If the unit is unclear whether a plan for review of the program modification, addition or elimination must be submitted to the Commission, the unit will submit a request for clarification to the Executive Director or the Director of Teacher Education.

(3) The Executive Director or the Director of Teacher Education will take all requests for clarification to the Commission at the next regularly scheduled meeting. If the Commission needs additional information, the Commission may request that the unit provide more information in accordance with subsection (4) below or with OAR 584-010-0045.

(4) For each of the following situations, the unit will submit the following appropriate evidence and information to the Commission:

(a) For minor program modifications, the unit will submit evidence that the modifications will not affect the program’s approval status or reduce the quality of the program in any way. This evidence may be reported in the unit’s annual report.

(b) For major modifications, the unit will submit the evidence required in OAR 584-010-0045

(c) For program additions such as new endorsement or grade level-authorization programs, the unit will submit evidence that all the appropriate standards necessary for the proposed endorsement or authorization program will be met upon the program’s implementation.

(d) For program elimination, the unit will submit information to the Commission detailing the exact date the program will end; the reasons for the elimination; and assurances that candidates enrolled in the program will be able to complete the program.

(5) If the unit or program does not make any candidate recommendations for licensure or endorsement over the course of five continuous years, the Commission may require the program to show cause to the Commission why accreditation or approval for that program area should not be removed.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0045

### Major Modification of Programs

(1) A major modification is a change of such magnitude as to substantively alter the program that was last approved by the Commission. Any one of the following events would constitute a major substantive change. Major modifications include but are not limited to alterations of the:

(a) Unit’s mission and goals;

(b) Scope or degree level of the unit’s offerings;

(c) Autonomy, sponsorship, or the locus of control over the unit;

(d) Unit’s administration if the change is a result of unit head’s termination by the institution;

(e) Offering academic programs for credit through contractual relationships with external organizations;

(f) Elimination of an endorsement or licensure program; or

(g) Adding an off campus program.

(2) If the Commission determines there has been a major modification to a program, units shall submit some or all of the following information if applicable, at the next regularly scheduled Commission meeting following notification by the Commission of need for review of the modifications:

(a) Proof that the modification will not affect the program’s approval status or reduce the quality of the program in any way;

(b) Title of the program;

(c) Descriptions of proposed modifications;

(d) Proof of official institutional approval of the modified program;

(e) Goals or objectives, learning activities and competency of the modified program;

(f) Procedures used in developing the modified program;

(g) Procedures to be used to evaluate the modified program once implemented;

(h) Recommendations from the consortium; or

(i) Arrangements for field activities for the modified program.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TS 1-1991, f. & cert. ef. 1-2-91; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0050

### Annual Report from the Unit

(1) Annual reports will be submitted to the Commission by September 30 of each year. Units unable to submit the annual report by this date must notify the Director of Teacher Education of the reasons for the delay and the date the report is expected to be delivered. This information will be immediately shared with the Commission.

(2) The unit shall identify:

(a) Changes to the mission statement and how it relates to the mission of the college or university; and

(b) Long and short term strategic plans.

(3) The unit will show evidence of continual review of programs by:

(a) Reflecting on the degree of accomplishment in meeting the goals through student performance in course work, field studies, and work samples;

(b) Reflecting on the degree of accomplishments in meeting the goals through follow-up of recent graduates; and

(c) Statement of future goals for next academic year with the indicators to be used for measurement of accomplishment.

(4) The unit will report:

(a) Any deviation from approved programs;

(b) Modifications of programs not subject to OAR 584-010-0045;

(c) Any change in the liaison officer;

(d) Addition of off-campus courses, the number of hours of class-time to credit received, and the addition of online or distance delivery of courses within an approved program;

(e) Evidence that the consortium meets regularly and has reviewed evaluation results and made recommendations for improvement of program design and operation;

(f) Evidence that the unit has provided written response to consortium recommendations;

(g) Number of program completers as of August 31; and

(h) Data indicating number of students enrolled in approved programs by content and authorization levels and how this compares to the previous five years.

(5) Annual reports are not due during the year in which the unit has been subject to an on-site visit for purposes of program approval continuation. For the purposes of this rule, a reporting year will be from September 1 through August 31.

Stat. Auth.: ORS 342.147

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0055

### Review of Programs Not Previously Approved

(1) When a unit seeks approval of a program not previously approved, the unit will submit a proposal for approval of the new program to the Commission.

(2) As part of the new program review, the unit will submit a unit report and evidence to demonstrate compliance with appropriate rules and standards relating to the new proposed program including:

(a) Title of the program;

(b) Description of the program;

(c) Justification of need for educational personnel in the proposed program area;

(d) Evidence of institutional capability for carrying out the program, including faculty preparation and experience, financial resources, facilities, library resources, and proof of official institutional approval;

(e) Curriculum design for the program;

(f) How the unit will collect data showing:

(A) Evidence of candidate content knowledge;

(B) The tools for evaluating the practicum or field experience;

(C) Evidence of candidate competency; and

(D) Tools for follow-up with candidates following program completion;

# ADMINISTRATIVE RULES

(g) Goals of the proposed program and the relationship of those goals to any existing previously approved program goals;

(h) Names of members of the unit's program development committee including the unit's liaison officer;

(i) Outline of the organizational structure of faculty in the program showing the relationship of the proposed program to any existing previously approved program or programs;

(j) Steps to be followed in formulation, development, evaluation, and renewal of the program;

(k) Projected timeline for program implementation;

(l) Recommendation from a consortium review of the proposed program or endorsement; and

(m) Evidence of review of the proposed program by the Oregon Degree Authorization, if appropriate;

(n) Specific objectives of the new licensure program, endorsement or authorization;

(o) Student personnel services and procedures, including selective recruitment, counseling, admission, and policies for retention;

(p) Proposed arrangements for practica and field experiences; and

(q) Any other information or evidence the Commission determines is appropriate for the proposal being presented.

(3) Upon conditional approval of the program by the Commission, the unit may enter into contracts with school districts for purposes of preparing candidates. Contracts of more than one year will be contingent upon the length of program approval ultimately granted by the Commission following the on-site review visit.

(4) New programs are subject to an on-site review visit during the first eighteen to twenty-four months of operation.

(5) The unit will submit plans indicating how standards will be met for aspects of the program which are not fully operational as a part of its first annual report.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TS 3-1988, f. & cert. 4-7-88; TS 1-1991, f. & cert. ef. 1-2-91; TS 1-1992, f. & cert. ef. 1-15-92; TS 5-1993, f. & cert. ef. 10-7-93; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 2-2008, f. & cert. ef. 4-15-08

## 584-010-0060

### Denial of Unit Approval and Appeal

(1) A unit denied approval of its program is entitled to a contested case hearing. However, in an effort to adjudicate the matter short of a formal hearing, the Commission will inform the unit of:

(a) The Commission's intent to deny approval before taking formal action; and

(b) The time and place the matter will come before the Commission and make provisions in the agenda for institutional representatives to address the Commission.

(2) Should the unit not accept Commission denial of approval, the unit may request a contested case hearing pursuant to ORS chapter 183.

(3) Unless the decision of the Commission is accompanied by a finding that immediate withdrawal of approval is necessary to protect the safety and well-being of students in the unit's programs, an appeal in a proceeding to withdraw approval shall operate as a stay of the Commission's determination to deny or withdraw approval until final determination of the appeal.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TS 14, f. 12-20-76, ef. 1-1-77; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0090

### Program Completion Fast Track — Field Operation Audit

(1) The Commission will provide a program completion fast-track option to units. The fast-track option will grant an expedited license to completers of Commission-approved programs.

(2) The license will be granted so long as it is evident that all requirements of the license have been met.

(3) For participating units, the Commission will schedule biennial field operation audits of the program completion process of each unit.

(a) The review shall audit five (5) percent of the files of program completers at the unit;

(b) A minimum of fifteen (15) files will be reviewed regardless of the number of program completers recommended by a unit for licensure; and

(c) In the event there are less than fifteen (15) files total, all files will be reviewed.

(4) The audit review team will be composed of Commission staff, including at least one (1) licensure evaluator.

(5) The review shall examine files and documents for each Commission-approved program. These files and documents include:

(a) Documentation of degrees identified on the Program Completion Report, including:

(A) Degree level;

(B) Institution granting degree;

(C) Date degree granted; and

(D) Major, if specified;

(b) Coursework completion date;

(c) Evidence of subject-matter mastery. Preferred documentation is passing scores on subject-matter test(s). In the alternative, completion of alternative assessment process, per OAR 584-052-0031;

(d) Evidence of basic skills mastery. Preferred documentation is passing scores on one of Commission-approved basic skills tests. In the alternative, completion of specified coursework, per OAR 584-036-0082;

(e) Evidence of civil rights knowledge. Document is passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics.

(f) Evidence of fingerprint clearance prior to placement into any practicum experience pursuant to OAR 584-017-0055; and

(g) Basis for recommendation of program completion requirements.

(6) As part of the audit, the review team shall examine the following Commission agency files and documents for randomly chosen audited candidates:

(a) PA1 forms submitted;

(b) Evidence of fingerprint clearance;

(c) Notices of Noncompliance issued to programs;

(d) C1 Educator application forms;

(e) Appropriate test score records;

(f) Fees;

(g) License issued, based on C-2 request and information; and

(h) Any appropriate correspondence based on licensure.

(7) All results of these audits shall be reported to the Commission by Commission staff at the next regularly scheduled meeting following the unit's audit.

Stat. Auth.: ORS 342

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

Hist.: TSPC 9-2006, f. & cert. ef. 6-15-06; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 10-2010, f. 12-30-10, cert. ef. 1-1-11; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-010-0100

### Reports of Program Completion for the Commission

(1) At the end of each term or semester, including summer term, units will submit the Form C-2, Preparation for Teaching Report to Commission staff, for each candidate who has completed an approved program in teaching, school counseling, school psychology, school social worker or administration and has met the passing scores for the civil rights and ethics test, basic skills and subject matter tests required by the Commission for the respective license.

(2) The program completion accounting year will be September 1 through August 31.

(3) By September 30 of each year, Commission staff will produce an electronic report for each unit listing the individuals who were recommended on Form C-2 during the previous accounting year together with the license type and subject or specialty endorsement(s) attached. Units will have until November 1 to make any corrections or additions to the list.

(4) The list of teachers identified through the above procedure will be the subjects of the unit's report card the following April. The list will also be the basis for the State report to the U.S. Secretary of Education for purposes of Title II of the Higher Education Improvement Act the following October.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TSPC 3-2000, f. 7-17-00, cert. ef. 9-1-00; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1005

### Effective Date and Applicability to Unit Programs

(1) All graduate, undergraduate, and nontraditional programs leading to licensure of educators shall be evaluated under these standards.

(2) These rules are effective starting January 1, 2012. Units subject to accreditation must meet all standards and with regard to assessment and data must implement as follows:

(a) During the 2012 calendar show they have an assessment system in place;

(b) During the 2013 calendar year must have one year of data to evaluate;

# ADMINISTRATIVE RULES

(c) During the 2014 calendar year must have two years of data to evaluate;

(d) During the 2015 calendar year must have three years of data to evaluate;

(e) During the 2016 calendar year must have four years of data to evaluate;

(f) During the 2017 calendar year must have five years of data to evaluate;

(g) During the 2018, if not evaluated after January 1, 2012 must have six years of data to evaluate.

(3) Units accredited after first review under these new rules must show at least three years or more of data to evaluate at each accreditation visit.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1008

### Conceptual Framework

(1) The unit will draft a conceptual framework as part of the initial accreditation process and continuing accreditation process.

(2) The conceptual framework establishes the shared vision for a unit's efforts in preparing educators to work effectively in P-12 schools. The framework provides direction for programs, courses, teaching, candidate performance, scholarship, service, and unit accountability. The conceptual framework is knowledge-based, articulated, shared, coherent, consistent with the unit and institutional mission, and continuously evaluated.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1010

### Request for Waiver of Rules

An institution may petition the Commission for waiver of standards for licensure rules. A petition includes relevant information and specifies the reasons the institution is seeking the waiver.

(1) The petitioner is able to demonstrate that the request meets the intent of the standards or rules.

(2) Requirements in Oregon Revised Statutes are not to be waived.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455 – 342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1012

### Waivers of Academic Requirements and Appeals on Academic Decisions

The liaison officer may waive part program requirements for individual candidates when competency is otherwise demonstrated.

(1) The candidate must be able to demonstrate the knowledge, skills, competencies and dispositions required by national, state and institutional standards.

(2) The institution may waive the requirements for field experiences only if the applicant's ability to foster pupils' learning has been established through work samples required by OAR 584-017-1030 and 584-017-0132 Evidence of Effectiveness. In the alternative, other school licensure candidates must show evidence they meet the standards for licensure in the area in which they are seeking waiver.

(3) The unit has an appeal procedure for candidates who are denied waivers.

(4) The candidate may appeal waiver decisions to the Commission after completing the unit's appeal procedure. Following appeal of the unit's waiver decision, the candidate must submit a complete application to the Commission for licensure.

Stat. Auth.: ORS 342  
Stats. Implemented: 342.120 – 342.430; 342.455 – 342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1015

### Knowledge Skills and Professional Dispositions

(1) Candidates preparing to work in schools as teachers or other school professionals know and demonstrate the content knowledge pedagogical content knowledge and skill, pedagogical and professional knowledge and skills, and professional dispositions necessary to help all students learn. Assessments indicate that candidates meet professional, state and institutional standards.

(2) Areas evaluated under this standard include:

(a) Content Knowledge for Teacher Candidates (Initial and Advanced Preparation);

(b) Pedagogical Content Knowledge and Skills for Teacher Candidates (Initial and Advanced Preparation);

(c) Professional and Pedagogical Knowledge and Skills for Teacher Candidates (Initial and Advanced Preparation);

(d) Student Learning for Teacher Candidates;

(e) Knowledge and Skills for Other School Professionals;

(f) Student Learning for Other School Professionals; and

(g) Professional Dispositions for All Candidates.

(3) Units will be accredited against a rubric that sets forth the following levels of achievement of the standards: Target, Acceptable, and Unacceptable. The full rubrics for each standard are found in the TSPC Professional Standards Manual adopted by the Commission. A unit is held accountable to the full set of standards contained in the TSPC Professional Standards Manual.

(4) Candidates include persons preparing to teach, teachers who are continuing their professional development, and person preparing for other professional roles in schools such as administrators and school personnel services experts.

(5) "All students" includes students with exceptionalities and of different ethnic, racial, gender, sexual orientation, language, religious, socio-economic, and regional or geographical origins.

Stat. Auth.: ORS 342  
Stats. Implemented: 342.120 – 342.430; 342.455 – 342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1020

### Knowledge of School Law for Licensed Educators

The unit provides preparation in state and federal statutes on education including but not limited to: laws prohibiting discrimination, professional standards of ethical conduct and the rights and responsibilities of students, teachers, and parents, special education, and school finance.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1022

### Assessment System and Unit Evaluation

(1) The unit has an assessment system that collects and analyzes data on applicant qualifications, candidate and graduate or program completer performance, and unit operations to evaluate and improve the performance of candidates, the unit and its programs.

(2) Areas evaluated under this standard include:

(a) Assessment System;

(b) Data Collection, Analysis, and Evaluation; and

(c) Use of Data for Program Improvement.

(3) Units will be accredited against a rubric that sets forth the following levels of achievement of the standards: Target, Acceptable, and Unacceptable. The full rubrics for each standard are found in the TSPC Professional Standards Manual adopted by the Commission. A unit is held accountable to the full set of standards contained in the TSPC Professional Standards Manual.

Stat. Auth.: ORS 342  
Stats. Implemented: 342.120 – 342.430; 342.455 – 342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1025

### Consortium

A consortium advises the unit on development, evaluation, and improvement of the program.

(1) The consortium must include the following representation:

(a) Teachers appointed by school district organizations that represent teachers in bargaining matters;

(b) Public school administrators;

(c) Students in the program; and

(d) Faculty from the institution.

(2) Optionally, representatives from the community may be appointed to the consortium.

(3) In all cases, attention must be given to under-represented populations.

(4) The consortium has written by-laws that govern its operation.

(5) The consortium meets regularly but no less than twice each year to review and evaluate the program, the program's activities and annual reports and makes recommendations to the program. The unit must provide written responses to all recommendations made to the unit by the consortium.

Stat. Auth.: ORS 342  
Stats. Implemented: 342.120 – 342.430; 342.455 – 342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12



# ADMINISTRATIVE RULES

## 584-017-1030

### Evidence of Effectiveness for Initial I Teaching License Preparation

(1) The unit assures that candidates provide evidence of effectiveness to foster student learning.

(2) Each student teacher preparing for an Initial I Teaching License assembles and analyzes two work samples to document the candidate's ability to demonstrate knowledge, skills and professional dispositions as designated in OAR 584-018-0105. If a candidate is seeking more than one authorization level, the two work samples may be completed at either authorization level. One work sample must be delivered over a period of three to five weeks. Work samples include:

(a) Context of the school and classroom is explained, learners with special needs, TAG learners, ESOL learners and learners from diverse cultural and social backgrounds are described, adaptations for their learning needs are discussed, and prerequisite skills required for the unit are considered;

(b) Goals for the unit of study, that vary in kind and complexity, but that include concept attainment and application of knowledge and skills;

(c) Instructional plans to accomplish the learning goals of the group(s) of students that include differentiation of instruction for all students listed in subsection (a) above;

(d) Data on learning gains resulting from instruction, analyzed for each student, and summarized in relation to students' level of knowledge prior to instruction;

(e) Interpretation and explanation of the learning gains, or lack thereof; and

(f) A description of the uses to be made of the data on learning gains in planning subsequent instruction and in reporting student progress to the students and their parents.

(g) Purposeful attention to literacy instruction based upon content requirements, appropriate authorization level and student needs in at least one subject.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1032

### Evidence of Effectiveness for Continuing Teaching License Preparation

(1) Each candidate preparing for a Continuing Teaching License assembles a collection of evidence that documents the candidate's advanced knowledge, skills and competencies as designated in OAR 584-018-0102. The collection of evidence includes:

(a) Long term goals of study based on content goals and district standards that determine the knowledge and skills each student needs;

(b) Instructional plans that incorporate knowledge of subject matter, the developmental levels of the students and research-based educational practices that are sensitive to individual differences and diverse cultures;

(c) Evidence of the ability to establish a classroom climate that is conducive to learning for all students;

(d) Data on student progress toward attainment of long term goals, refinement of plans for instruction and establishment of alternative goals for students when necessary;

(e) Evidence of collaboration with parents, colleagues and community members to provide assistance to students and their families to promote learning;

(f) Evidence of the use of emerging research on teaching, learning and school improvement; and

(g) Evidence of participation in designing, evaluating and improving opportunities for teaching.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1035

### Verification of Program Completion for All Licensure Programs

The unit assures that candidates have completed the program successfully.

(1) The unit documents that candidates for licensure have acquired the knowledge and demonstrated the competencies required for the authorization level(s) and endorsement(s).

(2) The unit documents that candidates for licensure have completed the required field experience successfully.

(3) The unit attests that the candidates have passed the licensure tests required for the authorization levels and endorsements for which the unit is recommending. Evidence of program completion is stored in each student's appropriate files including a copy of the C-2 form filed with the

Commission as verification of the student's having met all licensure requirements.

(4) Program completion for purposes of reporting under Title II of the Higher Education Improvement Act (HEIA) means the latest date at which a candidate completes all of the requirements for an Initial I Teaching License.

(a) All candidates completing an approved initial teacher preparation program must be reported to the Commission for Title II HEIA reporting purposes in the year in which all requirements are completed whether the candidate applies for licensure with TSPC.

(6) Candidates for an Initial I Teaching License will hold a minimum of a bachelor's degree from a regionally accredited institution or from an institution that is deemed to offer a degree comparable to a regionally accredited institution, including but not limited to a foreign equivalent of such a degree.

(7) Candidates for a Continuing Teaching License will hold a master's or higher degree in arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission.

(8) Candidates for Initial Administrator License will hold a Masters degree or higher in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission.

(9) Candidates for Continuing Administrator License shall have completed a minimum of 18 semester or 27 quarter hours of graduate credit beyond the Master's degree.

(10) Candidates for Initial School Counselor, School Psychologist or School Social Worker License will hold a minimum of a Master's degree in behavioral sciences from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission.

(11) Candidates for Continuing School Counselor, School Psychologist or School Social Worker License will have completed an advanced program in professional competencies consisting of a minimum of six semester hours of graduate credit.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 84-017-1038

### Field Experience and Clinical Practice

(1) The unit and its school partners design, implement, and evaluate field experiences and clinical practice so that teacher candidates and other school personnel develop and demonstrate the knowledge, skills, and dispositions necessary to help all students learn.

(2) Areas evaluated under this standard include:

(a) Collaboration between Unit and School Partners;

(b) Design, Implementation, and Evaluation of Field Experiences and Clinical Practice; and

(c) Candidates' Development and Demonstration of Knowledge, Skills, and Professional Dispositions to Help All Students Learn.

(3) Units will be accredited against a rubric that sets forth the following levels of achievement of the standards: Target, Acceptable, and Unacceptable. The full rubrics for each standard are found in the TSPC Professional Standards Manual adopted by the Commission. A unit is held accountable to the full set of standards contained in the TSPC Professional Standards Manual.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1040

### Partial Waivers for Field or Clinical Requirements in the Event of School District Closures

(1) An institution may grant a partial waiver of the field experience or clinical placement requirements contained in OAR 584-017-1038 in the event a candidate for educator licensure is unable to complete the clinical experience due to an unforeseen disruption of school district operations resulting in a school or district early closure.

(2) In order to grant the waiver, the institution must submit the following in their next annual report to the Commission:

(a) A stipulation that the conditions contained within OAR 584-017-1038 for each candidate waiver have been met;

(b) Identity of the school district and school building where the candidate was placed; and

(c) The number of candidates affected by the early school closures.

# ADMINISTRATIVE RULES

(3) Institutions who grant a waiver pursuant to this rule shall not be considered to have made a minor or major modification to their approved program.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1042

### Field or Clinical Experiences

The unit provides field or clinical experience in public or private school settings that ensure the candidate will be able to demonstrate the knowledge, skills, and abilities necessary to be a successful candidate for educator licensure.

(1) For all candidates not holding a current TSPC license, the unit shall submit to TSPC a completed and signed PA-1 candidate registration form, including fingerprinting cards, for each candidate prior to the date that the first field or clinical experience begins. (See also, OAR 584-017-0128 on admission requirements.) At the unit's discretion, candidates may be required to obtain fingerprint clearance prior to the first field or clinical experience, so long as the candidate is admitted into the program.

(2) At least twice during primary clinical experience, the institution's supervisor(s) meets with the candidate and the school district supervisor(s) in joint conferences to discuss supervisors' evaluations and the candidate's work samples or portfolios.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1045

### Student Teaching

(1) Student teaching is at least 15 weeks in length.

(a) At least nine consecutive weeks are full-time in schools, during which the student teacher assumes the full range of responsibilities of a classroom teacher for the purpose of developing and demonstrating the competencies required for initial licensure.

(b) During the remaining six weeks, the six week requirement may be met either through full-time or the equivalent part-time experience.

(c) The assignment of responsibilities may be incremental in keeping with the objectives of the experience.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1048

### Internship Agreements

The unit provides internship experiences in appropriate school settings for the purposes of instruction, assessment of competency and integration of field work with academic study.

(1) The internship may be completed in lieu of student teaching or a supervised field experience.

(2) The candidate must have completed at least seventy-five percent of the program leading to the degree required for the first teaching, administrative or personnel service license or be concurrently enrolled in a graduate program leading to the initial license.

(3) An internship is a minimum of one public school semester. The Executive Director of the Commission may approve a combination of student teaching and internship when extenuating circumstances exist.

(4) The candidate receives academic credit from the approved institution and financial compensation from the school district or education service district.

(5) If the candidate may obtain a provisional license prior to engaging in the internship if the candidate is eligible and the unit and the school district agree.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1050

### Diversity and Inclusion

(1) The unit designs, implements, and evaluates curriculum and provides experiences for candidates to acquire and demonstrate the knowledge, skills, and professional dispositions necessary to help all students learn equitably. Assessments indicate that candidates can demonstrate and apply proficiencies related to cultural competency and equitable student learning. Experiences provided for candidates include working with diverse populations, including higher education and P-12 school faculty, candidates, and students in P-12 schools. A cohort of candidates and faculty from diverse groups informs the unit's curriculum, pedagogy, and field experiences in culturally inclusive meaningful ways. Diverse faculty and peers assist can-

didates in addressing teaching and learning from multiple perspectives and different life experiences. These experiences provide for different voices in the professional development and work of the education profession. The greater range of cultural backgrounds and experiences among faculty and candidates enhances understanding of cultural competency, inclusion and equity for all students in the classroom.

(2) Areas evaluated under this standard include:

(a) Design, Implementation, and Evaluation of Curriculum and Experiences;

(b) Experiences Working with Diverse Faculty; and

(c) Experiences working with Diverse Candidates; and

(d) Experiences working with Diverse Student in the P-12 Schools.

(3) Units will be accredited against a rubric that sets forth the following levels of achievement of the standards: Target, Acceptable, and Unacceptable. The full rubrics for each standard are found in the TSPC Professional Standards Manual adopted by the Commission. A unit is held accountable to the full set of standards contained in the TSPC Professional Standards Manual.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1052

### Faculty Qualifications, Performances and Development

(1) Faculty are qualified and model best professional practices in scholarship, service, and teaching, including the assessment of their own effectiveness as related to candidate performance; they also collaborate with colleagues in disciplines and schools. The unit systematically evaluates faculty performance and facilitates professional development.

(2) Areas evaluated under this standard include:

(a) Qualified Faculty;

(b) Modeling Best Professional Practices in Teaching;

(c) Modeling Best Professional Practices in Scholarship;

(d) Modeling Best Professional Practices in Service;

(e) Unit Evaluation of Professional education Faculty Performance; and

(f) Unit Facilitation of Professional Development.

(3) Units will be accredited against a rubric that sets forth the following levels of achievement of the standards: Target, Acceptable, and Unacceptable. The full rubrics for each standard are found in the TSPC Professional Standards Manual adopted by the Commission. A unit is held accountable to the full set of standards contained in the TSPC Professional Standards Manual.

(4) Faculty refers to both full and part-time professional education faculty who are employed by higher education institutions and P-12 professionals who supervise clinical practices.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-017-1055

### Unit Governance and Resources

(1) The unit has leadership, authority, budget, personnel, facilities, and resources including information technology resources, for the preparation of candidates to meet professional, state and institutional standards.

(2) Areas evaluated under this standard include:

(a) Unit Leadership and Authority;

(b) Unit Budget;

(c) Personnel;

(d) Unit Facilities; and

(e) Unit Resources Including Technology.

(3) Units will be accredited against a rubric that sets forth the following levels of achievement of the standards: Target, Acceptable, and Unacceptable. The full rubrics for each standard are found in the TSPC Professional Standards Manual adopted by the Commission. A unit is held accountable to the full set of standards contained in the TSPC Professional Standards Manual.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0100

### Objectives for Initial Teachers Generally

(1) The Commission adopts the 2011 Interstate Teacher Assessment and Support Consortium (InTASC) Model Core Teaching Standards as the basis upon which Initial Teacher education programs are evaluated. The standards are support the following broad categories: The Learner and Learning; Content; Instructional Practice; and Professional Responsibility.

# ADMINISTRATIVE RULES

(2) Indicators for Initial Teacher Performances, Essential Knowledge and Critical Dispositions can be found in the publication: InTASC: Model Core Teaching Standards: A Resource for State Dialogue, published April 2011 by the Council of Chief State School Officers.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0105

### Knowledge, Skills, Abilities and Professional Dispositions for Initial I Teaching Licensure

The unit assures that candidates for an Initial I Teaching License have sufficient evidence to show performances, essential knowledge and critical dispositions in each of the following 10 teaching standards.

#### (1) The Learner and Learning:

(a) Learner Development: The teacher understands how children learn and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. [InTASC Standard #1]

(b) Learning Differences: The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards. [InTASC Standard #2]

(c) Learning Environments: The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self motivation. [InTASC Standard #3]

#### (2) Content

(a) Content Knowledge: The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) he or she teaches and creates learning experiences that make these aspects of the discipline accessible and meaningful for learners to assure mastery of the content. [InTASC Standard #4]

(b) Application of Content: The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues. [InTASC Standard #5]

#### (3) Instructional Practice

(a) Assessment: The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making. [InTASC Standard #6]

(b) Planning for Instruction: The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills and pedagogy, as well as learners and the community context. [InTASC Standard #7]

(c) Instructional Strategies: The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways. [InTASC Standard #8]

#### (4) Professional Responsibility

(a) Professional Learning and Ethical Practice: The teacher engages in ongoing professional learning and uses evidence to continually evaluate his or her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner. [InTASC Standard #9]

(b) Leadership and Collaboration: The teacher demonstrates leadership by taking responsibility for student learning and by collaborating with learners, families, colleagues, other school professionals, and community members to ensure learner growth and development, learning, and well-being. [InTASC Standard #10]

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0110

### Knowledge, Skills, Abilities and Professional Dispositions for Continuing Teaching Licensure

The unit assures that candidates for a Continuing Teaching License have sufficient evidence to show a higher level of performances, essential knowledge and critical dispositions in each of the following ten (10) teaching standards than is expected to achieve the Initial I Teaching License found in OAR 584-018-0100.

#### (1) The Learner and Learning:

(a) Learner Development: The teacher understands how children learn and develop, recognizing that patterns of learning and devel-

opment vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. [InTASC Standard #1]

(b) Learning Differences: The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards. [InTASC Standard #2]

(c) Learning Environments: The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self motivation. [InTASC Standard #3]

#### (2) Content

(a) Content Knowledge: The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) he or she teaches and creates learning experiences that make these aspects of the discipline accessible and meaningful for learners to assure mastery of the content. [InTASC Standard #4]

(b) Application of Content: The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues. [InTASC Standard #5]

#### (3) Instructional Practice

(a) Assessment: The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making. [InTASC Standard #6]

(b) Planning for Instruction: The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills and pedagogy, as well as learners and the community context. [InTASC Standard #7]

(c) Instructional Strategies: The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways. [InTASC Standard #8]

#### (4) Professional Responsibility

(a) Professional Learning and Ethical Practice: The teacher engages in ongoing professional learning and uses evidence to continually evaluate his or her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner. [InTASC Standard #9]

(b) Leadership and Collaboration: The teacher demonstrates leadership by taking responsibility for student learning and by collaborating with learners, families, colleagues, other school professionals, and community members to ensure learner growth and development, learning, and well-being. [InTASC Standard #10]

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0115

### Early Childhood Education Authorization

The unit assures that candidates for an Early Childhood Education Authorization demonstrate knowledge, skills, and competencies in a pre-kindergarten, kindergarten or an elementary setting.

(1) Candidates document understanding and apply knowledge of developmental psychology and learning, appropriate to students ages three through grade four within the cultural and community context of the teacher education institution and cooperating school districts.

(2) Candidates articulate and apply a philosophy of education which is appropriate to the students in pre-kindergarten and elementary grades and which ensures that students learn to think critically and integrate subject matter across disciplines.

(3) Candidates document broad knowledge of the subject matter, curriculum and methods needed to enable students to meet state and district standards by passing the commission-approved multiple subjects examination.

(4) Candidates complete student teaching or internship with students in grades pre-kindergarten through grade four. A field or clinical experience may substitute for student teaching if this is an additional authorization on an Initial, Initial I, Initial II or Continuing Teaching License.

(5) Special Education candidates may complete field, clinical experience or internships in grades pre-kindergarten through grade four.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12



# ADMINISTRATIVE RULES

## 584-018-0120

### Elementary Authorization

The unit assures that candidates for an Elementary (ELE) Authorization demonstrate knowledge, skills, and competencies in an elementary setting.

(1) Candidates document understanding and apply knowledge of developmental psychology and learning, appropriate to students in grades 3-8 within the cultural and community context of the teacher education institution and cooperating school districts.

(2) Candidates articulate and apply a philosophy of education which is appropriate to the students in elementary grades and which ensures that students learn to think critically and integrate subject matter across disciplines.

(3) Candidates document broad knowledge of the subject matter, curriculum and methods needed to enable students to meet state and district standards by passing the commission-approved multiple subjects examination.

(4) Candidates complete student teaching or internship with students in grades 3-8. A field or clinical experience may substitute for student teaching if this is an additional authorization on an Initial or Continuing Teaching License.

(5) Special Education candidates may complete field, clinical experience, or internships in grades three (3) through eight (8).

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0125

### Middle Level Authorization

The unit assures that candidates for a Middle Level authorization demonstrate knowledge, skills, and competencies in the middle level setting.

(1) Candidates document understanding and apply knowledge of developmental psychology and learning, appropriate to students in middle level education within the cultural and community context of the teacher education institution and cooperating school districts.

(2) Candidates articulate and apply a philosophy of education which is appropriate to the students in middle level education and which ensures that students learn to think critically and integrate subject matter across disciplines.

(3) Candidates document broad knowledge of the subject matter, curriculum and methods needed to enable students to meet state and district standards by passing the required Commission-approved multiple subjects examination.

(4) Candidates document in-depth knowledge of one subject matter or specialty endorsement appropriate to middle level teaching assignments by one or more of the following:

(a) Completing a college major in the subject matter or specialty endorsement;

(b) Passing the required Commission-approved test or tests, in the subject or specialty, including Basic Math;

(c) Passing the optional Commission-approved test in middle school Language Arts, Math, Social Studies or Science;

(d) Presenting evidence satisfactory to the Commission of specialized education.

(5) Candidates who have also passed the required Commission-approved multiple subjects examination may add subject-matter endorsements to the Initial Teaching License with middle-level authorizations by:

(a) Passing the high school level subject-mastery test, including Basic math. These endorsements authorize the candidate to teach the subjects through grade 12 so long as the candidate also holds the high school authorization; or

(b) Passing the middle school optional Commission-approved test in Language Arts, Social Studies or Science. These endorsements are only valid to teach the subject up through grade 9 in an elementary, middle or junior high school regardless if the candidate holds a high school authorization.

(6) Candidates who have not passed the commission-approved multiple subjects examination, but hold middle-level authorizations in art; English for Speakers of Other Languages (ESOL); bilingual education/ESOL; music, physical education, adaptive physical education; reading or special education may add an endorsement by:

(a) Passing the Commission-approved test or tests, including the middle school tests in Language Arts, Social Studies or Science in the subject-matter endorsement; and

(b) Completing one of the following practical experiences in grades 5-9:

(A) A field or clinical experience of 2 semester hours or 3 quarter hours, which except as specified below may or may not be part of a longer preparation that includes content or methods courses in the subject area, in an institution approved to prepare teachers for that endorsement;

(B) Verification of one year of experience teaching the new subject-area at least one hour each day or the equivalent on either an optional assignment of ten hours or less or on an approved conditional assignment permit (CAP) as allowed by OAR 584-036-0081; or

(C) Five years of experience teaching the subject area in a public school or regionally accredited private school within a U.S. jurisdiction on a license appropriate for the assignment before holding any Oregon license.

(7) Candidates complete student teaching or internship with students in grades 5-9 in an elementary, middle, or junior high school. A field or clinical experience may substitute for student teaching if this is an additional authorization on an Initial or Continuing Teaching License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0130

### High School Authorization

The unit assures that candidates for a High School Authorization demonstrate knowledge, skills, and competencies in a high school setting.

(1) Candidates document understanding and apply knowledge of developmental psychology and learning, appropriate to students in grades 7-12 within the cultural and community context of the teacher education institution and cooperating school districts.

(2) Candidates articulate and apply a philosophy of education which is appropriate to the students in grades 7-12 and which ensures that students learn to think critically and integrate subject matter across disciplines.

(3) Candidates document in-depth knowledge of one subject matter or specialty area, curriculum, and methods needed to enable students to meet state and district standards by passing the required Commission-approved test or tests in the specific subject area(s).

(4) Candidates holding middle-level endorsements in language arts, social studies or science, are not eligible to teach these subjects on the high school authorization.

(5) Candidates complete student teaching or internship with students in grades 7-12. A field or clinical experience may substitute for student teaching if this is an additional authorization on an Initial or Continuing Teaching License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0135

### Endorsements Requiring Multiple Authorization Levels

(1) The unit assures that candidates for selected subject matter or special education endorsements demonstrate knowledge, skills, and competencies for multiple authorizations.

(2) Candidates for endorsements in art, ESOL/bilingual, ESOL, music, physical education, adaptive physical education, special education and reading shall qualify for two levels of authorization by:

(a) Completing preparation in developmental psychology and methods appropriate for early childhood and elementary education, OR elementary and middle level, OR middle level and high school;

(b) Completing supervised field or clinical experiences in early childhood and elementary, OR elementary and middle level, OR middle level and high school; and

(c) Documenting knowledge of the endorsement by passing the commission-approved test in the specialty. The Multiple Subjects Examination (MSE) is not required for the endorsements in subsection (2) above.

(d) Candidates completing a field or clinical experience at either early childhood or elementary and at either middle or high school levels shall qualify for authorization for pre-primary (pp) through grade twelve (12).

(3) See, OAR 584-060-0071 for further guidance related to this rule.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0140

### Adding Authorization Levels to Existing Initial and Continuing Teaching Licenses

(1) The unit makes provisions for adding authorizations to Initial and Continuing Teaching Licenses.

# ADMINISTRATIVE RULES

(2) A candidate seeking to add the next contiguous authorization to an existing Initial or Continuing Teaching License will:

(a) Successfully complete at least six (6) quarter hours or four (4) semester hours of preparation in child or adolescent development, whichever is appropriate for the level being completed. The program will include methods of instruction in the appropriate subjects at the requested authorization level and may include taking additional subject-matter tests to qualify for the authorization level; and

(b) One of the following field or clinical experiences, which must include preparation of one (1) work sample to document teaching effectiveness at the new authorization level:

(A) A field or clinical experience of two (2) semester hours or three (3) quarter hours, which except as specified below may or may not be part of a longer preparation that includes content or methods courses in the subject area, in an institution approved to prepare teachers for that endorsement; or

(B) Verification of one (1) year of experience teaching the new subject-area at least one (1) hour each day or the equivalent on either an optional assignment of ten (10) hours or less or on an approved conditional assignment permit (CAP) as allowed by OAR 584-036-0081.

(3) A candidate may add an authorization level that is not contiguous to an existing Initial or Continuing Teaching License if, the candidate successfully completes an approved program at that level. Completion of the approved program shall include the required field or clinical experience and completion of a work sample to document teaching effectiveness at the new authorization level.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0205

### Knowledge, Skills, Abilities, Professional Dispositions and Educational Leadership for Initial Administrator Licensure

These standards align with the Educational Leadership Constituents Council (ELCC) 2009 standards for Educational Leadership published at: <http://www.npbea.org/ncate.php>. The knowledge and skill abilities required for each program standard are found within the full document of the 2009 standards. These standards are aligned with the Interstate School Leader Licensure Consortium (ISLLC). Oregon programs must demonstrate integration of principles of cultural competency and equitable practice in each standard through the entire educational leadership and school administration licensure programs.

(1) Visionary Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by stakeholders. [ISLLC Standard 1] Educational Leaders:

(a) Collaboratively develop and implement a shared vision and mission;

(b) Collect and use data to identify goals, assess organizational effectiveness, and promote organizational learning;

(c) Create and implement plans to achieve goals;

(d) Promote continuous and sustainable improvement; and

(e) Monitor and evaluate progress and revise plans.

(2) Instructional Improvement: leader integrates principles of cultural competency and equitable practice and promotes the success of every student by sustaining a positive school culture and instructional program conducive to student learning and staff professional growth. [ISLLC Standard 2] Educational Leaders:

(a) Nurture and sustain a culture of collaboration, trust, learning and high expectations;

(b) Create a comprehensive, rigorous and coherent curricular program;

(c) Create a personalized and motivating learning environment for students;

(d) Supervise and support instruction;

(e) Develop assessment and accountability systems to monitor student progress;

(f) Develop the instructional and leadership capacity of staff;

(g) Maximize time spent on quality instruction;

(h) Promote the use of the most effective and appropriate technologies to support teaching and learning; and

(i) Monitor and evaluate the impact of instruction.

(3) Effective Management: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by ensuring management of the organization, opera-

tion, and resources for a safe, efficient, and effective learning environment. [ISLLC Standard 3] Educational Leaders:

(a) Monitor and evaluate the management and operational systems;

(b) Obtain, allocate, align and efficiently use human, fiscal and technological resources;

(c) Promote and protect the welfare and safety of students and staff;

(d) Develop the capacity for adaptive leadership; and

(e) Ensure teacher and organizational time is focused to support quality instruction and student learning.

(4) Inclusive Practice: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by collaborating with faculty and community members, responding to diverse community interests and needs, and mobilizing community resources in order to demonstrate and promote ethical standards of democracy, equity, diversity, and excellence, and to promote communication among diverse groups. [ISLLC Standard 4] Educational leaders:

(a) Collect and analyze data pertinent to equitable outcomes;

(b) Understand and integrate the community's diverse cultural, social and intellectual resources;

(c) Build and sustain positive relationships with families and caregivers; and

(d) Build and sustain productive relationships with community partners.

(5) Ethical Leadership: An educational [leader integrates principles of cultural competency and equitable practice and promotes the success of every student by acting with integrity, fairness, and in an ethical manner. [ISLLC Standard 5] Educational leaders:

(a) Ensure a system of accountability for every student's academic and social success;

(b) Model principles of self-awareness, reflective practice, transparency and ethical behavior;

(c) Safeguard the values of democracy, equity and diversity;

(d) Evaluate the potential ethical and legal consequences of decision-making; and

(e) Promote social justice and ensure that individual student needs inform all aspects of schooling.

(6) Socio-Political Context: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context. [ISLLC Standard 6] Educational leaders:

(a) Advocate for children, families and caregivers;

(b) Act to influence local, district, state and national decisions affecting student learning; and

(c) Assess, analyze and anticipate emerging trends and initiatives in order to adapt leadership strategies.

(7) Field or Clinical Experience: The field or clinical experience provides significant opportunities for candidates to synthesize and apply the knowledge and practice and develop the skills identified in Standards 1-6 through substantial, sustained, standards-based work in real settings, planned and guided cooperatively by the institution and school district personnel for graduate credit.

(a) The field or clinical experience will be substantial. Candidates:

(A) Demonstrate the ability to accept genuine responsibility for leading, facilitating, and making decisions typical of those made by educational leaders. The experience(s) should provide candidates with substantial responsibilities that increase over time in amount and complexity and involve direct interaction and involvement with staff, students, parents, and community leaders; and

(B) Each candidate should have a minimum of six months or equivalent of full-time field or clinical experience in at least two non-congruent authorization levels (e.g., ECE, ELE ML or HS).

(b) The field or clinical will be sustained. Candidates: Participate in planned field or clinical activities during the entire course of the program, including an extended period of time near the conclusion of the program to allow for candidate application of knowledge and skills on a full-time basis.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0315

### Authorization Levels for School Counselors

The unit assures that candidates for Initial School Counselor License and Continuing School Counselor License demonstrate knowledge, skills and competencies for a K–12 authorization level by:

# ADMINISTRATIVE RULES

- (1) Completing preparation in developmental psychology and methods appropriate for early childhood through high school;
- (2) Articulating and applying a philosophy of education appropriate for early childhood through high school;
- (3) Completing supervised field or clinical experience in early childhood through high school; and
- (4) Documenting knowledge by submitting passing scores on the Commission-approved licensure tests.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0405

### Knowledge, Skills, Abilities and Professional Dispositions for Initial School Psychologist Licensure

- (1) The following requirements must be met to be eligible for an Initial School Psychologist License.
- (2) Data-Based Decision-Making and Accountability: Candidates have knowledge and use models and methods as part of a systematic process to collect data and other information, translate assessment results into empirically-based decisions about service delivery, and evaluate the outcomes of services.

(3) Consultation and Collaboration: Candidates have knowledge of behavioral, mental health, collaborative, and/or other consultation models and methods and of their application to particular situations. Candidates collaborate effectively with parents, school and outside personnel in planning and decision-making processes at the individual, group, and system levels.

(4) Effective Instruction and Development of Cognitive/Academic Skills: Candidates have knowledge of human learning processes, and in collaboration with others, develop appropriate cognitive and academic goals for students with different abilities, disabilities, strengths, and needs; implement interventions to achieve those goals; and evaluate the effectiveness of interventions (e.g. instructional interventions and consultation).

(5) Socialization and Development of Life Skills: Candidates have knowledge of human developmental processes, and in collaboration with others, develop appropriate behavioral, affective, adaptive, and social goals for students of varying abilities, disabilities, strengths, and needs; implement interventions to achieve those goals; and evaluate the effectiveness of interventions (e.g. consultation, behavioral assessment/intervention, and counseling).

(6) Student Diversity in Development and Learning: Candidates have knowledge of individual differences, abilities, and disabilities and of the potential influence of biological, social, cultural, ethnic, experiential, socioeconomic, sexual orientation, gender-related, and linguistic factors in development and learning. Candidates demonstrate the sensitivity and skills needed to work with individuals of diverse characteristics and to implement strategies selected and/or adapted based on individual characteristics, strengths, and needs.

(7) School and Systems Organization, Policy Development, and Climate: Candidates have knowledge of general education, special education, and other educational and related services. Candidates understand schools and other settings as systems. Candidates work with individuals and groups to facilitate policies and practices that create and maintain safe, supportive, and effective learning environments for children and others.

(8) Prevention, Crisis Intervention, and Mental Health: Candidates have knowledge of human development and psychopathology and of associated biological, cultural, and social influences on human behavior. Candidates provide or contribute to prevention and intervention programs that promote the mental health and physical well-being of students. Candidates have knowledge of crisis intervention and collaborate with school personnel, parents, and the community in the aftermath of crises.

(9) Home/School/Community Collaboration: Candidates have knowledge of family systems, including family strengths and influences on student development, learning, and behavior, and of methods to involve families in education and service delivery. Candidates work effectively with families, educators, and others in the community to promote and provide comprehensive services to children and families.

(10) Research and Program Evaluation: Candidates have knowledge of research, statistics, and evaluation methods. Candidates evaluate research, translate research into practice, and understand research design and statistics in sufficient depth to plan and conduct interventions (individual and/or program) for improvement of services.

(11) School Psychology Practice and Development: Candidates have knowledge of the history and foundations of their profession; of various service models and methods; of public policy development applicable to

services to children and families; and of ethical, professional, and legal standards. Candidates practice in ways that are consistent with applicable standards.

(12) Information Technology: Candidates have knowledge of information sources and technology relevant to their work. Candidate's access, evaluates, and utilizes information sources and technology in ways that safeguard or enhance the quality of services.

(13) The unit assures that candidates for the Initial School Psychologist License demonstrate knowledge, skills and competencies by:

- (a) Completing preparation in psychological foundations and methods appropriate for prekindergarten through grade 12 (pre K-12) grade authorization levels; and

- (b) Documenting knowledge by passing the Commission-approved test for the Initial School Psychologist License.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0410

### Knowledge, Skills, Abilities and Professional Dispositions for Continuing School Psychologist Licensure

The unit provides an approved program through which the candidates document the advanced competencies required for a Continuing License for School Psychology.

(1) Candidates document an understanding of and ability to apply emerging research on teaching, learning, and school improvement to increase district effectiveness.

(2) Candidates implement research-based educational practices that ensure student achievement and are sensitive to individual differences, diverse cultures, and ethnic backgrounds.

(3) Candidates exhibit collaboration with colleagues, staff, parents, and the public to enhance the student's performance.

(4) Candidates demonstrate effective leadership in communication with diverse and special interest organizations.

(5) Candidates develop productive school, board and community relations.

(6) Candidates demonstrate an advanced understanding of laws applicable to school psychologists.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0415

### Authorization Levels for School Psychologists

The unit assures that candidates for Initial School Social Worker License and Continuing School Social Worker License demonstrate knowledge, skills and competencies for a pre-K-12 authorization level by:

(1) Completing preparation in developmental psychology and methods appropriate for early childhood through high school;

(2) Articulating and applying a philosophy of education appropriate for early childhood through high school;

(3) Completing supervised field or clinical experiences in early childhood through high school; and

(4) Documenting knowledge by submitting passing scores on the Commission-approved licensure tests.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430, 342.455 – 342.495, 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0505

### Knowledge, Skills, Abilities and Professional Dispositions for Initial School Social Worker Licensure

(1) School Social Worker Program: Candidates who complete the program are school social workers and interdisciplinary leaders who have the knowledge, skill, ability, and cultural competence to develop and deliver school social worker services that demonstrate continuous improvement, and advance the mission of the school. Candidates:

- (a) Know the history, philosophy, and current trends in school social work and educational programs;

- (b) Work collaboratively to mobilize the resources of local education agencies and communities to meet the needs of students and families, and provide consultation to local education agency personnel, school board members, and community representatives to promote understanding and effective utilization of school social work services;

- (c) Organize their time, energies, and workloads to fulfill their responsibilities and complete assignments of their position, with due consideration of the priorities among their various responsibilities; and



# ADMINISTRATIVE RULES

(d) Align the school social work program with the academic and student services program in the school.

(2) A school social worker shall demonstrate commitment to the values and ethics of the social work profession and shall use National Association of Social Workers (NASW) Code of Ethics as a guide to ethical decision making.

(3) School social workers shall ensure that students and their families are provided services within the context of multicultural understanding and competence that enhance families' support of students' learning experiences.

(4) School social work services shall be extended to students in ways that build students' individual strengths and offer students maximum opportunity to participate in the planning and direction of their own learning experience.

(5) School social workers shall help empower students and their families to gain access to and effectively use formal and informal community resources.

(6) School social workers shall maintain adequate safeguards for the privacy and confidentiality of information.

(7) School social workers shall advocate for students and their families in a variety of situations.

(8) School social workers shall conduct assessments of student needs that are individualized and provide information that is directly useful for designing interventions that address behaviors of concern.

(9) School social workers shall possess knowledge and understanding basic to the social work profession.

(10) School social workers shall understand the backgrounds and broad range of experiences that shape students' approaches to learning.

(11). School social workers shall possess knowledge and understanding of the organization and structure of the local education agency (school district).

(12). School social workers shall possess knowledge and understanding of the reciprocal influences of home, school, and community.

(13) School social workers shall possess skills in systematic assessment and investigation.

(14) School social workers shall understand the relationship between practice and policies affecting students.

(15) School social workers shall be able to select and apply empirically validated or promising prevention and intervention methods to enhance students' educational experiences.

(16) School social workers shall be able to promote collaboration among community health and mental health services providers and facilitate student access to these services.

(17) Informational Resources and Technology: Candidates who complete the program are school social workers who have the knowledge, ability, skill, and cultural competence to be skilled in the selection and use of informational resources and technology and use them to facilitate the delivery of a comprehensive school social work services that meets student needs.

(18) Reflective Practice: Candidates who complete the program are school social workers who have the knowledge, ability, skill, and cultural competence to integrate their knowledge, skills, and life experience to respond effectively to new or unexpected critical events and situations.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0510

### Knowledge, Skills, Abilities, and Professional Dispositions for Continuing School Social Worker Licensure

(1) Candidates who complete the program are accomplished school social workers and educational leaders who have the knowledge, skill, abil-

ity, and cultural competence to document and contribute to the professional literature or program development within their district.

(2) School social workers shall organize their time, energies, and workloads to fulfill their responsibilities and complete assignments of their position, with due consideration of the priorities among their various responsibilities.

(3) School social workers shall provide consultation to local education agency personnel, school board members, and community representatives to promote understanding and effective utilization of school social work services.

(4) As leaders and members of interdisciplinary teams and coalitions, school social workers shall work collaboratively to mobilize the resources of local education agencies and communities to meet the needs of students and families.

(5) School social workers shall develop and provide training and educational programs for parents, teacher, other local education agency personnel, and staff of community agencies that address the goals and mission of the educational institution.

(6) School social workers shall maintain accurate data that are relevant to planning, management, and evaluation of school social work services.

(7) School social workers shall incorporate assessments in developing and implementing intervention and evaluation plans that enhance students' abilities to benefit from educational experiences.

(8) School social workers, as systems change agents, shall identify areas of need that are not being addressed by the local education agency and community and shall work to create services that address these needs.

(9) School social workers shall be trained in and use mediation and conflict resolution strategies to promote students' resolution of their non-productive encounters in the school and community and to promote productive relationships.

(10) School social workers shall meet the provisions for practice set by NASW.

(11) School social workers shall be able to evaluate their practice and disseminate the findings to consumers, the local education agency, the community, and the profession.

(12) School social workers shall possess skills in developing coalitions at the local, state, and national levels that promote student success.

(13) School social workers shall assume responsibility for their own continued professional development in accordance with the NASW Standards for Continuing Professional Education and state requirements.

(14) School social workers shall contribute to the development of the profession by educating and supervising school social work interns.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

## 584-018-0515

### Authorization Levels for School Social Workers

The unit assures that candidates for Initial School Social Worker License and Continuing School Social Worker License demonstrate knowledge, skills and competencies for a K-12 authorization level by:

(1) Completing preparation in developmental psychology and methods appropriate for early childhood through high school;

(2) Articulating and applying a philosophy of education appropriate for early childhood through high school;

(3) Completing supervised field or clinical experiences in early childhood through high school; and

(4) Documenting knowledge by submitting passing scores on the Commission-approved licensure tests.

Stat. Auth.: ORS 342  
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553  
Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12

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125-249-0690	1-1-2012	Amend	2-1-2012	137-047-0430	1-1-2012	Amend	1-1-2012
125-249-0800	1-1-2012	Amend	2-1-2012	137-047-0460	1-1-2012	Amend	1-1-2012
125-249-0810	1-1-2012	Amend	2-1-2012	137-047-0600	1-1-2012	Amend	1-1-2012
125-249-0815	1-1-2012	Amend	2-1-2012	137-047-0620	1-1-2012	Amend	1-1-2012



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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	141-110-0080	12-13-2011	Amend	1-1-2012
137-048-0240	1-1-2012	Amend	1-1-2012	150-18.385	1-1-2012	Amend	2-1-2012
137-048-0250	1-1-2012	Amend	1-1-2012	150-18.385(A)	1-1-2012	Amend	2-1-2012
137-048-0260	1-1-2012	Amend	1-1-2012	150-267.380(2)	1-1-2012	Amend	2-1-2012
137-048-0270	1-1-2012	Adopt	1-1-2012	150-294.435(1)-(A)	1-1-2012	Amend	2-1-2012
137-048-0300	1-1-2012	Amend	1-1-2012	150-294.435(1)-(C)	1-1-2012	Amend	2-1-2012
137-048-0310	1-1-2012	Amend	1-1-2012	150-294.480	1-1-2012	Amend	2-1-2012
137-048-0320	1-1-2012	Amend	1-1-2012	150-294.525-(A)	1-1-2012	Amend	2-1-2012
137-049-0380	1-1-2012	Amend	1-1-2012	150-305.810	2-1-2012	Amend(T)	3-1-2012
137-049-0650	1-1-2012	Amend	1-1-2012	150-307.250(1)(c)	1-1-2012	Am. & Ren.	2-1-2012
137-049-0860	1-1-2012	Amend	1-1-2012	150-308.290(4)(b)	1-1-2012	Am. & Ren.	2-1-2012
137-050-0750	1-3-2012	Amend	2-1-2012	150-308.505(3)	2-1-2012	Adopt(T)	3-1-2012
137-055-1100	1-3-2012	Amend	2-1-2012	150-311.216	1-1-2012	Amend	2-1-2012
137-055-1140	12-5-2011	Amend(T)	1-1-2012	150-314.280-(F)	1-1-2012	Amend	2-1-2012
137-055-1140	1-3-2012	Amend	2-1-2012	150-314.360	1-1-2012	Amend	2-1-2012
137-055-1145	12-5-2011	Suspend	1-1-2012	150-314.HB2071(A)	1-1-2012	Adopt	2-1-2012
137-055-1145	1-3-2012	Repeal	2-1-2012	150-314.HB2071(B)	1-1-2012	Adopt	2-1-2012
137-055-1160	1-3-2012	Amend	2-1-2012	150-315.326	1-1-2012	Adopt	2-1-2012
137-055-1800	1-3-2012	Amend	2-1-2012	150-315.354	1-1-2012	Repeal	2-1-2012
137-055-2100	1-3-2012	Adopt	2-1-2012	150-315.HB 3672	11-29-2011	Adopt(T)	1-1-2012
137-055-2160	1-3-2012	Amend	2-1-2012	150-315.HB 3672(T)	11-29-2011	Suspend	1-1-2012
137-055-3220	1-3-2012	Amend	2-1-2012	150-315.HB3672	1-1-2012	Suspend	2-1-2012
137-055-3430	1-3-2012	Amend	2-1-2012	150-317.710(5)(b)	1-1-2012	Amend	2-1-2012
137-055-3640	1-3-2012	Amend	2-1-2012	160-010-0030	3-1-2012	Adopt	4-1-2012
137-055-4130	1-3-2012	Amend	2-1-2012	160-010-0310	3-1-2012	Amend	4-1-2012
137-055-4440	1-3-2012	Amend	2-1-2012	160-010-0400	3-1-2012	Amend	4-1-2012
137-055-4520	1-3-2012	Amend	2-1-2012	160-010-0450	3-1-2012	Adopt	4-1-2012
137-055-5400	1-3-2012	Amend	2-1-2012	160-050-0115	3-1-2012	Adopt	4-1-2012
137-055-5420	1-3-2012	Amend	2-1-2012	160-050-0200	3-1-2012	Amend	4-1-2012
137-055-6021	1-3-2012	Amend	2-1-2012	160-050-0210	3-1-2012	Amend	4-1-2012
137-055-6100	1-3-2012	Repeal	2-1-2012	161-002-0000	11-17-2011	Amend	1-1-2012
137-055-6200	1-3-2012	Amend	2-1-2012	161-002-0000	1-1-2012	Amend(T)	2-1-2012
137-055-6220	1-3-2012	Amend	2-1-2012	161-006-0000	11-17-2011	Amend	1-1-2012
137-055-6240	1-3-2012	Amend	2-1-2012	161-006-0025	11-17-2011	Amend	1-1-2012
137-055-6260	1-3-2012	Amend	2-1-2012	161-006-0025(T)	11-17-2011	Repeal	1-1-2012
137-060-0130	2-2-2012	Amend	3-1-2012	161-006-0160	11-17-2011	Amend	1-1-2012
137-060-0150	2-2-2012	Amend	3-1-2012	161-006-0175	11-17-2011	Amend	1-1-2012
137-060-0160	2-2-2012	Amend	3-1-2012	161-008-0040	11-17-2011	Amend	1-1-2012
137-060-0230	2-2-2012	Amend	3-1-2012	161-010-0020	11-17-2011	Amend	1-1-2012
137-060-0250	2-2-2012	Amend	3-1-2012	161-010-0025	11-17-2011	Amend	1-1-2012
137-060-0330	2-2-2012	Amend	3-1-2012	161-010-0035	11-17-2011	Amend	1-1-2012
137-060-0350	2-2-2012	Amend	3-1-2012	161-010-0045	11-17-2011	Amend	1-1-2012
137-060-0360	2-2-2012	Amend	3-1-2012	161-010-0085	11-17-2011	Amend	1-1-2012
137-060-0430	2-2-2012	Amend	3-1-2012	161-020-0015	11-17-2011	Amend	1-1-2012
137-060-0450	2-2-2012	Amend	3-1-2012	161-020-0045	11-17-2011	Amend	1-1-2012
141-093-0107	4-1-2012	Amend	4-1-2012	161-020-0055	11-17-2011	Amend	1-1-2012
141-093-0115	4-1-2012	Amend	4-1-2012	161-020-0140	11-17-2011	Amend	1-1-2012
141-093-0135	4-1-2012	Amend	4-1-2012	161-020-0150	11-17-2011	Amend	1-1-2012

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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
162-040-0125	4-1-2012	Repeal	3-1-2012	177-200-0032	12-1-2011	Amend	1-1-2012
162-040-0130	4-1-2012	Repeal	3-1-2012	177-200-0032(T)	12-1-2011	Repeal	1-1-2012
162-040-0135	4-1-2012	Repeal	3-1-2012	213-003-0001	1-1-2012	Amend(T)	2-1-2012
162-040-0136	4-1-2012	Repeal	3-1-2012	213-003-0001(T)	1-1-2012	Suspend	2-1-2012
162-040-0140	4-1-2012	Repeal	3-1-2012	213-017-0006	1-1-2012	Amend(T)	2-1-2012
162-040-0146	4-1-2012	Repeal	3-1-2012	213-017-0006(T)	1-1-2012	Suspend	2-1-2012
162-040-0148	4-1-2012	Repeal	3-1-2012	213-017-0007	1-27-2012	Amend(T)	3-1-2012
162-040-0155	4-1-2012	Amend	3-1-2012	250-010-0440	12-22-2011	Amend(T)	2-1-2012
165-001-0015	1-3-2012	Amend	2-1-2012	250-010-0650	2-1-2012	Amend	2-1-2012
165-001-0016	1-3-2012	Amend	2-1-2012	250-010-0650	3-14-2012	Amend	4-1-2012
165-001-0025	1-3-2012	Amend	2-1-2012	250-010-0650(T)	2-1-2012	Repeal	2-1-2012
165-001-0034	1-3-2012	Amend	2-1-2012	250-010-0660	2-1-2012	Adopt	2-1-2012
165-007-0300	1-3-2012	Amend	2-1-2012	250-010-0660(T)	2-1-2012	Repeal	2-1-2012
165-007-0320	1-3-2012	Repeal	2-1-2012	250-017-0000	2-1-2012	Amend	2-1-2012
165-010-0005	1-3-2012	Amend	2-1-2012	250-017-0010	2-1-2012	Amend	2-1-2012
165-010-0060	1-3-2012	Amend	2-1-2012	250-017-0020	2-1-2012	Amend	2-1-2012
165-010-0085	1-3-2012	Repeal	2-1-2012	250-017-0030	2-1-2012	Amend	2-1-2012
165-012-0005	1-3-2012	Amend	2-1-2012	250-017-0040	2-1-2012	Amend	2-1-2012

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250-020-0280	1-1-2012	Amend(T)	2-1-2012	291-180-0252	12-7-2011	Adopt	1-1-2012
250-020-0280(T)	1-1-2012	Suspend	2-1-2012	291-180-0255	12-7-2011	Repeal	1-1-2012
255-032-0005	3-13-2012	Amend	4-1-2012	291-180-0262	12-7-2011	Adopt	1-1-2012
255-032-0011	3-13-2012	Repeal	4-1-2012	291-180-0275	1-10-2012	Amend(T)	2-1-2012
255-032-0035	11-30-2011	Amend	1-1-2012	291-180-0285	12-7-2011	Repeal	1-1-2012
255-032-0037	11-30-2011	Adopt	1-1-2012	291-180-0295	12-7-2011	Repeal	1-1-2012
255-032-0037	3-13-2012	Amend	4-1-2012	291-180-0305	12-7-2011	Repeal	1-1-2012
257-010-0060	12-15-2011	Adopt(T)	1-1-2012	291-180-0315	12-7-2011	Repeal	1-1-2012
259-001-0015	3-7-2012	Amend	4-1-2012	291-180-0325	12-7-2011	Repeal	1-1-2012
259-003-0015	3-7-2012	Amend	4-1-2012	291-180-0335	12-7-2011	Repeal	1-1-2012
259-005-0015	3-7-2012	Amend	4-1-2012	291-180-0345	12-7-2011	Repeal	1-1-2012
259-008-0060	12-23-2011	Amend	2-1-2012	291-180-0355	12-7-2011	Repeal	1-1-2012
259-008-0069	11-28-2011	Amend(T)	1-1-2012	291-180-0365	12-7-2011	Repeal	1-1-2012
259-008-0069	2-29-2012	Adopt	4-1-2012	291-180-0375	12-7-2011	Repeal	1-1-2012
259-008-0069(T)	2-29-2012	Repeal	4-1-2012	291-180-0385	12-7-2011	Repeal	1-1-2012
259-020-0015	12-30-2011	Amend	2-1-2012	291-180-0395	12-7-2011	Repeal	1-1-2012
259-020-0015	2-24-2012	Amend(T)	4-1-2012	291-180-0405	12-7-2011	Repeal	1-1-2012
259-061-0018	2-6-2012	Adopt(T)	3-1-2012	291-180-0415	12-7-2011	Repeal	1-1-2012
259-070-0010	12-28-2011	Amend	2-1-2012	291-180-0425	12-7-2011	Repeal	1-1-2012
274-015-0010	2-22-2012	Amend	4-1-2012	291-180-0435	12-7-2011	Repeal	1-1-2012
274-015-0020	2-22-2012	Adopt	4-1-2012	291-180-0445	12-7-2011	Repeal	1-1-2012
291-024-0081	11-17-2011	Adopt(T)	1-1-2012	291-180-0455	12-7-2011	Repeal	1-1-2012
291-031-0025	1-27-2012	Amend	3-1-2012	291-180-0465	12-7-2011	Repeal	1-1-2012
291-062-0110	3-1-2012	Amend	4-1-2012	291-180-0475	12-7-2011	Repeal	1-1-2012
291-062-0140	3-1-2012	Amend	4-1-2012	291-180-0485	12-7-2011	Repeal	1-1-2012
291-082-0105	3-1-2012	Amend	4-1-2012	291-180-0495	12-7-2011	Repeal	1-1-2012
291-082-0110	3-1-2012	Amend	4-1-2012	291-180-0505	12-7-2011	Repeal	1-1-2012
291-105-0005	12-7-2011	Amend	1-1-2012	291-180-0515	12-7-2011	Repeal	1-1-2012
291-105-0010	12-7-2011	Amend	1-1-2012	291-180-0525	12-7-2011	Repeal	1-1-2012
291-105-0013	12-7-2011	Amend	1-1-2012	291-180-0535	12-7-2011	Repeal	1-1-2012
291-105-0015	12-7-2011	Amend	1-1-2012	291-180-0545	12-7-2011	Repeal	1-1-2012
291-105-0021	12-7-2011	Amend	1-1-2012	291-180-0555	12-7-2011	Repeal	1-1-2012
291-105-0026	12-7-2011	Amend	1-1-2012	291-180-0565	12-7-2011	Repeal	1-1-2012
291-105-0028	12-7-2011	Amend	1-1-2012	291-180-0575	12-7-2011	Repeal	1-1-2012
291-105-0031	12-7-2011	Amend	1-1-2012	291-180-0585	12-7-2011	Repeal	1-1-2012
291-105-0036	12-7-2011	Amend	1-1-2012	291-180-0595	12-7-2011	Repeal	1-1-2012
291-105-0041	12-7-2011	Amend	1-1-2012	291-180-0605	12-7-2011	Repeal	1-1-2012
291-105-0046	12-7-2011	Amend	1-1-2012	291-180-0615	12-7-2011	Repeal	1-1-2012
291-105-0066	12-7-2011	Amend	1-1-2012	291-180-0625	12-7-2011	Repeal	1-1-2012
291-105-0069	12-7-2011	Amend	1-1-2012	291-180-0635	12-7-2011	Repeal	1-1-2012
291-105-0081	12-7-2011	Amend	1-1-2012	291-180-0645	12-7-2011	Repeal	1-1-2012
291-105-0100	12-7-2011	Amend	1-1-2012	291-180-0655	12-7-2011	Repeal	1-1-2012
291-180-0115	12-7-2011	Repeal	1-1-2012	291-180-0665	12-7-2011	Repeal	1-1-2012
291-180-0125	12-7-2011	Repeal	1-1-2012	291-208-0010	1-27-2012	Adopt	3-1-2012
291-180-0135	12-7-2011	Repeal	1-1-2012	291-208-0020	1-27-2012	Adopt	3-1-2012
291-180-0145	12-7-2011	Repeal	1-1-2012	291-208-0030	1-27-2012	Adopt	3-1-2012
291-180-0155	12-7-2011	Repeal	1-1-2012	291-208-0040	1-27-2012	Adopt	3-1-2012
291-180-0165	12-7-2011	Repeal	1-1-2012	291-208-0050	1-27-2012	Adopt	3-1-2012
291-180-0175	12-7-2011	Repeal	1-1-2012	309-014-0300	2-23-2012	Adopt	4-1-2012
291-180-0185	12-7-2011	Repeal	1-1-2012	309-014-0300(T)	2-23-2012	Repeal	4-1-2012
291-180-0195	12-7-2011	Repeal	1-1-2012	309-014-0310	2-23-2012	Adopt	4-1-2012
291-180-0205	12-7-2011	Repeal	1-1-2012	309-014-0310(T)	2-23-2012	Repeal	4-1-2012
291-180-0215	12-7-2011	Repeal	1-1-2012	309-014-0320	2-23-2012	Adopt	4-1-2012
291-180-0225	12-7-2011	Repeal	1-1-2012	309-014-0320(T)	2-23-2012	Repeal	4-1-2012
291-180-0235	12-7-2011	Repeal	1-1-2012	309-014-0330	2-23-2012	Adopt	4-1-2012



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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
309-032-0311(T)	2-9-2012	Repeal	3-1-2012	309-092-0015	1-1-2012	Adopt(T)	2-1-2012
309-032-0321	11-22-2011	Adopt(T)	1-1-2012	309-092-0020	1-1-2012	Adopt(T)	2-1-2012
309-032-0321	2-9-2012	Adopt	3-1-2012	309-092-0025	1-1-2012	Adopt(T)	2-1-2012
309-032-0321(T)	2-9-2012	Repeal	3-1-2012	309-092-0030	1-1-2012	Adopt(T)	2-1-2012
309-032-0331	11-22-2011	Adopt(T)	1-1-2012	309-092-0035	1-1-2012	Adopt(T)	2-1-2012
309-032-0331	2-9-2012	Adopt	3-1-2012	309-092-0040	1-1-2012	Adopt(T)	2-1-2012
309-032-0331(T)	2-9-2012	Repeal	3-1-2012	309-092-0045	1-1-2012	Adopt(T)	2-1-2012
309-032-0341	11-22-2011	Adopt(T)	1-1-2012	309-092-0050	1-1-2012	Adopt(T)	2-1-2012
309-032-0341	2-9-2012	Adopt	3-1-2012	309-092-0055	1-1-2012	Adopt(T)	2-1-2012
309-032-0341(T)	2-9-2012	Repeal	3-1-2012	309-092-0060	1-1-2012	Adopt(T)	2-1-2012
309-032-0351	11-22-2011	Adopt(T)	1-1-2012	309-092-0065	1-1-2012	Adopt(T)	2-1-2012
309-032-0351	2-9-2012	Adopt	3-1-2012	309-092-0070	1-1-2012	Adopt(T)	2-1-2012
309-032-0351(T)	2-9-2012	Repeal	3-1-2012	309-092-0075	1-1-2012	Adopt(T)	2-1-2012
309-032-1500	1-1-2012	Amend(T)	2-1-2012	309-092-0080	1-1-2012	Adopt(T)	2-1-2012
309-032-1505	1-1-2012	Amend(T)	2-1-2012	309-092-0085	1-1-2012	Adopt(T)	2-1-2012
309-032-1510	1-1-2012	Amend(T)	2-1-2012	309-092-0090	1-1-2012	Adopt(T)	2-1-2012
309-032-1515	1-1-2012	Amend(T)	2-1-2012	309-092-0095	1-1-2012	Adopt(T)	2-1-2012
309-032-1520	1-1-2012	Amend(T)	2-1-2012	309-092-0100	1-1-2012	Adopt(T)	2-1-2012
309-032-1525	1-1-2012	Amend(T)	2-1-2012	309-092-0105	1-1-2012	Adopt(T)	2-1-2012
309-032-1530	1-1-2012	Amend(T)	2-1-2012	309-092-0110	1-1-2012	Adopt(T)	2-1-2012
309-032-1535	1-1-2012	Amend(T)	2-1-2012	309-092-0115	1-1-2012	Adopt(T)	2-1-2012
309-032-1540	1-1-2012	Amend(T)	2-1-2012	309-092-0120	1-1-2012	Adopt(T)	2-1-2012
309-032-1545	1-1-2012	Amend(T)	2-1-2012	309-092-0125	1-1-2012	Adopt(T)	2-1-2012
309-032-1550	1-1-2012	Amend(T)	2-1-2012	309-092-0130	1-1-2012	Adopt(T)	2-1-2012
309-032-1555	1-1-2012	Amend(T)	2-1-2012	309-092-0135	1-1-2012	Adopt(T)	2-1-2012

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-092-0140	1-1-2012	Adopt(T)	2-1-2012	330-180-0010	11-22-2011	Adopt	1-1-2012
309-092-0145	1-1-2012	Adopt(T)	2-1-2012	330-180-0020	11-22-2011	Adopt	1-1-2012
309-092-0150	1-1-2012	Adopt(T)	2-1-2012	330-180-0030	11-22-2011	Adopt	1-1-2012
309-092-0155	1-1-2012	Adopt(T)	2-1-2012	330-180-0040	11-22-2011	Adopt	1-1-2012
309-092-0160	1-1-2012	Adopt(T)	2-1-2012	330-180-0050	11-22-2011	Adopt	1-1-2012
309-092-0165	1-1-2012	Adopt(T)	2-1-2012	330-180-0060	11-22-2011	Adopt	1-1-2012
309-092-0170	1-1-2012	Adopt(T)	2-1-2012	330-180-0070	11-22-2011	Adopt	1-1-2012
309-092-0175	1-1-2012	Adopt(T)	2-1-2012	330-200-0000	2-22-2012	Adopt(T)	4-1-2012
309-092-0180	1-1-2012	Adopt(T)	2-1-2012	330-200-0010	2-22-2012	Adopt(T)	4-1-2012
309-092-0185	1-1-2012	Adopt(T)	2-1-2012	330-200-0020	2-22-2012	Adopt(T)	4-1-2012
309-092-0190	1-1-2012	Adopt(T)	2-1-2012	330-200-0030	2-22-2012	Adopt(T)	4-1-2012
309-092-0195	1-1-2012	Adopt(T)	2-1-2012	330-200-0040	2-22-2012	Adopt(T)	4-1-2012
309-092-0200	1-1-2012	Adopt(T)	2-1-2012	330-200-0050	2-22-2012	Adopt(T)	4-1-2012
309-092-0205	1-1-2012	Adopt(T)	2-1-2012	330-200-0060	2-22-2012	Adopt(T)	4-1-2012
309-092-0210	1-1-2012	Adopt(T)	2-1-2012	330-200-0070	2-22-2012	Adopt(T)	4-1-2012
309-092-0215	1-1-2012	Adopt(T)	2-1-2012	330-200-0080	2-22-2012	Adopt(T)	4-1-2012
309-092-0220	1-1-2012	Adopt(T)	2-1-2012	330-200-0090	2-22-2012	Adopt(T)	4-1-2012
309-092-0225	1-1-2012	Adopt(T)	2-1-2012	330-200-0150	2-22-2012	Adopt(T)	4-1-2012
309-092-0230	1-1-2012	Adopt(T)	2-1-2012	330-210-0000	12-23-2011	Adopt(T)	2-1-2012
309-092-0235	1-1-2012	Adopt(T)	2-1-2012	330-210-0010	12-23-2011	Adopt(T)	2-1-2012
309-092-0240	1-1-2012	Adopt(T)	2-1-2012	330-210-0020	12-23-2011	Adopt(T)	2-1-2012
309-102-0100	2-9-2012	Adopt	3-1-2012	330-210-0030	12-23-2011	Adopt(T)	2-1-2012
309-102-0100(T)	2-9-2012	Repeal	3-1-2012	330-210-0040	12-23-2011	Adopt(T)	2-1-2012
309-102-0110	2-9-2012	Adopt	3-1-2012	330-210-0045	12-23-2011	Adopt(T)	2-1-2012
309-102-0110(T)	2-9-2012	Repeal	3-1-2012	330-210-0050	12-23-2011	Adopt(T)	2-1-2012
309-102-0120	2-9-2012	Adopt	3-1-2012	330-210-0060	12-23-2011	Adopt(T)	2-1-2012
309-102-0120(T)	2-9-2012	Repeal	3-1-2012	330-210-0070	12-23-2011	Adopt(T)	2-1-2012
309-102-0130	2-9-2012	Adopt	3-1-2012	330-210-0080	12-23-2011	Adopt(T)	2-1-2012
309-102-0130(T)	2-9-2012	Repeal	3-1-2012	330-210-0090	12-23-2011	Adopt(T)	2-1-2012
309-102-0140	2-9-2012	Adopt	3-1-2012	330-210-0100	12-23-2011	Adopt(T)	2-1-2012
309-102-0140(T)	2-9-2012	Repeal	3-1-2012	330-210-0150	12-23-2011	Adopt(T)	2-1-2012
309-102-0150	2-9-2012	Adopt	3-1-2012	330-220-0000	2-7-2012	Adopt(T)	3-1-2012
309-102-0150(T)	2-9-2012	Repeal	3-1-2012	330-220-0010	2-7-2012	Adopt(T)	3-1-2012
330-070-0013	1-1-2012	Amend	2-1-2012	330-220-0020	2-7-2012	Adopt(T)	3-1-2012
330-070-0014	1-1-2012	Amend	2-1-2012	330-220-0030	2-7-2012	Adopt(T)	3-1-2012
330-070-0019	1-1-2012	Amend	2-1-2012	330-220-0040	2-7-2012	Adopt(T)	3-1-2012
330-070-0020	1-1-2012	Amend	2-1-2012	330-220-0050	2-7-2012	Adopt(T)	3-1-2012
330-070-0021	1-1-2012	Amend	2-1-2012	330-220-0070	2-7-2012	Adopt(T)	3-1-2012
330-070-0022	1-1-2012	Amend	2-1-2012	330-220-0080	2-7-2012	Adopt(T)	3-1-2012
330-070-0024	1-1-2012	Amend	2-1-2012	330-220-0090	2-7-2012	Adopt(T)	3-1-2012
330-070-0025	1-1-2012	Amend	2-1-2012	330-220-0100	2-7-2012	Adopt(T)	3-1-2012
330-070-0026	1-1-2012	Amend	2-1-2012	330-220-0150	2-7-2012	Adopt(T)	3-1-2012
330-070-0027	1-1-2012	Amend	2-1-2012	330-230-0000	12-23-2011	Adopt(T)	2-1-2012
330-070-0029	1-1-2012	Adopt	2-1-2012	330-230-0010	12-23-2011	Adopt(T)	2-1-2012
330-070-0045	1-1-2012	Amend	2-1-2012	330-230-0020	12-23-2011	Adopt(T)	2-1-2012
330-070-0048	1-1-2012	Amend	2-1-2012	330-230-0030	12-23-2011	Adopt(T)	2-1-2012
330-070-0060	1-1-2012	Amend	2-1-2012	330-230-0040	12-23-2011	Adopt(T)	2-1-2012
330-070-0064	1-1-2012	Amend	2-1-2012	330-230-0050	12-23-2011	Adopt(T)	2-1-2012
330-070-0070	1-1-2012	Amend	2-1-2012	330-230-0060	12-23-2011	Adopt(T)	2-1-2012
330-070-0073	1-1-2012	Amend	2-1-2012	330-230-0110	12-23-2011	Adopt(T)	2-1-2012
330-070-0089	1-1-2012	Amend	2-1-2012	330-230-0120	12-23-2011	Adopt(T)	2-1-2012
330-070-0091	1-1-2012	Amend	2-1-2012	330-230-0130	12-23-2011	Adopt(T)	2-1-2012
330-070-0097	1-1-2012	Amend	2-1-2012	330-230-0140	12-23-2011	Adopt(T)	2-1-2012
330-090-0130	1-13-2012	Amend(T)	2-1-2012	331-020-0020	3-1-2012	Amend(T)	4-1-2012
330-090-0133	11-30-2011	Amend	1-1-2012	331-205-0020	1-1-2012	Repeal	2-1-2012
330-090-0160	11-30-2011	Adopt	1-1-2012	331-205-0030	1-1-2012	Repeal	2-1-2012





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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
331-900-0010	3-1-2012	Amend(T)	4-1-2012	331-905-0035	1-1-2012	Adopt(T)	2-1-2012
331-900-0015	1-1-2012	Adopt	2-1-2012	331-905-0035	3-1-2012	Adopt(T)	4-1-2012
331-900-0015	3-1-2012	Amend(T)	4-1-2012	331-905-0035(T)	3-1-2012	Suspend	4-1-2012
331-900-0020	1-1-2012	Adopt	2-1-2012	331-905-0040	1-1-2012	Adopt(T)	2-1-2012
331-900-0020	3-1-2012	Amend(T)	4-1-2012	331-905-0040	3-1-2012	Adopt(T)	4-1-2012
331-900-0025	1-1-2012	Adopt	2-1-2012	331-905-0040(T)	3-1-2012	Suspend	4-1-2012
331-900-0030	1-1-2012	Adopt	2-1-2012	331-905-0045	1-1-2012	Adopt(T)	2-1-2012
331-900-0030	3-1-2012	Amend(T)	4-1-2012	331-905-0045	3-1-2012	Adopt(T)	4-1-2012
331-900-0035	1-1-2012	Adopt	2-1-2012	331-905-0045(T)	3-1-2012	Suspend	4-1-2012
331-900-0040	1-1-2012	Adopt	2-1-2012	331-905-0050	1-1-2012	Adopt(T)	2-1-2012
331-900-0040	3-1-2012	Amend(T)	4-1-2012	331-905-0050	3-1-2012	Adopt(T)	4-1-2012
331-900-0045	1-1-2012	Adopt	2-1-2012	331-905-0050(T)	3-1-2012	Suspend	4-1-2012
331-900-0050	1-1-2012	Adopt	2-1-2012	331-905-0053	3-1-2012	Adopt(T)	4-1-2012
331-900-0055	1-1-2012	Adopt	2-1-2012	331-905-0055	1-1-2012	Adopt(T)	2-1-2012
331-900-0060	1-1-2012	Adopt	2-1-2012	331-905-0055	3-1-2012	Adopt(T)	4-1-2012
331-900-0065	1-1-2012	Adopt	2-1-2012	331-905-0055(T)	3-1-2012	Suspend	4-1-2012
331-900-0070	1-1-2012	Adopt	2-1-2012	331-905-0060	1-1-2012	Adopt(T)	2-1-2012
331-900-0070	3-1-2012	Amend(T)	4-1-2012	331-905-0060	3-1-2012	Adopt(T)	4-1-2012
331-900-0075	1-1-2012	Adopt	2-1-2012	331-905-0060(T)	3-1-2012	Suspend	4-1-2012
331-900-0080	1-1-2012	Adopt	2-1-2012	331-905-0065	1-1-2012	Adopt(T)	2-1-2012
331-900-0085	1-1-2012	Adopt	2-1-2012	331-905-0065	3-1-2012	Adopt(T)	4-1-2012
331-900-0085	3-1-2012	Amend(T)	4-1-2012	331-910-0000	1-1-2012	Adopt	2-1-2012
331-900-0090	1-1-2012	Adopt	2-1-2012	331-910-0005	1-1-2012	Adopt	2-1-2012
331-900-0090	3-1-2012	Amend(T)	4-1-2012	331-910-0010	1-1-2012	Adopt	2-1-2012
331-900-0095	1-1-2012	Adopt	2-1-2012	331-910-0010	3-1-2012	Amend(T)	4-1-2012
331-900-0095	3-1-2012	Amend(T)	4-1-2012	331-910-0015	1-1-2012	Adopt	2-1-2012

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331-910-0015	3-1-2012	Amend(T)	4-1-2012	331-925-0035	1-1-2012	Adopt	2-1-2012
331-910-0020	1-1-2012	Adopt	2-1-2012	331-925-0035	3-1-2012	Amend(T)	4-1-2012
331-910-0020	3-1-2012	Amend(T)	4-1-2012	331-925-0040	1-1-2012	Adopt	2-1-2012
331-910-0025	1-1-2012	Adopt	2-1-2012	331-925-0040	3-1-2012	Amend(T)	4-1-2012
331-910-0025	3-1-2012	Amend(T)	4-1-2012	331-925-0045	1-1-2012	Adopt	2-1-2012
331-910-0030	1-1-2012	Adopt	2-1-2012	331-925-0050	3-1-2012	Adopt(T)	4-1-2012
331-910-0035	1-1-2012	Adopt	2-1-2012	331-925-0055	3-1-2012	Adopt(T)	4-1-2012
331-910-0040	1-1-2012	Adopt	2-1-2012	331-930-0000	1-1-2012	Adopt	2-1-2012
331-910-0040	3-1-2012	Amend(T)	4-1-2012	331-930-0000	3-1-2012	Amend(T)	4-1-2012
331-910-0045	1-1-2012	Adopt	2-1-2012	331-930-0005	1-1-2012	Adopt	2-1-2012
331-910-0045	3-1-2012	Amend(T)	4-1-2012	331-930-0005	3-1-2012	Suspend	4-1-2012
331-910-0050	1-1-2012	Adopt	2-1-2012	331-930-0010	1-1-2012	Adopt	2-1-2012
331-910-0055	1-1-2012	Adopt	2-1-2012	331-930-0010	3-1-2012	Suspend	4-1-2012
331-910-0055	3-1-2012	Amend(T)	4-1-2012	331-930-0015	1-1-2012	Adopt	2-1-2012
331-910-0060	1-1-2012	Adopt	2-1-2012	331-930-0015	3-1-2012	Amend(T)	4-1-2012
331-910-0065	1-1-2012	Adopt	2-1-2012	331-930-0020	1-1-2012	Adopt	2-1-2012
331-910-0065	3-1-2012	Amend(T)	4-1-2012	331-930-0020	3-1-2012	Amend(T)	4-1-2012
331-910-0070	3-1-2012	Adopt(T)	4-1-2012	331-930-0025	1-1-2012	Adopt	2-1-2012
331-910-0075	3-1-2012	Adopt(T)	4-1-2012	331-930-0025	3-1-2012	Amend(T)	4-1-2012
331-910-0080	3-1-2012	Adopt(T)	4-1-2012	331-930-0030	1-1-2012	Adopt	2-1-2012
331-910-0085	3-1-2012	Adopt(T)	4-1-2012	331-930-0030	3-1-2012	Amend(T)	4-1-2012
331-915-0000	1-1-2012	Adopt	2-1-2012	331-940-0000	1-1-2012	Adopt	2-1-2012
331-915-0005	1-1-2012	Adopt	2-1-2012	331-940-0000	3-5-2012	Amend(T)	4-1-2012
331-915-0010	1-1-2012	Adopt	2-1-2012	331-950-0010	1-1-2012	Adopt	2-1-2012
331-915-0010	3-1-2012	Amend(T)	4-1-2012	331-950-0020	1-1-2012	Adopt	2-1-2012
331-915-0015	1-1-2012	Adopt	2-1-2012	331-950-0030	1-1-2012	Adopt	2-1-2012
331-915-0015	3-1-2012	Amend(T)	4-1-2012	331-950-0040	1-1-2012	Adopt	2-1-2012
331-915-0020	1-1-2012	Adopt	2-1-2012	331-950-0050	1-1-2012	Adopt	2-1-2012
331-915-0020	3-1-2012	Amend(T)	4-1-2012	331-950-0060	1-1-2012	Adopt	2-1-2012
331-915-0025	1-1-2012	Adopt	2-1-2012	331-950-0070	1-1-2012	Adopt	2-1-2012
331-915-0030	1-1-2012	Adopt	2-1-2012	332-025-0120	4-12-2012	Amend(T)	4-1-2012
331-915-0035	1-1-2012	Adopt	2-1-2012	332-040-0000	1-1-2012	Amend(T)	2-1-2012
331-915-0040	1-1-2012	Adopt	2-1-2012	332-040-0000	3-9-2012	Amend(T)	4-1-2012
331-915-0040	3-1-2012	Amend(T)	4-1-2012	333-010-0000	1-1-2012	Amend	2-1-2012
331-915-0045	1-1-2012	Adopt	2-1-2012	333-010-0010	1-1-2012	Amend	2-1-2012
331-915-0045	3-1-2012	Amend(T)	4-1-2012	333-010-0020	1-1-2012	Amend	2-1-2012
331-915-0050	1-1-2012	Adopt	2-1-2012	333-010-0030	1-1-2012	Amend	2-1-2012
331-915-0055	1-1-2012	Adopt	2-1-2012	333-010-0032	1-1-2012	Adopt	2-1-2012
331-915-0060	1-1-2012	Adopt	2-1-2012	333-010-0035	1-1-2012	Amend	2-1-2012
331-915-0065	1-1-2012	Adopt	2-1-2012	333-010-0040	1-1-2012	Amend	2-1-2012
331-920-0000	1-1-2012	Adopt	2-1-2012	333-010-0050	1-1-2012	Amend	2-1-2012
331-920-0005	1-1-2012	Adopt	2-1-2012	333-010-0055	1-1-2012	Amend	2-1-2012
331-925-0000	1-1-2012	Adopt	2-1-2012	333-010-0060	1-1-2012	Amend	2-1-2012
331-925-0000	3-1-2012	Amend(T)	4-1-2012	333-010-0070	1-1-2012	Amend	2-1-2012
331-925-0005	1-1-2012	Adopt	2-1-2012	333-010-0080	1-1-2012	Amend	2-1-2012
331-925-0005	3-1-2012	Amend(T)	4-1-2012	333-010-0100	1-17-2012	Amend	3-1-2012
331-925-0010	1-1-2012	Adopt	2-1-2012	333-010-0105	1-17-2012	Amend	3-1-2012
331-925-0010	3-1-2012	Amend(T)	4-1-2012	333-010-0110	1-17-2012	Amend	3-1-2012
331-925-0015	1-1-2012	Adopt	2-1-2012	333-010-0115	1-17-2012	Amend	3-1-2012
331-925-0015	3-1-2012	Amend(T)	4-1-2012	333-010-0130	1-17-2012	Amend	3-1-2012
331-925-0020	1-1-2012	Adopt	2-1-2012	333-010-0197	1-17-2012	Adopt	3-1-2012
331-925-0020	3-1-2012	Amend(T)	4-1-2012	333-011-0006	1-1-2012	Amend	2-1-2012
331-925-0025	1-1-2012	Adopt	2-1-2012	333-011-0016	1-1-2012	Amend	2-1-2012
331-925-0025	3-1-2012	Amend(T)	4-1-2012	333-011-0061	1-1-2012	Amend	2-1-2012
331-925-0030	1-1-2012	Adopt	2-1-2012	333-011-0101	1-1-2012	Amend	2-1-2012
331-925-0030	3-1-2012	Amend(T)	4-1-2012	333-012-0053	3-1-2012	Amend	4-1-2012

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333-015-0025	2-1-2012	Amend	3-1-2012	333-265-0170	1-1-2012	Amend	2-1-2012
333-015-0030	2-1-2012	Amend	3-1-2012	334-001-0000	1-1-2012	Amend	1-1-2012
333-015-0035	2-1-2012	Amend	3-1-2012	334-001-0005	1-1-2012	Amend	1-1-2012
333-015-0040	2-1-2012	Amend	3-1-2012	334-001-0020	1-1-2012	Amend	1-1-2012
333-015-0045	2-1-2012	Amend	3-1-2012	334-001-0025	1-1-2012	Adopt	1-1-2012
333-015-0064	2-1-2012	Amend	3-1-2012	334-001-0028	1-1-2012	Adopt	1-1-2012
333-015-0066	2-1-2012	Amend	3-1-2012	334-001-0032	1-1-2012	Adopt	1-1-2012
333-015-0068	2-1-2012	Amend	3-1-2012	334-001-0035	1-1-2012	Repeal	1-1-2012
333-015-0069	2-1-2012	Amend	3-1-2012	334-001-0036	1-1-2012	Adopt	1-1-2012
333-015-0070	2-1-2012	Amend	3-1-2012	334-001-0060	1-1-2012	Amend	1-1-2012
333-015-0075	2-1-2012	Amend	3-1-2012	334-010-0005	1-1-2012	Amend	1-1-2012
333-015-0080	2-1-2012	Amend	3-1-2012	334-010-0008	1-1-2012	Amend	1-1-2012
333-015-0082	2-1-2012	Amend	3-1-2012	334-010-0009	1-1-2012	Adopt	1-1-2012
333-015-0085	2-1-2012	Amend	3-1-2012	334-010-0010	1-1-2012	Amend	1-1-2012
333-015-0090	2-1-2012	Repeal	3-1-2012	334-010-0012	1-1-2012	Amend	1-1-2012
333-019-0041	12-14-2011	Amend	1-1-2012	334-010-0015	1-1-2012	Amend	1-1-2012
333-019-0042	12-14-2011	Adopt	1-1-2012	334-010-0017	1-1-2012	Amend	1-1-2012
333-047-0010	1-1-2012	Adopt	2-1-2012	334-010-0018	1-1-2012	Adopt	1-1-2012
333-047-0030	1-1-2012	Adopt	2-1-2012	334-010-0025	1-1-2012	Amend	1-1-2012
333-047-0040	1-1-2012	Adopt	2-1-2012	334-010-0027	1-1-2012	Adopt	1-1-2012
333-047-0050	1-1-2012	Adopt	2-1-2012	334-010-0033	1-1-2012	Amend	1-1-2012
333-049-0010	1-1-2012	Amend	2-1-2012	334-010-0046	1-1-2012	Amend	1-1-2012
333-049-0040	1-1-2012	Amend	2-1-2012	334-010-0050	1-1-2012	Amend	1-1-2012
333-049-0050	1-1-2012	Amend	2-1-2012	334-020-0015	1-1-2012	Amend	1-1-2012
333-049-0065	1-1-2012	Amend	2-1-2012	334-030-0001	1-1-2012	Amend	1-1-2012
333-049-0070	1-1-2012	Amend	2-1-2012	334-030-0005	1-1-2012	Amend	1-1-2012
333-049-0090	1-1-2012	Amend	2-1-2012	334-040-0001	1-1-2012	Amend	1-1-2012
333-157-0073	3-1-2012	Adopt	4-1-2012	334-040-0010	1-1-2012	Amend	1-1-2012
333-157-0077	3-1-2012	Adopt	4-1-2012	335-060-0006	2-23-2012	Amend	4-1-2012
333-265-0000	1-1-2012	Amend	2-1-2012	335-060-0007	2-23-2012	Amend	4-1-2012
333-265-0010	1-1-2012	Amend	2-1-2012	335-060-0010	2-23-2012	Amend	4-1-2012
333-265-0012	1-1-2012	Amend	2-1-2012	337-010-0030	1-12-2012	Amend	2-1-2012
333-265-0014	1-1-2012	Amend	2-1-2012	340-045-0100	11-18-2011	Amend	1-1-2012
333-265-0015	1-1-2012	Amend	2-1-2012	340-200-0040	12-21-2011	Amend	2-1-2012
333-265-0016	1-1-2012	Amend	2-1-2012	340-204-0010	12-21-2011	Amend	2-1-2012
333-265-0018	1-1-2012	Amend	2-1-2012	340-204-0030	12-21-2011	Amend	2-1-2012
333-265-0020	1-1-2012	Amend	2-1-2012	340-204-0040	12-21-2011	Amend	2-1-2012
333-265-0022	1-1-2012	Amend	2-1-2012	407-007-0200	2-27-2012	Amend(T)	4-1-2012
333-265-0023	1-1-2012	Amend	2-1-2012	407-007-0210	2-27-2012	Amend(T)	4-1-2012
333-265-0025	1-1-2012	Amend	2-1-2012	407-007-0215	2-27-2012	Adopt(T)	4-1-2012
333-265-0030	1-1-2012	Amend	2-1-2012	407-007-0220	2-27-2012	Amend(T)	4-1-2012
333-265-0040	1-1-2012	Amend	2-1-2012	407-007-0230	2-27-2012	Amend(T)	4-1-2012
333-265-0050	1-1-2012	Amend	2-1-2012	407-007-0240	2-27-2012	Amend(T)	4-1-2012
333-265-0060	1-1-2012	Amend	2-1-2012	407-007-0250	2-27-2012	Amend(T)	4-1-2012
333-265-0070	1-1-2012	Amend	2-1-2012	407-007-0275	2-27-2012	Amend(T)	4-1-2012
333-265-0080	1-1-2012	Amend	2-1-2012	407-007-0280	2-27-2012	Amend(T)	4-1-2012
333-265-0083	1-1-2012	Amend	2-1-2012	407-007-0290	2-27-2012	Amend(T)	4-1-2012
333-265-0085	1-1-2012	Amend	2-1-2012	407-007-0300	2-27-2012	Amend(T)	4-1-2012
333-265-0087	1-1-2012	Amend	2-1-2012	407-007-0315	2-27-2012	Amend(T)	4-1-2012
333-265-0090	1-1-2012	Amend	2-1-2012	407-007-0320	2-27-2012	Amend(T)	4-1-2012
333-265-0100	1-1-2012	Amend	2-1-2012	407-007-0325	2-27-2012	Amend(T)	4-1-2012
333-265-0105	1-1-2012	Amend	2-1-2012	407-007-0330	2-27-2012	Amend(T)	4-1-2012
333-265-0110	1-1-2012	Amend	2-1-2012	407-007-0335	2-27-2012	Amend(T)	4-1-2012
333-265-0140	1-1-2012	Amend	2-1-2012	407-007-0340	2-27-2012	Amend(T)	4-1-2012
333-265-0150	1-1-2012	Amend	2-1-2012	407-007-0350	2-27-2012	Amend(T)	4-1-2012



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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	410-120-0006	1-1-2012	Amend	1-1-2012
407-045-0320	12-5-2011	Amend	1-1-2012	410-120-0006	1-13-2012	Amend(T)	2-1-2012
407-045-0400	12-1-2011	Amend	1-1-2012	410-120-0006	1-26-2012	Amend(T)	3-1-2012
407-045-0400(T)	12-1-2011	Repeal	1-1-2012	410-120-0006	1-31-2012	Amend(T)	3-1-2012
407-045-0410	12-1-2011	Repeal	1-1-2012	410-120-0006	2-1-2012	Amend(T)	3-1-2012
407-045-0420	12-1-2011	Repeal	1-1-2012	410-120-0006	3-1-2012	Amend(T)	4-1-2012
407-045-0430	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	1-1-2012	Repeal	1-1-2012
407-045-0440	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	1-26-2012	Suspend	3-1-2012
407-045-0450	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	3-1-2012	Suspend	4-1-2012
407-045-0460	12-1-2011	Repeal	1-1-2012	410-120-1160	1-1-2012	Amend	1-1-2012
407-045-0470	12-1-2011	Repeal	1-1-2012	410-120-1200	1-1-2012	Amend	1-1-2012
407-045-0480	12-1-2011	Repeal	1-1-2012	410-120-1210	1-1-2012	Amend	1-1-2012
407-045-0490	12-1-2011	Repeal	1-1-2012	410-120-1340	1-1-2012	Amend	1-1-2012
407-045-0500	12-1-2011	Repeal	1-1-2012	410-120-1340(T)	1-1-2012	Repeal	1-1-2012
407-045-0510	12-1-2011	Repeal	1-1-2012	410-120-1510	1-1-2012	Amend	1-1-2012
407-045-0520	12-1-2011	Repeal	1-1-2012	410-120-1860	2-1-2012	Amend(T)	3-1-2012
407-120-0100	12-27-2011	Amend	2-1-2012	410-120-1920	1-1-2012	Amend	1-1-2012
407-120-0100(T)	12-27-2011	Repeal	2-1-2012	410-120-1960	1-1-2012	Amend	1-1-2012
407-120-0112	12-27-2011	Amend	2-1-2012	410-121-0000	1-1-2012	Amend	2-1-2012
407-120-0112(T)	12-27-2011	Repeal	2-1-2012	410-121-0030	1-1-2012	Amend	2-1-2012
407-120-0114	12-27-2011	Amend	2-1-2012	410-121-0032	1-1-2012	Amend	2-1-2012
407-120-0114(T)	12-27-2011	Repeal	2-1-2012	410-121-0040	1-1-2012	Amend	2-1-2012
407-120-0150	12-27-2011	Amend	2-1-2012	410-121-0061	1-1-2012	Amend	2-1-2012
407-120-0150(T)	12-27-2011	Repeal	2-1-2012	410-121-0146	1-1-2012	Amend	2-1-2012

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410-121-0160	1-1-2012	Amend	2-1-2012	410-140-0400	12-6-2011	Amend	1-1-2012
410-121-0160(T)	1-1-2012	Repeal	2-1-2012	410-141-0070	11-21-2011	Amend(T)	1-1-2012
410-121-0185	1-1-2012	Amend	2-1-2012	410-141-0080	1-1-2012	Amend(T)	1-1-2012
410-121-0190	1-1-2012	Amend	2-1-2012	410-141-0264	2-7-2012	Amend(T)	3-1-2012
410-121-2000	3-13-2012	Amend	4-1-2012	410-141-0420	1-1-2012	Amend(T)	2-1-2012
410-121-2005	3-13-2012	Amend	4-1-2012	410-141-0520	12-23-2011	Amend	2-1-2012
410-121-2010	3-13-2012	Amend	4-1-2012	410-141-0520	1-1-2012	Amend(T)	2-1-2012
410-121-2020	3-13-2012	Amend	4-1-2012	410-141-0520(T)	12-23-2011	Repeal	2-1-2012
410-121-2030	3-13-2012	Amend	4-1-2012	410-142-0020	1-1-2012	Amend	1-1-2012
410-121-2050	3-13-2012	Amend	4-1-2012	410-142-0040	1-1-2012	Amend	1-1-2012
410-121-2065	3-13-2012	Amend	4-1-2012	410-148-0060	1-1-2012	Amend	1-1-2012
410-122-0186	1-1-2012	Amend	2-1-2012	410-500-0000	1-31-2012	Adopt(T)	3-1-2012
410-122-0186(T)	1-1-2012	Repeal	2-1-2012	410-500-0010	1-31-2012	Adopt(T)	3-1-2012
410-122-0188	1-1-2012	Adopt	2-1-2012	410-500-0020	1-31-2012	Adopt(T)	3-1-2012
410-122-0520	1-1-2012	Amend	2-1-2012	410-500-0030	1-31-2012	Adopt(T)	3-1-2012
410-122-0630	1-1-2012	Amend	2-1-2012	410-500-0040	1-31-2012	Adopt(T)	3-1-2012
410-122-0630(T)	1-1-2012	Repeal	2-1-2012	410-500-0050	1-31-2012	Adopt(T)	3-1-2012
410-123-1000	1-1-2012	Amend	2-1-2012	410-500-0060	1-31-2012	Adopt(T)	3-1-2012
410-123-1060	1-1-2012	Amend	2-1-2012	411-040-0000	12-20-2011	Amend(T)	2-1-2012
410-123-1060	1-1-2012	Amend	2-1-2012	411-320-0020	1-1-2012	Amend	2-1-2012
410-123-1220	1-1-2012	Amend	2-1-2012	411-320-0080	1-1-2012	Amend	2-1-2012
410-123-1220	1-1-2012	Amend	2-1-2012	411-320-0090	12-28-2011	Amend	2-1-2012
410-123-1260	1-1-2012	Amend	2-1-2012	411-320-0090(T)	12-28-2011	Repeal	2-1-2012
410-123-1260	1-1-2012	Amend	2-1-2012	411-320-0110	12-28-2011	Amend	2-1-2012
410-123-1490	1-1-2012	Amend	2-1-2012	411-320-0110(T)	12-28-2011	Repeal	2-1-2012
410-123-1490	1-1-2012	Amend	2-1-2012	411-320-0175	1-1-2012	Amend(T)	2-1-2012
410-125-0045	1-1-2012	Amend	1-1-2012	411-320-0190	1-1-2012	Amend	2-1-2012
410-125-0047	1-1-2012	Amend	1-1-2012	411-323-0010	1-6-2012	Amend	2-1-2012
410-125-0080	1-1-2012	Amend	1-1-2012	411-323-0010(T)	1-6-2012	Repeal	2-1-2012
410-125-0085	1-1-2012	Amend	1-1-2012	411-323-0020	1-6-2012	Amend	2-1-2012
410-125-0140	1-1-2012	Amend	1-1-2012	411-323-0020(T)	1-6-2012	Repeal	2-1-2012
410-125-0195	1-1-2012	Amend(T)	2-1-2012	411-323-0030	1-6-2012	Amend	2-1-2012
410-125-0220	1-1-2012	Amend	1-1-2012	411-323-0030(T)	1-6-2012	Repeal	2-1-2012
410-125-0450	1-1-2012	Amend(T)	2-1-2012	411-323-0035	1-6-2012	Adopt	2-1-2012
410-127-0060	1-1-2012	Amend	1-1-2012	411-323-0035(T)	1-6-2012	Repeal	2-1-2012
410-130-0000	1-1-2012	Amend	2-1-2012	411-323-0040	1-6-2012	Amend	2-1-2012
410-130-0200	1-1-2012	Amend	2-1-2012	411-323-0040(T)	1-6-2012	Repeal	2-1-2012
410-130-0220	1-1-2012	Amend	2-1-2012	411-323-0050	1-6-2012	Amend	2-1-2012
410-130-0255	1-1-2012	Amend	2-1-2012	411-323-0050(T)	1-6-2012	Repeal	2-1-2012
410-130-0368	1-1-2012	Amend	2-1-2012	411-323-0060	1-6-2012	Amend	2-1-2012
410-130-0595	1-1-2012	Amend	2-1-2012	411-323-0060(T)	1-6-2012	Repeal	2-1-2012
410-130-0595(T)	1-1-2012	Repeal	2-1-2012	411-323-0070	1-6-2012	Amend	2-1-2012
410-131-0040	1-1-2012	Amend	1-1-2012	411-323-0070(T)	1-6-2012	Repeal	2-1-2012
410-131-0060	1-1-2012	Repeal	1-1-2012	411-325-0020	1-6-2012	Amend	2-1-2012
410-131-0080	1-1-2012	Amend	1-1-2012	411-325-0020(T)	1-6-2012	Repeal	2-1-2012
410-131-0100	1-1-2012	Amend	1-1-2012	411-325-0025	1-6-2012	Adopt	2-1-2012
410-131-0120	1-1-2012	Amend	1-1-2012	411-325-0025(T)	1-6-2012	Repeal	2-1-2012
410-131-0140	1-1-2012	Repeal	1-1-2012	411-325-0060	1-6-2012	Amend	2-1-2012
410-131-0160	1-1-2012	Amend	1-1-2012	411-325-0060(T)	1-6-2012	Repeal	2-1-2012
410-131-0180	1-1-2012	Repeal	1-1-2012	411-325-0080	1-6-2012	Repeal	2-1-2012
410-131-0200	1-1-2012	Repeal	1-1-2012	411-325-0100	1-6-2012	Repeal	2-1-2012
410-131-0270	1-1-2012	Repeal	1-1-2012	411-325-0110	1-6-2012	Amend	2-1-2012
410-131-0275	1-1-2012	Repeal	1-1-2012	411-325-0150	1-6-2012	Amend	2-1-2012
410-131-0280	1-1-2012	Repeal	1-1-2012	411-325-0160	1-6-2012	Repeal	2-1-2012
410-140-0080	12-6-2011	Amend	1-1-2012	411-325-0210	1-6-2012	Repeal	2-1-2012

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411-325-0320	1-6-2012	Amend	2-1-2012	411-340-0140	12-28-2011	Amend	2-1-2012
411-325-0320(T)	1-6-2012	Repeal	2-1-2012	411-340-0150	12-28-2011	Amend	2-1-2012
411-325-0430	1-6-2012	Amend	2-1-2012	411-345-0010	1-6-2012	Amend	2-1-2012
411-325-0450	1-6-2012	Repeal	2-1-2012	411-345-0010(T)	1-6-2012	Repeal	2-1-2012
411-325-0460	1-6-2012	Amend	2-1-2012	411-345-0020	1-6-2012	Amend	2-1-2012
411-325-0460(T)	1-6-2012	Repeal	2-1-2012	411-345-0020(T)	1-6-2012	Repeal	2-1-2012
411-328-0560	1-6-2012	Amend	2-1-2012	411-345-0030	1-6-2012	Amend	2-1-2012
411-328-0560(T)	1-6-2012	Repeal	2-1-2012	411-345-0030(T)	1-6-2012	Repeal	2-1-2012
411-328-0570	1-6-2012	Amend	2-1-2012	411-345-0050	1-6-2012	Amend	2-1-2012
411-328-0570(T)	1-6-2012	Repeal	2-1-2012	411-345-0050(T)	1-6-2012	Repeal	2-1-2012
411-328-0580	1-6-2012	Repeal	2-1-2012	411-345-0080	1-6-2012	Repeal	2-1-2012
411-328-0590	1-6-2012	Repeal	2-1-2012	411-345-0090	1-6-2012	Amend	2-1-2012
411-328-0600	1-6-2012	Repeal	2-1-2012	411-345-0100	1-6-2012	Amend	2-1-2012
411-328-0610	1-6-2012	Repeal	2-1-2012	411-345-0100(T)	1-6-2012	Repeal	2-1-2012
411-328-0620	1-6-2012	Amend	2-1-2012	411-345-0110	1-6-2012	Amend	2-1-2012
411-328-0630	1-6-2012	Amend	2-1-2012	411-345-0110(T)	1-6-2012	Repeal	2-1-2012
411-328-0630(T)	1-6-2012	Repeal	2-1-2012	411-345-0130	1-6-2012	Amend	2-1-2012
411-328-0670	1-6-2012	Repeal	2-1-2012	411-345-0130(T)	1-6-2012	Repeal	2-1-2012
411-328-0730	1-6-2012	Repeal	2-1-2012	411-345-0190	1-6-2012	Amend	2-1-2012
411-328-0740	1-6-2012	Amend	2-1-2012	411-345-0190(T)	1-6-2012	Repeal	2-1-2012
411-328-0740(T)	1-6-2012	Repeal	2-1-2012	411-360-0130	12-1-2011	Amend(T)	1-1-2012
411-328-0805	1-6-2012	Repeal	2-1-2012	411-360-0170	12-1-2011	Amend(T)	1-1-2012
411-328-0810	1-6-2012	Repeal	2-1-2012	411-360-0170	12-30-2011	Amend(T)	2-1-2012
411-328-0820	1-6-2012	Repeal	2-1-2012	411-360-0170(T)	12-30-2011	Suspend	2-1-2012
411-328-0830	1-6-2012	Repeal	2-1-2012	411-360-0190	12-1-2011	Amend(T)	1-1-2012
411-335-0010	1-6-2012	Amend	2-1-2012	411-360-0190	12-30-2011	Amend(T)	2-1-2012
411-335-0010(T)	1-6-2012	Repeal	2-1-2012	411-360-0190(T)	12-30-2011	Suspend	2-1-2012
411-335-0020	1-6-2012	Amend	2-1-2012	411-365-0100	3-1-2012	Amend	4-1-2012
411-335-0020(T)	1-6-2012	Repeal	2-1-2012	411-365-0120	3-1-2012	Amend	4-1-2012
411-335-0030	1-6-2012	Amend	2-1-2012	411-365-0140	3-1-2012	Amend	4-1-2012
411-335-0030(T)	1-6-2012	Repeal	2-1-2012	411-365-0160	3-1-2012	Amend	4-1-2012
411-335-0050	1-6-2012	Repeal	2-1-2012	411-365-0180	3-1-2012	Amend	4-1-2012
411-335-0060	1-6-2012	Amend	2-1-2012	411-365-0200	3-1-2012	Amend	4-1-2012
411-335-0060(T)	1-6-2012	Repeal	2-1-2012	411-365-0220	3-1-2012	Amend	4-1-2012
411-335-0070	1-6-2012	Repeal	2-1-2012	411-365-0240	3-1-2012	Amend	4-1-2012
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	413-015-0470	3-12-2012	Amend(T)	4-1-2012
411-335-0140	1-6-2012	Repeal	2-1-2012	413-020-0200	12-28-2011	Amend	2-1-2012
411-335-0230	1-6-2012	Amend	2-1-2012	413-020-0210	12-28-2011	Amend	2-1-2012
411-335-0300	1-6-2012	Repeal	2-1-2012	413-020-0230	12-28-2011	Amend	2-1-2012
411-335-0310	1-6-2012	Amend	2-1-2012	413-020-0233	12-28-2011	Amend	2-1-2012
411-335-0310(T)	1-6-2012	Repeal	2-1-2012	413-020-0236	12-28-2011	Amend	2-1-2012
411-335-0370	1-6-2012	Repeal	2-1-2012	413-020-0240	12-28-2011	Amend	2-1-2012
411-335-0380	1-6-2012	Repeal	2-1-2012	413-020-0245	12-28-2011	Amend	2-1-2012
411-335-0390	1-6-2012	Repeal	2-1-2012	413-020-0255	12-28-2011	Amend	2-1-2012
411-340-0020	12-28-2011	Amend	2-1-2012	413-070-0063	12-28-2011	Amend	2-1-2012
411-340-0100	12-28-2011	Amend	2-1-2012	413-070-0900	12-28-2011	Amend	2-1-2012
411-340-0100(T)	12-28-2011	Repeal	2-1-2012	413-070-0905	12-28-2011	Amend	2-1-2012
411-340-0110	12-28-2011	Amend	2-1-2012	413-070-0909	12-28-2011	Amend	2-1-2012
411-340-0110(T)	12-28-2011	Repeal	2-1-2012	413-070-0917	12-28-2011	Amend	2-1-2012
411-340-0120	12-28-2011	Amend	2-1-2012	413-070-0919	12-28-2011	Amend	2-1-2012
411-340-0125	12-28-2011	Adopt	2-1-2012	413-070-0925	12-28-2011	Amend	2-1-2012



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413-070-0934	12-28-2011	Amend	2-1-2012	413-200-0305	12-28-2011	Amend	2-1-2012
413-070-0939	12-28-2011	Amend	2-1-2012	413-200-0306	12-28-2011	Amend	2-1-2012
413-070-0944	12-28-2011	Amend	2-1-2012	413-200-0308	12-28-2011	Amend	2-1-2012
413-070-0949	12-28-2011	Amend	2-1-2012	413-200-0314	12-28-2011	Amend	2-1-2012
413-070-0959	12-28-2011	Amend	2-1-2012	413-200-0335	12-28-2011	Amend	2-1-2012
413-070-0964	12-28-2011	Amend	2-1-2012	413-200-0348	12-28-2011	Amend	2-1-2012
413-070-0969	12-28-2011	Amend	2-1-2012	413-200-0352	12-28-2011	Amend	2-1-2012
413-070-0970	12-28-2011	Amend	2-1-2012	413-200-0354	12-28-2011	Amend	2-1-2012
413-070-0974	12-28-2011	Amend	2-1-2012	413-200-0358	12-28-2011	Amend	2-1-2012
413-070-0979	12-28-2011	Repeal	2-1-2012	413-200-0362	12-28-2011	Amend	2-1-2012
413-100-0135	12-28-2011	Amend	2-1-2012	413-200-0371	12-28-2011	Amend	2-1-2012
413-100-0150	12-28-2011	Amend	2-1-2012	413-200-0377	12-28-2011	Amend	2-1-2012
413-100-0900	12-28-2011	Amend	2-1-2012	413-200-0379	12-28-2011	Amend	2-1-2012
413-100-0905	12-28-2011	Amend	2-1-2012	413-200-0383	12-28-2011	Amend	2-1-2012
413-100-0910	12-28-2011	Amend	2-1-2012	413-200-0386	12-28-2011	Amend	2-1-2012
413-100-0915	12-28-2011	Amend	2-1-2012	413-200-0388	12-28-2011	Amend	2-1-2012
413-100-0920	12-28-2011	Amend	2-1-2012	413-200-0390	12-28-2011	Amend	2-1-2012
413-100-0925	12-28-2011	Amend	2-1-2012	413-200-0393	12-28-2011	Amend	2-1-2012
413-100-0930	12-28-2011	Amend	2-1-2012	413-200-0394	12-28-2011	Amend	2-1-2012
413-100-0940	12-28-2011	Amend	2-1-2012	413-200-0395	12-28-2011	Amend	2-1-2012
413-120-0420	12-28-2011	Amend(T)	2-1-2012	413-200-0396	12-28-2011	Amend	2-1-2012
413-120-0460	12-28-2011	Amend(T)	2-1-2012	413-200-0404	1-3-2012	Amend	2-1-2012
413-120-0470	12-28-2011	Suspend	2-1-2012	413-200-0404(T)	1-3-2012	Repeal	2-1-2012
413-130-0000	12-28-2011	Amend	2-1-2012	413-200-0409	1-3-2012	Amend	2-1-2012
413-130-0010	12-28-2011	Amend	2-1-2012	413-200-0409(T)	1-3-2012	Repeal	2-1-2012
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	416-115-0000	12-14-2011	Repeal	1-1-2012
413-200-0296	12-28-2011	Amend	2-1-2012	416-115-0010	12-14-2011	Amend	1-1-2012

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416-115-0025	12-14-2011	Adopt	1-1-2012	436-009-0170	4-1-2012	Amend	4-1-2012
416-115-0030	12-14-2011	Amend	1-1-2012	436-009-0175	4-1-2012	Amend	4-1-2012
416-115-0040	12-14-2011	Repeal	1-1-2012	436-009-0177	4-1-2012	Adopt	4-1-2012
416-115-0050	12-14-2011	Repeal	1-1-2012	436-009-0180	4-1-2012	Amend	4-1-2012
416-115-0060	12-14-2011	Repeal	1-1-2012	436-009-0185	4-1-2012	Amend	4-1-2012
416-115-0070	12-14-2011	Repeal	1-1-2012	436-009-0200	4-1-2012	Amend	4-1-2012
416-115-0080	12-14-2011	Repeal	1-1-2012	436-009-0205	4-1-2012	Amend	4-1-2012
416-115-0090	12-14-2011	Repeal	1-1-2012	436-009-0206	4-1-2012	Amend	4-1-2012
416-115-0100	12-14-2011	Repeal	1-1-2012	436-009-0207	4-1-2012	Amend	4-1-2012
416-115-0110	12-14-2011	Repeal	1-1-2012	436-009-0210	4-1-2012	Amend	4-1-2012
416-115-0120	12-14-2011	Repeal	1-1-2012	436-009-0215	4-1-2012	Amend	4-1-2012
416-115-0130	12-14-2011	Repeal	1-1-2012	436-009-0220	4-1-2012	Amend	4-1-2012
416-115-0140	12-14-2011	Repeal	1-1-2012	436-009-0225	4-1-2012	Amend	4-1-2012
416-115-0150	12-14-2011	Repeal	1-1-2012	436-009-0230	4-1-2012	Amend	4-1-2012
416-115-0160	12-14-2011	Repeal	1-1-2012	436-009-0235	4-1-2012	Amend	4-1-2012
416-115-0170	12-14-2011	Repeal	1-1-2012	436-009-0240	4-1-2012	Amend	4-1-2012
416-115-0180	12-14-2011	Repeal	1-1-2012	436-009-0245	4-1-2012	Amend	4-1-2012
416-115-0190	12-14-2011	Repeal	1-1-2012	436-009-0250	4-1-2012	Repeal	4-1-2012
416-115-0200	12-14-2011	Repeal	1-1-2012	436-009-0255	4-1-2012	Amend	4-1-2012
416-115-0210	12-14-2011	Repeal	1-1-2012	436-009-0260	4-1-2012	Amend	4-1-2012
416-115-0220	12-14-2011	Repeal	1-1-2012	436-009-0265	4-1-2012	Amend	4-1-2012
416-115-0230	12-14-2011	Repeal	1-1-2012	436-009-0270	4-1-2012	Amend	4-1-2012
416-115-0240	12-14-2011	Repeal	1-1-2012	436-009-0275	4-1-2012	Amend	4-1-2012
416-115-0250	12-14-2011	Repeal	1-1-2012	436-009-0280	4-1-2012	Repeal	4-1-2012
416-115-0260	12-14-2011	Repeal	1-1-2012	436-009-0285	4-1-2012	Amend	4-1-2012
416-115-0270	12-14-2011	Repeal	1-1-2012	436-009-0290	4-1-2012	Amend	4-1-2012
416-115-0280	12-14-2011	Repeal	1-1-2012	436-010-0210	1-1-2012	Amend	1-1-2012
416-170-0000	2-3-2012	Amend	3-1-2012	436-010-0230	1-1-2012	Amend	1-1-2012
416-170-0005	2-3-2012	Amend	3-1-2012	436-010-0280	1-1-2012	Amend	1-1-2012
416-170-0010	2-3-2012	Amend	3-1-2012	436-010-0330	4-1-2012	Amend	4-1-2012
416-170-0020	2-3-2012	Amend	3-1-2012	436-015-0003	4-1-2012	Amend	4-1-2012
416-170-0030	2-3-2012	Amend	3-1-2012	436-015-0005	4-1-2012	Amend	4-1-2012
436-009-0003	4-1-2012	Amend	4-1-2012	436-015-0007	4-1-2012	Amend	4-1-2012
436-009-0004	4-1-2012	Amend	4-1-2012	436-015-0008	1-1-2012	Amend	1-1-2012
436-009-0010	4-1-2012	Amend	4-1-2012	436-015-0009	4-1-2012	Amend	4-1-2012
436-009-0022	4-1-2012	Repeal	4-1-2012	436-015-0010	4-1-2012	Amend	4-1-2012
436-009-0030	4-1-2012	Amend	4-1-2012	436-015-0020	4-1-2012	Repeal	4-1-2012
436-009-0040	4-1-2012	Amend	4-1-2012	436-015-0030	4-1-2012	Amend	4-1-2012
436-009-0050	4-1-2012	Amend	4-1-2012	436-015-0050	4-1-2012	Amend	4-1-2012
436-009-0060	4-1-2012	Amend	4-1-2012	436-015-0075	4-1-2012	Adopt	4-1-2012
436-009-0070	4-1-2012	Amend	4-1-2012	436-015-0080	4-1-2012	Amend	4-1-2012
436-009-0080	1-1-2012	Amend	1-1-2012	436-015-0110	4-1-2012	Amend	4-1-2012
436-009-0080	4-1-2012	Amend	4-1-2012	436-030-0003	1-1-2012	Amend	1-1-2012
436-009-0090	4-1-2012	Amend	4-1-2012	436-030-0036	1-1-2012	Amend	1-1-2012
436-009-0110	4-1-2012	Amend	4-1-2012	436-030-0145	1-1-2012	Amend	1-1-2012
436-009-0115	4-1-2012	Amend	4-1-2012	436-030-0165	1-1-2012	Amend	1-1-2012
436-009-0120	4-1-2012	Amend	4-1-2012	437-002-0005	12-8-2011	Amend	1-1-2012
436-009-0125	4-1-2012	Amend	4-1-2012	437-002-0120	12-8-2011	Amend	1-1-2012
436-009-0130	4-1-2012	Amend	4-1-2012	437-002-0123	12-8-2011	Repeal	1-1-2012
436-009-0135	4-1-2012	Amend	4-1-2012	437-002-0125	12-8-2011	Repeal	1-1-2012
436-009-0140	4-1-2012	Amend	4-1-2012	437-002-0127	12-8-2011	Repeal	1-1-2012
436-009-0145	4-1-2012	Amend	4-1-2012	437-002-0128	12-8-2011	Repeal	1-1-2012
436-009-0150	4-1-2012	Repeal	4-1-2012	437-002-0130	12-8-2011	Repeal	1-1-2012
436-009-0155	4-1-2012	Amend	4-1-2012	437-002-0134	12-8-2011	Adopt	1-1-2012
436-009-0160	4-1-2012	Amend	4-1-2012	437-002-0135	12-8-2011	Repeal	1-1-2012

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437-002-0136	12-8-2011	Repeal	1-1-2012	441-830-0020	11-23-2011	Repeal	1-1-2012
437-002-0137	12-8-2011	Repeal	1-1-2012	441-830-0030	11-23-2011	Repeal	1-1-2012
437-002-0140	12-8-2011	Amend	1-1-2012	441-830-0040	11-23-2011	Repeal	1-1-2012
437-002-0220	12-8-2011	Amend	1-1-2012	441-850-0042	12-15-2011	Amend(T)	1-1-2012
437-002-0340	12-8-2011	Amend	1-1-2012	441-880-0005	11-23-2011	Adopt	1-1-2012
437-002-0360	12-8-2011	Amend	1-1-2012	441-880-0006	11-23-2011	Adopt	1-1-2012
437-002-0360	7-1-2012	Amend	1-1-2012	441-880-0007	11-23-2011	Adopt	1-1-2012
437-002-0364	12-8-2011	Amend	1-1-2012	441-880-0008	11-23-2011	Adopt	1-1-2012
437-002-1001	7-1-2012	Adopt	1-1-2012	441-910-0000	1-1-2012	Amend	1-1-2012
437-002-1017	7-1-2012	Adopt	1-1-2012	441-910-0092	1-1-2012	Repeal	1-1-2012
437-002-1018	7-1-2012	Adopt	1-1-2012	442-005-0020	1-13-2012	Amend	2-1-2012
437-002-1025	7-1-2012	Adopt	1-1-2012	442-005-0030	1-13-2012	Amend	2-1-2012
437-002-1027	7-1-2012	Adopt	1-1-2012	442-005-0050	1-13-2012	Amend	2-1-2012
437-002-1028	7-1-2012	Adopt	1-1-2012	442-005-0070	1-13-2012	Amend	2-1-2012
437-002-1029	7-1-2012	Adopt	1-1-2012	442-010-0020	12-22-2011	Amend	2-1-2012
437-002-1043	7-1-2012	Adopt	1-1-2012	442-010-0020(T)	12-22-2011	Repeal	2-1-2012
437-002-1044	7-1-2012	Adopt	1-1-2012	442-010-0030	12-22-2011	Amend	2-1-2012
437-002-1045	7-1-2012	Adopt	1-1-2012	442-010-0040	12-22-2011	Amend	2-1-2012
437-002-1047	7-1-2012	Adopt	1-1-2012	442-010-0055	12-22-2011	Amend	2-1-2012
437-002-1048	7-1-2012	Adopt	1-1-2012	442-010-0060	12-22-2011	Amend	2-1-2012
437-002-1050	7-1-2012	Adopt	1-1-2012	442-010-0060(T)	12-22-2011	Repeal	2-1-2012
437-002-1051	7-1-2012	Adopt	1-1-2012	442-010-0065	12-22-2011	Repeal	2-1-2012
437-002-1052	7-1-2012	Adopt	1-1-2012	442-010-0070	12-22-2011	Amend	2-1-2012
437-003-0001	12-8-2011	Amend	1-1-2012	442-010-0075	12-22-2011	Amend	2-1-2012
437-003-0001	7-1-2012	Amend	1-1-2012	442-010-0075(T)	12-22-2011	Repeal	2-1-2012
437-003-0015	12-8-2011	Amend	1-1-2012	442-010-0080	12-22-2011	Amend	2-1-2012
437-003-0062	7-1-2012	Adopt	1-1-2012	442-010-0085	12-22-2011	Amend	2-1-2012
437-003-0096	12-8-2011	Amend	1-1-2012	442-010-0090	12-22-2011	Amend	2-1-2012
437-003-1101	7-1-2012	Adopt	1-1-2012	442-010-0100	12-22-2011	Amend	2-1-2012
437-003-1127	7-1-2012	Adopt	1-1-2012	442-010-0110	12-22-2011	Amend	2-1-2012
437-003-3060	7-1-2012	Adopt	1-1-2012	442-010-0120	12-22-2011	Amend	2-1-2012
437-004-1110	12-8-2011	Amend	1-1-2012	442-010-0160	12-22-2011	Amend	2-1-2012
437-005-0001	12-8-2011	Amend	1-1-2012	442-010-0170	12-22-2011	Amend	2-1-2012
437-005-0002	12-8-2011	Amend	1-1-2012	442-010-0180	12-22-2011	Amend	2-1-2012
437-005-0003	12-8-2011	Amend	1-1-2012	442-010-0190	12-22-2011	Amend	2-1-2012
441-505-3046	12-15-2011	Amend(T)	1-1-2012	442-010-0200	12-22-2011	Repeal	2-1-2012
441-674-0005	1-1-2012	Repeal	2-1-2012	442-010-0210	12-22-2011	Amend	2-1-2012
441-674-0100	1-1-2012	Repeal	2-1-2012	442-010-0215	12-22-2011	Amend	2-1-2012
441-674-0120	1-1-2012	Repeal	2-1-2012	442-010-0220	12-22-2011	Amend	2-1-2012
441-674-0130	1-1-2012	Repeal	2-1-2012	442-010-0230	12-22-2011	Amend	2-1-2012
441-674-0140	1-1-2012	Repeal	2-1-2012	442-010-0240	12-22-2011	Amend	2-1-2012
441-674-0210	1-1-2012	Repeal	2-1-2012	442-010-0250	12-22-2011	Repeal	2-1-2012
441-674-0220	1-1-2012	Repeal	2-1-2012	442-010-0260	12-22-2011	Amend	2-1-2012
441-674-0230	1-1-2012	Repeal	2-1-2012	443-002-0070	2-6-2012	Amend	3-1-2012
441-674-0240	1-1-2012	Repeal	2-1-2012	443-002-0190	2-6-2012	Amend	3-1-2012
441-674-0250	1-1-2012	Repeal	2-1-2012	459-005-0001	2-1-2012	Amend	3-1-2012
441-674-0310	1-1-2012	Repeal	2-1-2012	459-005-0525	2-1-2012	Amend	3-1-2012
441-674-0510	1-1-2012	Repeal	2-1-2012	459-005-0545	2-1-2012	Amend	3-1-2012
441-674-0520	1-1-2012	Repeal	2-1-2012	459-005-0620	11-22-2011	Adopt(T)	1-1-2012
441-674-0910	1-1-2012	Repeal	2-1-2012	459-005-0620	2-1-2012	Adopt	3-1-2012
441-674-0915	1-1-2012	Repeal	2-1-2012	459-010-0005	11-23-2011	Repeal	1-1-2012
441-674-0920	1-1-2012	Repeal	2-1-2012	459-014-0030	2-1-2012	Amend	3-1-2012
441-710-0540	12-15-2011	Amend(T)	1-1-2012	459-014-0040	2-1-2012	Adopt	3-1-2012
441-730-0246	12-15-2011	Amend(T)	1-1-2012	459-014-0050	2-1-2012	Adopt	3-1-2012
441-830-0010	11-23-2011	Repeal	1-1-2012	459-015-0005	11-23-2011	Amend	1-1-2012
441-830-0015	11-23-2011	Repeal	1-1-2012	459-060-0020	11-23-2011	Amend	1-1-2012



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459-076-0005	11-23-2011	Amend	1-1-2012	461-155-0320(T)	1-1-2012	Repeal	2-1-2012
459-080-0010	2-1-2012	Amend	3-1-2012	461-155-0360	1-1-2012	Amend	2-1-2012
461-001-0025	12-29-2011	Amend	2-1-2012	461-155-0528	1-1-2012	Repeal	2-1-2012
461-025-0300	1-31-2012	Amend(T)	3-1-2012	461-155-0575	12-1-2011	Amend(T)	1-1-2012
461-025-0310	1-31-2012	Amend(T)	3-1-2012	461-155-0575(T)	12-1-2011	Suspend	1-1-2012
461-115-0016	1-1-2012	Adopt	2-1-2012	461-155-0693	1-1-2012	Repeal	2-1-2012
461-115-0016(T)	1-1-2012	Repeal	2-1-2012	461-160-0015	1-1-2012	Amend	2-1-2012
461-115-0030	1-1-2012	Amend	2-1-2012	461-160-0015(T)	1-1-2012	Repeal	2-1-2012
461-115-0030(T)	1-1-2012	Repeal	2-1-2012	461-160-0580	1-1-2012	Amend	2-1-2012
461-115-0050	1-1-2012	Amend	2-1-2012	461-160-0620	1-1-2012	Amend	2-1-2012
461-115-0050(T)	1-1-2012	Repeal	2-1-2012	461-165-0035	2-27-2012	Amend(T)	4-1-2012
461-115-0230	1-1-2012	Amend	2-1-2012	461-175-0210	1-1-2012	Amend(T)	2-1-2012
461-115-0230	2-29-2012	Amend(T)	4-1-2012	461-175-0290	1-1-2012	Amend	2-1-2012
461-115-0230(T)	1-1-2012	Repeal	2-1-2012	461-180-0050	1-1-2012	Amend	2-1-2012
461-115-0690	1-1-2012	Amend	2-1-2012	461-180-0050(T)	1-1-2012	Repeal	2-1-2012
461-115-0690(T)	1-1-2012	Repeal	2-1-2012	461-180-0070	1-1-2012	Amend	2-1-2012
461-115-0705	1-1-2012	Amend(T)	2-1-2012	461-180-0070(T)	1-1-2012	Repeal	2-1-2012
461-130-0327	12-29-2011	Amend	2-1-2012	461-180-0085	1-1-2012	Amend	2-1-2012
461-130-0330	1-1-2012	Amend	2-1-2012	461-180-0130	12-27-2011	Amend	2-1-2012
461-130-0330(T)	1-1-2012	Repeal	2-1-2012	461-180-0130	12-27-2011	Amend(T)	2-1-2012
461-130-0335	1-1-2012	Amend	2-1-2012	471-030-0053	12-5-2011	Amend	1-1-2012
461-130-0335(T)	1-1-2012	Repeal	2-1-2012	471-030-0053(T)	12-5-2011	Repeal	1-1-2012
461-135-0010	1-13-2012	Amend(T)	2-1-2012	471-030-0080	3-5-2012	Amend	4-1-2012
461-135-0089	1-1-2012	Amend	2-1-2012	471-030-0080(T)	3-5-2012	Repeal	4-1-2012
461-135-0089(T)	1-1-2012	Repeal	2-1-2012	471-030-0230	1-1-2012	Adopt(T)	2-1-2012
461-135-0475	12-29-2011	Amend	2-1-2012	471-030-0230	2-29-2012	Adopt(T)	4-1-2012
461-135-0485	1-1-2012	Adopt	2-1-2012	471-030-0230(T)	2-29-2012	Suspend	4-1-2012
461-135-0485(T)	1-1-2012	Repeal	2-1-2012	471-040-0010	2-10-2012	Amend	3-1-2012
461-135-0780	1-1-2012	Amend	2-1-2012	471-040-0010(T)	2-10-2012	Repeal	3-1-2012
461-135-0832	1-1-2012	Amend	2-1-2012	471-040-0040	2-10-2012	Amend	3-1-2012
461-135-0845	1-1-2012	Amend	2-1-2012	471-040-0040(T)	2-10-2012	Repeal	3-1-2012
461-135-0950	1-1-2012	Amend	2-1-2012	471-040-0041	2-10-2012	Amend	3-1-2012
461-135-0950(T)	1-1-2012	Repeal	2-1-2012	471-040-0041(T)	2-10-2012	Repeal	3-1-2012
461-135-0960	1-1-2012	Repeal	2-1-2012	574-050-0005	1-27-2012	Amend	3-1-2012
461-135-0990	1-1-2012	Amend	2-1-2012	576-001-0060	12-27-2011	Adopt	2-1-2012
461-135-1100	1-1-2012	Amend(T)	2-1-2012	576-010-0000	12-27-2011	Amend	2-1-2012
461-135-1110	1-1-2012	Suspend	2-1-2012	576-040-0010	12-27-2011	Amend	2-1-2012
461-135-1195	1-1-2012	Amend	2-1-2012	576-040-0012	12-27-2011	Amend	2-1-2012
461-135-1195(T)	1-1-2012	Repeal	2-1-2012	576-040-0015	12-27-2011	Amend	2-1-2012
461-145-0130	1-1-2012	Amend	2-1-2012	576-040-0025	12-27-2011	Repeal	2-1-2012
461-145-0220	1-1-2012	Amend	2-1-2012	576-040-0030	12-27-2011	Repeal	2-1-2012
461-145-0410	1-1-2012	Amend	2-1-2012	576-040-0035	12-27-2011	Repeal	2-1-2012
461-145-0410	1-1-2012	Amend(T)	2-1-2012	577-031-0135	3-12-2012	Amend(T)	4-1-2012
461-145-0410(T)	1-1-2012	Repeal	2-1-2012	579-020-0006	12-1-2011	Amend(T)	1-1-2012
461-155-0030	1-26-2012	Amend(T)	3-1-2012	580-020-0005	1-12-2012	Amend	2-1-2012
461-155-0150	1-1-2012	Amend	2-1-2012	580-040-0035	1-12-2012	Amend	2-1-2012
461-155-0180	1-25-2012	Amend	3-1-2012	581-015-2005	2-17-2012	Amend	4-1-2012
461-155-0235	1-25-2012	Amend	3-1-2012	581-015-2010	2-17-2012	Amend	4-1-2012
461-155-0250	1-1-2012	Amend	2-1-2012	581-015-2040	2-17-2012	Amend	4-1-2012
461-155-0250	2-1-2012	Amend(T)	3-1-2012	581-015-2075	2-17-2012	Amend	4-1-2012
461-155-0270	1-1-2012	Amend	2-1-2012	581-015-2080	2-17-2012	Amend	4-1-2012
461-155-0290	3-1-2012	Amend	4-1-2012	581-015-2570	12-15-2011	Amend	1-1-2012
461-155-0291	3-1-2012	Amend	4-1-2012	581-015-2571	12-15-2011	Amend	1-1-2012
461-155-0295	3-1-2012	Amend	4-1-2012	581-015-2572	12-15-2011	Amend	1-1-2012
461-155-0300	1-1-2012	Amend	2-1-2012	581-015-2573	12-15-2011	Amend	1-1-2012

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581-020-0334	12-15-2011	Amend	1-1-2012	581-045-0580	2-3-2012	Repeal	3-1-2012
581-020-0336	1-1-2012	Amend	1-1-2012	581-045-0586	2-3-2012	Amend	3-1-2012
581-020-0339	12-15-2011	Repeal	1-1-2012	581-060-0005	12-15-2011	Repeal	1-1-2012
581-020-0342	12-15-2011	Adopt	1-1-2012	581-060-0010	12-15-2011	Repeal	1-1-2012
581-020-0342(T)	12-15-2011	Repeal	1-1-2012	581-060-0015	12-15-2011	Repeal	1-1-2012
581-020-0343	12-15-2011	Adopt	1-1-2012	581-060-0020	12-15-2011	Repeal	1-1-2012
581-020-0343(T)	12-15-2011	Repeal	1-1-2012	581-070-0000	12-15-2011	Repeal	1-1-2012
581-021-00032	1-1-2012	Repeal	1-1-2012	581-070-0010	12-15-2011	Repeal	1-1-2012
581-021-0019	2-3-2012	Amend	3-1-2012	581-070-0020	12-15-2011	Repeal	1-1-2012
581-021-0034	1-1-2012	Repeal	1-1-2012	581-070-0030	12-15-2011	Repeal	1-1-2012
581-021-0035	1-1-2012	Repeal	1-1-2012	581-070-0040	12-15-2011	Repeal	1-1-2012
581-021-0042	1-1-2012	Repeal	1-1-2012	581-070-0050	12-15-2011	Repeal	1-1-2012
581-021-0044	1-1-2012	Repeal	1-1-2012	581-070-0060	12-15-2011	Repeal	1-1-2012
581-021-0255	1-1-2012	Amend	1-1-2012	581-070-0070	12-15-2011	Repeal	1-1-2012
581-021-0500	2-3-2012	Amend	3-1-2012	581-070-0080	12-15-2011	Repeal	1-1-2012
581-022-1060	1-1-2012	Amend	1-1-2012	581-070-0090	12-15-2011	Repeal	1-1-2012
581-022-1133	2-3-2012	Amend	3-1-2012	581-070-0110	12-15-2011	Repeal	1-1-2012
581-022-1134	2-3-2012	Amend	3-1-2012	581-070-0130	12-15-2011	Repeal	1-1-2012
581-022-1135	2-3-2012	Amend	3-1-2012	581-070-0140	12-15-2011	Repeal	1-1-2012
581-022-1330	12-15-2011	Amend	1-1-2012	581-070-0150	12-15-2011	Repeal	1-1-2012
581-022-1369	1-1-2012	Repeal	1-1-2012	581-070-0170	12-15-2011	Repeal	1-1-2012
581-022-1680	1-1-2012	Repeal	1-1-2012	581-070-0180	12-15-2011	Repeal	1-1-2012
581-022-1720	12-15-2011	Amend	1-1-2012	581-070-0190	12-15-2011	Repeal	1-1-2012
581-022-1723	12-15-2011	Adopt	1-1-2012	581-070-0200	12-15-2011	Repeal	1-1-2012
581-022-1724	12-15-2011	Adopt	1-1-2012	581-070-0210	12-15-2011	Repeal	1-1-2012
581-022-1725	12-15-2011	Adopt	1-1-2012	581-070-0220	12-15-2011	Repeal	1-1-2012
581-023-0012	1-1-2012	Repeal	1-1-2012	581-070-0230	12-15-2011	Repeal	1-1-2012
581-023-0040	12-15-2011	Amend	1-1-2012	581-070-0240	12-15-2011	Repeal	1-1-2012
581-023-0110	1-1-2012	Repeal	1-1-2012	581-070-0250	12-15-2011	Repeal	1-1-2012
581-023-0112	1-1-2012	Amend	1-1-2012	581-070-0380	12-15-2011	Repeal	1-1-2012
581-040-0000	12-15-2011	Repeal	1-1-2012	581-070-0390	12-15-2011	Repeal	1-1-2012
581-044-0080	12-15-2011	Repeal	1-1-2012	581-070-0400	12-15-2011	Repeal	1-1-2012
581-044-0090	12-15-2011	Repeal	1-1-2012	581-070-0410	12-15-2011	Repeal	1-1-2012
581-044-0100	12-15-2011	Repeal	1-1-2012	581-070-0420	12-15-2011	Repeal	1-1-2012
581-044-0110	12-15-2011	Repeal	1-1-2012	581-070-0500	12-15-2011	Repeal	1-1-2012
581-044-0120	12-15-2011	Repeal	1-1-2012	581-070-0510	12-15-2011	Repeal	1-1-2012
581-044-0130	12-15-2011	Repeal	1-1-2012	581-071-0005	12-15-2011	Repeal	1-1-2012
581-044-0140	12-15-2011	Repeal	1-1-2012	581-071-0010	12-15-2011	Repeal	1-1-2012
581-044-0200	12-15-2011	Repeal	1-1-2012	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
581-045-0538	2-3-2012	Repeal	3-1-2012	584-010-0055	3-9-2012	Amend	4-1-2012
581-045-0540	2-3-2012	Repeal	3-1-2012	584-010-0060	3-9-2012	Amend	4-1-2012
581-045-0545	2-3-2012	Repeal	3-1-2012	584-010-0080	3-9-2012	Repeal	4-1-2012
581-045-0550	2-3-2012	Repeal	3-1-2012	584-010-0090	3-9-2012	Amend	4-1-2012
581-045-0555	2-3-2012	Repeal	3-1-2012	584-010-0100	3-9-2012	Amend	4-1-2012
581-045-0560	2-3-2012	Repeal	3-1-2012	584-010-0140	3-9-2012	Repeal	4-1-2012
581-045-0565	2-3-2012	Repeal	3-1-2012	584-017-1005	3-9-2012	Adopt	4-1-2012

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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	603-027-0410	12-14-2011	Amend	1-1-2012
584-017-1032	3-9-2012	Adopt	4-1-2012	603-027-0420	12-14-2011	Amend	1-1-2012
584-017-1035	3-9-2012	Adopt	4-1-2012	603-027-0430	12-14-2011	Amend	1-1-2012
584-017-1038	3-9-2012	Adopt	4-1-2012	603-027-0440	12-14-2011	Amend	1-1-2012
584-017-1040	3-9-2012	Adopt	4-1-2012	603-027-0490	12-14-2011	Amend	1-1-2012
584-017-1042	3-9-2012	Adopt	4-1-2012	603-051-0365	2-9-2012	Amend	3-1-2012
584-017-1045	3-9-2012	Adopt	4-1-2012	603-051-0366	2-9-2012	Adopt	3-1-2012
584-017-1048	3-9-2012	Adopt	4-1-2012	603-051-0370	2-9-2012	Amend	3-1-2012
584-017-1050	3-9-2012	Adopt	4-1-2012	603-051-0375	2-9-2012	Amend	3-1-2012
584-017-1052	3-9-2012	Adopt	4-1-2012	603-051-0380	2-9-2012	Repeal	3-1-2012
584-017-1055	3-9-2012	Adopt	4-1-2012	603-051-0385	2-9-2012	Repeal	3-1-2012
584-018-0100	3-9-2012	Adopt	4-1-2012	603-051-0390	2-9-2012	Amend	3-1-2012
584-018-0105	3-9-2012	Adopt	4-1-2012	603-051-0395	2-9-2012	Amend	3-1-2012
584-018-0110	3-9-2012	Adopt	4-1-2012	603-051-0775	2-1-2012	Adopt	3-1-2012
584-018-0115	3-9-2012	Adopt	4-1-2012	603-051-0777	2-1-2012	Adopt	3-1-2012
584-018-0120	3-9-2012	Adopt	4-1-2012	603-051-0779	2-1-2012	Adopt	3-1-2012
584-018-0125	3-9-2012	Adopt	4-1-2012	603-051-0780	2-1-2012	Adopt	3-1-2012
584-018-0130	3-9-2012	Adopt	4-1-2012	603-051-0785	2-1-2012	Adopt	3-1-2012
584-018-0135	3-9-2012	Adopt	4-1-2012	603-057-0001	1-1-2013	Amend	2-1-2012
584-018-0140	3-9-2012	Adopt	4-1-2012	603-057-0100	1-1-2013	Amend	2-1-2012
584-018-0205	3-9-2012	Adopt	4-1-2012	603-057-0127	1-1-2013	Amend	2-1-2012
584-018-0315	3-9-2012	Adopt	4-1-2012	603-076-0052	12-8-2011	Amend(T)	1-1-2012
584-018-0405	3-9-2012	Adopt	4-1-2012	603-095-0200	1-12-2012	Repeal	2-1-2012
584-018-0410	3-9-2012	Adopt	4-1-2012	603-095-0220	1-12-2012	Repeal	2-1-2012
584-018-0415	3-9-2012	Adopt	4-1-2012	603-095-0240	1-12-2012	Repeal	2-1-2012
584-018-0505	3-9-2012	Adopt	4-1-2012	603-095-0260	1-12-2012	Repeal	2-1-2012
584-018-0510	3-9-2012	Adopt	4-1-2012	603-095-0280	1-12-2012	Repeal	2-1-2012
584-018-0515	3-9-2012	Adopt	4-1-2012	603-095-1400	1-12-2012	Amend	2-1-2012
584-036-0055	2-15-2012	Amend	3-1-2012	603-095-1420	1-12-2012	Amend	2-1-2012
584-042-0008	2-15-2012	Amend	3-1-2012	603-095-1440	1-12-2012	Amend	2-1-2012
584-042-0012	2-15-2012	Amend	3-1-2012	603-095-1460	1-12-2012	Adopt	2-1-2012
584-042-0021	2-15-2012	Amend	3-1-2012	629-035-0105	1-1-2012	Amend	1-1-2012
584-042-0031	2-15-2012	Amend	3-1-2012	632-001-0020	12-14-2011	Adopt	1-1-2012
584-042-0036	2-15-2012	Amend	3-1-2012	635-004-0018	1-1-2012	Amend	2-1-2012
584-042-0044	2-15-2012	Amend	3-1-2012	635-004-0019	1-1-2012	Amend	2-1-2012
584-042-0051	2-15-2012	Amend	3-1-2012	635-004-0027	1-9-2012	Amend(T)	2-1-2012
584-042-0081	2-15-2012	Amend	3-1-2012	635-004-0033	1-1-2012	Amend	2-1-2012
584-060-0051	2-15-2012	Amend(T)	3-1-2012	635-005-0045	12-1-2011	Amend(T)	1-1-2012
584-060-0250	1-15-2012	Adopt	1-1-2012	635-005-0045	12-15-2011	Amend(T)	1-1-2012
589-007-0700	12-9-2011	Amend	1-1-2012	635-005-0045(T)	12-15-2011	Suspend	1-1-2012
589-007-0800	12-9-2011	Adopt	1-1-2012	635-005-0055	12-1-2011	Amend(T)	1-1-2012
603-018-0001	12-28-2011	Adopt(T)	2-1-2012	635-006-0210	1-1-2012	Amend	2-1-2012
603-018-0003	12-28-2011	Adopt(T)	2-1-2012	635-006-0211	1-1-2012	Amend	2-1-2012
603-018-0007	12-28-2011	Adopt(T)	2-1-2012	635-006-0215	1-1-2012	Amend	2-1-2012
603-018-0009	12-28-2011	Adopt(T)	2-1-2012	635-006-0232	1-1-2012	Amend(T)	2-1-2012
603-018-0011	12-28-2011	Adopt(T)	2-1-2012	635-006-0232	2-7-2012	Amend	3-1-2012
603-018-0013	12-28-2011	Adopt(T)	2-1-2012	635-006-0232(T)	2-7-2012	Repeal	3-1-2012
603-019-0001	12-28-2011	Adopt	2-1-2012	635-006-1010	12-1-2011	Amend(T)	1-1-2012
603-019-0005	12-28-2011	Adopt	2-1-2012	635-006-1015	12-1-2011	Amend(T)	1-1-2012



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635-008-0123	1-1-2012	Amend	1-1-2012	635-041-0065	2-29-2012	Amend(T)	4-1-2012
635-008-0135	1-1-2012	Amend	1-1-2012	635-041-0065	3-5-2012	Amend(T)	4-1-2012
635-008-0151	2-6-2012	Amend(T)	3-1-2012	635-041-0065	3-5-2012	Amend(T)	4-1-2012
635-008-0155	1-1-2012	Amend	1-1-2012	635-041-0065(T)	2-29-2012	Suspend	4-1-2012
635-010-0170	2-6-2012	Amend(T)	3-1-2012	635-041-0065(T)	3-5-2012	Suspend	4-1-2012
635-011-0100	1-1-2012	Amend	2-1-2012	635-041-0065(T)	3-5-2012	Suspend	4-1-2012
635-012-0020	12-25-2011	Amend(T)	1-1-2012	635-042-0135	1-30-2012	Amend(T)	3-1-2012
635-012-0020(T)	12-25-2011	Suspend	1-1-2012	635-042-0145	2-12-2012	Amend(T)	3-1-2012
635-012-0030	12-25-2011	Suspend	1-1-2012	635-042-0145	3-18-2012	Amend(T)	4-1-2012
635-012-0040	12-25-2011	Suspend	1-1-2012	635-042-0145(T)	3-18-2012	Suspend	4-1-2012
635-012-0050	12-25-2011	Suspend	1-1-2012	635-042-0160	2-12-2012	Amend(T)	3-1-2012
635-012-0060	12-25-2011	Suspend	1-1-2012	635-042-0180	2-12-2012	Amend(T)	3-1-2012
635-013-0003	1-1-2012	Amend	2-1-2012	635-043-0051	12-30-2011	Amend(T)	2-1-2012
635-013-0004	1-1-2012	Amend	2-1-2012	635-053-0035	12-21-2011	Amend(T)	2-1-2012
635-014-0080	1-1-2012	Amend	2-1-2012	635-060-0023	4-1-2012	Amend	4-1-2012
635-014-0090	1-1-2012	Amend	2-1-2012	635-060-0046	2-10-2012	Amend(T)	3-1-2012
635-016-0080	1-1-2012	Amend	2-1-2012	635-065-0001	1-1-2012	Amend	1-1-2012
635-016-0090	1-1-2012	Amend	2-1-2012	635-065-0015	1-1-2012	Amend	1-1-2012
635-017-0080	1-1-2012	Amend	2-1-2012	635-065-0090	1-1-2012	Amend	1-1-2012
635-017-0090	1-1-2012	Amend	2-1-2012	635-065-0401	1-1-2012	Amend	1-1-2012
635-017-0090	1-1-2012	Amend(T)	1-1-2012	635-065-0625	1-1-2012	Amend	1-1-2012
635-017-0090	3-12-2012	Amend	4-1-2012	635-065-0635	1-1-2012	Amend	1-1-2012
635-017-0095	1-1-2012	Amend	2-1-2012	635-065-0733	1-1-2012	Amend	1-1-2012
635-017-0095	2-17-2012	Amend(T)	3-1-2012	635-065-0740	1-1-2012	Amend	1-1-2012
635-017-0095	2-23-2012	Amend(T)	4-1-2012	635-065-0760	1-1-2012	Amend	1-1-2012
635-017-0095(T)	2-23-2012	Suspend	4-1-2012	635-066-0000	1-1-2012	Amend	1-1-2012
635-018-0080	1-1-2012	Amend	2-1-2012	635-066-0010	1-1-2012	Amend	1-1-2012
635-018-0090	1-1-2012	Amend	2-1-2012	635-067-0000	1-1-2012	Amend	1-1-2012
635-018-0090	1-1-2012	Amend(T)	2-1-2012	635-067-0004	1-1-2012	Amend	1-1-2012
635-018-0090	3-12-2012	Amend	4-1-2012	635-067-0030	1-1-2012	Amend	1-1-2012
635-019-0080	1-1-2012	Amend	2-1-2012	635-067-0040	1-1-2012	Amend	1-1-2012
635-019-0090	1-1-2012	Amend	2-1-2012	635-068-0000	3-1-2012	Amend	3-1-2012
635-021-0080	1-1-2012	Amend	2-1-2012	635-069-0000	2-1-2012	Amend	2-1-2012
635-021-0090	1-1-2012	Amend	2-1-2012	635-070-0000	4-1-2012	Amend	4-1-2012
635-023-0080	1-1-2012	Amend	2-1-2012	635-071-0000	4-1-2012	Amend	4-1-2012
635-023-0090	1-1-2012	Amend	2-1-2012	635-072-0000	1-1-2012	Amend	1-1-2012
635-023-0095	1-1-2012	Amend	2-1-2012	635-073-0000	2-1-2012	Amend	2-1-2012
635-023-0095	1-5-2012	Amend(T)	2-1-2012	635-073-0065	2-1-2012	Amend	2-1-2012
635-023-0095	2-7-2012	Amend	3-1-2012	635-073-0070	2-1-2012	Amend	2-1-2012
635-023-0095	2-18-2012	Amend(T)	3-1-2012	635-078-0011	4-1-2012	Amend	4-1-2012
635-023-0095(T)	2-7-2012	Repeal	3-1-2012	635-095-0100	2-10-2012	Adopt	3-1-2012
635-023-0125	1-1-2012	Amend	2-1-2012	635-095-0105	2-10-2012	Adopt	3-1-2012
635-023-0125	2-15-2012	Amend(T)	3-1-2012	635-095-0111	2-10-2012	Adopt	3-1-2012
635-023-0128	1-1-2012	Amend	2-1-2012	635-095-0125	2-10-2012	Adopt	3-1-2012
635-023-0130	1-1-2012	Amend	2-1-2012	635-100-0125	3-14-2012	Amend	4-1-2012
635-023-0134	1-1-2012	Amend	2-1-2012	656-010-0000	11-30-2011	Amend	1-1-2012
635-039-0080	1-1-2012	Amend	2-1-2012	656-010-0010	11-30-2011	Amend	1-1-2012
635-039-0090	12-1-2011	Amend(T)	1-1-2012	660-007-0000	2-14-2012	Amend	3-1-2012
635-039-0090	12-15-2011	Amend(T)	1-1-2012	660-007-0005	2-14-2012	Amend	3-1-2012
635-039-0090	1-1-2012	Amend	2-1-2012	660-007-0015	2-14-2012	Amend	3-1-2012
635-039-0090(T)	12-1-2011	Suspend	1-1-2012	660-007-0018	2-14-2012	Amend	3-1-2012
635-039-0090(T)	12-15-2011	Suspend	1-1-2012	660-007-0020	2-14-2012	Amend	3-1-2012
635-041-0045	2-1-2012	Amend(T)	3-1-2012	660-007-0022	2-14-2012	Amend	3-1-2012
635-041-0045	2-29-2012	Amend(T)	4-1-2012	660-007-0030	2-14-2012	Amend	3-1-2012
635-041-0045(T)	2-29-2012	Suspend	4-1-2012	660-007-0033	2-14-2012	Amend	3-1-2012

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660-007-0037	2-14-2012	Amend	3-1-2012	660-025-0170	2-14-2012	Amend	3-1-2012
660-007-0045	2-14-2012	Amend	3-1-2012	660-025-0175	2-14-2012	Amend	3-1-2012
660-007-0050	2-14-2012	Amend	3-1-2012	660-025-0180	2-14-2012	Amend	3-1-2012
660-007-0060	2-14-2012	Amend	3-1-2012	660-025-0210	2-14-2012	Amend	3-1-2012
660-008-0000	2-14-2012	Amend	3-1-2012	660-025-0220	2-14-2012	Amend	3-1-2012
660-008-0005	2-14-2012	Amend	3-1-2012	660-025-0230	2-14-2012	Amend	3-1-2012
660-008-0010	2-14-2012	Amend	3-1-2012	660-025-0250	2-14-2012	Amend	3-1-2012
660-008-0015	2-14-2012	Amend	3-1-2012	660-027-0070	2-14-2012	Amend	3-1-2012
660-008-0020	2-14-2012	Amend	3-1-2012	660-028-0010	2-14-2012	Amend	3-1-2012
660-008-0025	2-14-2012	Amend	3-1-2012	660-028-0020	2-14-2012	Amend	3-1-2012
660-008-0030	2-14-2012	Amend	3-1-2012	660-028-0030	2-14-2012	Amend	3-1-2012
660-008-0035	2-14-2012	Amend	3-1-2012	660-033-0030	12-20-2011	Amend	2-1-2012
660-008-0040	2-14-2012	Amend	3-1-2012	660-033-0030	2-14-2012	Amend	3-1-2012
660-012-0005	1-1-2012	Amend	2-1-2012	660-033-0045	2-14-2012	Adopt	3-1-2012
660-012-0060	1-1-2012	Amend	2-1-2012	660-033-0100	2-14-2012	Amend	3-1-2012
660-018-0005	2-14-2012	Amend	3-1-2012	660-033-0120	11-23-2011	Amend	1-1-2012
660-018-0010	2-14-2012	Amend	3-1-2012	660-033-0120	2-14-2012	Amend	3-1-2012
660-018-0020	1-1-2012	Amend(T)	2-1-2012	660-033-0130	11-23-2011	Amend	1-1-2012
660-018-0020	2-14-2012	Amend	3-1-2012	660-033-0130	2-14-2012	Amend	3-1-2012
660-018-0020(T)	2-14-2012	Repeal	3-1-2012	660-033-0135	2-14-2012	Amend	3-1-2012
660-018-0021	1-1-2012	Amend(T)	2-1-2012	690-013-0100	2-1-2012	Amend	3-1-2012
660-018-0021	2-14-2012	Amend	3-1-2012	690-013-0310	2-1-2012	Amend	3-1-2012
660-018-0021(T)	2-14-2012	Repeal	3-1-2012	690-018-0050	2-1-2012	Amend	3-1-2012
660-018-0022	1-1-2012	Amend(T)	2-1-2012	690-019-0080	2-1-2012	Amend	3-1-2012
660-018-0022	2-14-2012	Amend	3-1-2012	690-053-0015	2-1-2012	Amend	3-1-2012
660-018-0022(T)	2-14-2012	Repeal	3-1-2012	690-053-0030	2-1-2012	Amend	3-1-2012
660-018-0025	2-14-2012	Amend	3-1-2012	690-053-0035	2-1-2012	Amend	3-1-2012
660-018-0030	2-14-2012	Repeal	3-1-2012	690-077-0029	2-1-2012	Amend	3-1-2012
660-018-0035	2-14-2012	Amend	3-1-2012	690-077-0031	2-1-2012	Amend	3-1-2012
660-018-0040	1-1-2012	Amend(T)	2-1-2012	690-077-0039	2-1-2012	Amend	3-1-2012
660-018-0040	2-14-2012	Amend	3-1-2012	690-077-0077	2-1-2012	Amend	3-1-2012
660-018-0040(T)	2-14-2012	Repeal	3-1-2012	690-240-0010	2-2-2012	Amend	3-1-2012
660-018-0045	2-14-2012	Amend	3-1-2012	690-240-0035	2-2-2012	Amend	3-1-2012
660-018-0050	2-14-2012	Amend	3-1-2012	690-240-0040	2-2-2012	Adopt	3-1-2012
660-018-0055	2-14-2012	Amend	3-1-2012	690-240-0043	2-2-2012	Adopt	3-1-2012
660-018-0060	2-14-2012	Amend	3-1-2012	690-240-0046	2-2-2012	Adopt	3-1-2012
660-018-0085	2-14-2012	Amend	3-1-2012	690-240-0049	2-2-2012	Adopt	3-1-2012
660-018-0140	2-14-2012	Repeal	3-1-2012	690-300-0010	2-1-2012	Amend	3-1-2012
660-018-0150	2-14-2012	Amend	3-1-2012	690-310-0020	2-1-2012	Amend	3-1-2012
660-025-0010	2-14-2012	Amend	3-1-2012	690-310-0050	2-1-2012	Amend	3-1-2012
660-025-0020	2-14-2012	Amend	3-1-2012	690-310-0080	2-1-2012	Amend	3-1-2012
660-025-0030	2-14-2012	Amend	3-1-2012	690-310-0090	2-1-2012	Amend	3-1-2012
660-025-0035	2-14-2012	Amend	3-1-2012	690-310-0100	2-1-2012	Amend	3-1-2012
660-025-0040	2-14-2012	Amend	3-1-2012	690-310-0150	2-1-2012	Amend	3-1-2012
660-025-0050	2-14-2012	Amend	3-1-2012	690-315-0050	2-1-2012	Amend	3-1-2012
660-025-0060	2-14-2012	Amend	3-1-2012	690-330-0010	2-1-2012	Amend	3-1-2012
660-025-0070	2-14-2012	Amend	3-1-2012	690-380-2260	2-1-2012	Amend	3-1-2012
660-025-0080	2-14-2012	Amend	3-1-2012	690-380-3100	2-1-2012	Amend	3-1-2012
660-025-0085	2-14-2012	Amend	3-1-2012	690-380-4000	2-1-2012	Amend	3-1-2012
660-025-0090	2-14-2012	Amend	3-1-2012	690-380-4020	2-1-2012	Amend	3-1-2012
660-025-0100	2-14-2012	Amend	3-1-2012	690-380-6040	2-1-2012	Amend	3-1-2012
660-025-0110	2-14-2012	Amend	3-1-2012	690-382-0600	2-1-2012	Amend	3-1-2012
660-025-0130	2-14-2012	Amend	3-1-2012	690-382-0800	2-1-2012	Amend	3-1-2012
660-025-0140	2-14-2012	Amend	3-1-2012	690-385-4100	2-1-2012	Amend	3-1-2012
660-025-0150	2-14-2012	Amend	3-1-2012	690-385-4600	2-1-2012	Amend	3-1-2012

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731-001-0005	2-21-2012	Amend(T)	4-1-2012	734-051-0245	1-1-2012	Suspend	2-1-2012
731-035-0020	12-22-2011	Amend	2-1-2012	734-051-0255	1-1-2012	Suspend	2-1-2012
731-035-0040	12-22-2011	Amend	2-1-2012	734-051-0265	1-1-2012	Suspend	2-1-2012
731-035-0050	12-22-2011	Amend	2-1-2012	734-051-0275	1-1-2012	Suspend	2-1-2012
731-035-0060	12-22-2011	Amend	2-1-2012	734-051-0285	1-1-2012	Suspend	2-1-2012
731-035-0070	12-22-2011	Amend	2-1-2012	734-051-0295	1-1-2012	Suspend	2-1-2012
731-035-0080	12-22-2011	Amend	2-1-2012	734-051-0305	1-1-2012	Suspend	2-1-2012
731-146-0010	1-1-2012	Amend	2-1-2012	734-051-0315	1-1-2012	Suspend	2-1-2012
731-146-0015	1-1-2012	Amend	2-1-2012	734-051-0325	1-1-2012	Suspend	2-1-2012
731-146-0020	1-1-2012	Amend	2-1-2012	734-051-0335	1-1-2012	Suspend	2-1-2012
731-146-0025	1-1-2012	Amend	2-1-2012	734-051-0345	1-1-2012	Suspend	2-1-2012
731-146-0030	1-1-2012	Amend	2-1-2012	734-051-0355	1-1-2012	Suspend	2-1-2012
731-146-0050	1-1-2012	Amend	2-1-2012	734-051-0500	1-1-2012	Suspend	2-1-2012
731-146-0060	1-1-2012	Amend	2-1-2012	734-051-0510	1-1-2012	Suspend	2-1-2012
731-147-0010	1-1-2012	Amend	2-1-2012	734-051-0520	1-1-2012	Suspend	2-1-2012
731-147-0040	1-1-2012	Amend	2-1-2012	734-051-0530	1-1-2012	Suspend	2-1-2012
731-147-0060	1-1-2012	Repeal	2-1-2012	734-051-0540	1-1-2012	Suspend	2-1-2012
731-148-0010	1-1-2012	Amend	2-1-2012	734-051-0550	1-1-2012	Suspend	2-1-2012
731-148-0020	1-1-2012	Repeal	2-1-2012	734-051-0560	1-1-2012	Suspend	2-1-2012
731-149-0010	1-1-2012	Amend	2-1-2012	734-051-1010	1-1-2012	Adopt(T)	2-1-2012
734-005-0005	1-1-2012	Adopt	2-1-2012	734-051-1020	1-1-2012	Adopt(T)	2-1-2012
734-005-0010	1-1-2012	Adopt	2-1-2012	734-051-1030	1-1-2012	Adopt(T)	2-1-2012
734-005-0015	1-1-2012	Adopt	2-1-2012	734-051-1050	1-1-2012	Adopt(T)	2-1-2012
734-020-0005	12-22-2011	Amend	2-1-2012	734-051-1060	1-1-2012	Adopt(T)	2-1-2012
734-020-0018	1-27-2012	Adopt	3-1-2012	734-051-1070	1-1-2012	Adopt(T)	2-1-2012
734-020-0019	1-27-2012	Adopt	3-1-2012	734-051-2010	1-1-2012	Adopt(T)	2-1-2012
734-020-0055	12-22-2011	Repeal	2-1-2012	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



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734-051-6010	1-1-2012	Adopt(T)	2-1-2012	735-062-0120	1-1-2012	Amend	2-1-2012
734-051-6020	1-1-2012	Adopt(T)	2-1-2012	735-062-0125	1-1-2012	Amend	2-1-2012
734-051-6030	1-1-2012	Adopt(T)	2-1-2012	735-062-0135	1-1-2012	Amend	2-1-2012
734-051-6040	1-1-2012	Adopt(T)	2-1-2012	735-062-0200	1-30-2012	Amend	3-1-2012
734-051-6050	1-1-2012	Adopt(T)	2-1-2012	735-063-0000	1-30-2012	Amend	3-1-2012
734-051-6060	1-1-2012	Adopt(T)	2-1-2012	735-063-0050	1-30-2012	Amend	3-1-2012
734-051-6070	1-1-2012	Adopt(T)	2-1-2012	735-063-0060	1-30-2012	Amend	3-1-2012
734-051-7010	1-1-2012	Adopt(T)	2-1-2012	735-063-0065	1-30-2012	Amend	3-1-2012
734-070-0010	1-27-2012	Amend	3-1-2012	735-063-0067	1-30-2012	Adopt	3-1-2012
734-075-0005	1-27-2012	Amend	3-1-2012	735-064-0085	12-22-2011	Repeal	2-1-2012
734-075-0008	1-27-2012	Amend	3-1-2012	735-064-0220	1-1-2012	Amend	2-1-2012
734-075-0010	1-27-2012	Amend	3-1-2012	735-070-0004	11-23-2011	Amend	1-1-2012
734-075-0011	1-27-2012	Amend	3-1-2012	735-070-0010	1-1-2012	Amend	2-1-2012
734-075-0015	1-27-2012	Amend	3-1-2012	735-070-0054	11-23-2011	Amend	1-1-2012
734-075-0020	1-27-2012	Amend	3-1-2012	735-072-0035	1-1-2012	Amend	2-1-2012
734-075-0022	1-27-2012	Amend	3-1-2012	735-074-0140	1-1-2012	Amend	2-1-2012
734-075-0025	1-27-2012	Amend	3-1-2012	735-076-0020	1-1-2012	Amend	2-1-2012
734-075-0035	1-27-2012	Amend	3-1-2012	735-152-0000	1-1-2012	Amend	2-1-2012
734-075-0036	1-27-2012	Amend	3-1-2012	735-152-0005	1-1-2012	Amend	2-1-2012
734-075-0037	1-27-2012	Amend	3-1-2012	735-152-0020	1-1-2012	Amend	2-1-2012
734-075-0040	1-27-2012	Amend	3-1-2012	735-152-0040	1-1-2012	Amend	2-1-2012
734-075-0041	1-27-2012	Amend	3-1-2012	735-152-0050	1-1-2012	Amend	2-1-2012
734-075-0045	1-27-2012	Amend	3-1-2012	735-152-0060	1-1-2012	Amend	2-1-2012
734-075-0055	1-27-2012	Amend	3-1-2012	736-004-0005	2-15-2012	Amend	3-1-2012
734-075-0085	1-27-2012	Amend	3-1-2012	736-004-0010	2-15-2012	Amend	3-1-2012
734-076-0065	1-27-2012	Amend	3-1-2012	736-004-0015	2-15-2012	Amend	3-1-2012
734-076-0075	1-27-2012	Amend	3-1-2012	736-004-0020	2-15-2012	Amend	3-1-2012
734-076-0105	1-27-2012	Amend	3-1-2012	736-004-0025	2-15-2012	Amend	3-1-2012
734-076-0115	1-27-2012	Amend	3-1-2012	736-004-0030	2-15-2012	Amend	3-1-2012
734-076-0135	1-27-2012	Amend	3-1-2012	736-004-0045	2-15-2012	Amend	3-1-2012
734-076-0145	1-27-2012	Amend	3-1-2012	736-004-0060	2-15-2012	Amend	3-1-2012
734-076-0155	1-27-2012	Amend	3-1-2012	736-004-0062	2-15-2012	Amend	3-1-2012
734-076-0165	1-27-2012	Amend	3-1-2012	736-004-0085	2-15-2012	Amend	3-1-2012
734-076-0175	1-27-2012	Amend	3-1-2012	736-004-0090	2-15-2012	Amend	3-1-2012
734-082-0021	1-27-2012	Amend	3-1-2012	736-004-0095	2-15-2012	Amend	3-1-2012
735-001-0030	12-22-2011	Repeal	2-1-2012	736-004-0100	2-15-2012	Amend	3-1-2012
735-001-0050	1-30-2012	Amend	3-1-2012	736-004-0105	2-15-2012	Amend	3-1-2012
735-010-0030	1-30-2012	Amend	3-1-2012	736-004-0115	2-15-2012	Amend	3-1-2012
735-016-0080	12-22-2011	Repeal	2-1-2012	736-004-0120	2-15-2012	Amend	3-1-2012
735-020-0010	2-21-2012	Amend	4-1-2012	736-004-0125	2-15-2012	Amend	3-1-2012
735-020-0012	2-21-2012	Amend	4-1-2012	736-004-0130	2-15-2012	Adopt	3-1-2012
735-030-0330	1-1-2012	Amend	2-1-2012	736-015-0010	11-28-2011	Amend	1-1-2012
735-040-0030	1-1-2012	Amend	2-1-2012	736-015-0020	11-28-2011	Amend	1-1-2012
735-050-0090	12-22-2011	Repeal	2-1-2012	736-015-0026	11-28-2011	Amend	1-1-2012
735-062-0002	1-30-2012	Amend	3-1-2012	736-015-0030	11-28-2011	Amend	1-1-2012
735-062-0005	1-1-2012	Amend	2-1-2012	738-010-0025	2-28-2012	Amend(T)	4-1-2012
735-062-0007	1-30-2012	Amend	3-1-2012	740-055-0010	12-22-2011	Amend	2-1-2012
735-062-0010	1-1-2012	Amend	2-1-2012	740-055-0100	11-23-2011	Amend	1-1-2012
735-062-0015	1-1-2012	Amend	2-1-2012	740-100-0010	4-1-2012	Amend	4-1-2012
735-062-0016	11-23-2011	Amend	1-1-2012	740-100-0065	4-1-2012	Amend	4-1-2012
735-062-0032	1-1-2012	Amend	2-1-2012	740-100-0070	4-1-2012	Amend	4-1-2012
735-062-0033	1-1-2012	Amend	2-1-2012	740-100-0080	4-1-2012	Amend	4-1-2012
735-062-0080	1-30-2012	Amend	3-1-2012	740-100-0085	4-1-2012	Amend	4-1-2012
735-062-0085	1-30-2012	Amend	3-1-2012	740-100-0090	4-1-2012	Amend	4-1-2012
735-062-0090	1-30-2012	Amend	3-1-2012	740-100-0100	1-1-2012	Amend	2-1-2012

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740-200-0020	2-21-2012	Amend	4-1-2012	808-003-0025	1-1-2012	Amend	2-1-2012
740-200-0040	2-21-2012	Amend	4-1-2012	808-003-0030	1-1-2012	Amend	2-1-2012
740-300-0010	11-23-2011	Amend	1-1-2012	808-003-0040	1-1-2012	Amend	2-1-2012
741-040-0010	1-27-2012	Adopt	3-1-2012	808-003-0065	1-1-2012	Amend	2-1-2012
741-040-0020	1-27-2012	Adopt	3-1-2012	808-003-0090	1-1-2012	Amend	2-1-2012
741-040-0030	1-27-2012	Adopt	3-1-2012	808-003-0126	1-1-2012	Adopt	2-1-2012
741-040-0040	1-27-2012	Adopt	3-1-2012	808-003-0130	1-1-2012	Amend	2-1-2012
741-040-0050	1-27-2012	Adopt	3-1-2012	808-003-0620	1-1-2012	Adopt	2-1-2012
741-040-0060	1-27-2012	Adopt	3-1-2012	808-004-0320	1-1-2012	Amend	2-1-2012
741-040-0070	1-27-2012	Adopt	3-1-2012	808-005-0020	1-1-2012	Amend	2-1-2012
800-010-0015	2-1-2012	Amend	3-1-2012	808-040-0020	1-1-2012	Amend	2-1-2012
800-010-0040	2-1-2012	Amend	3-1-2012	808-040-0080	1-1-2012	Amend	2-1-2012
800-015-0005	2-1-2012	Amend	3-1-2012	812-002-0260	1-1-2012	Amend	1-1-2012
800-015-0010	2-1-2012	Amend	3-1-2012	812-002-0443	3-2-2012	Amend	4-1-2012
800-015-0015	2-1-2012	Amend	3-1-2012	812-005-0140	3-2-2012	Amend	4-1-2012
800-015-0020	2-1-2012	Amend	3-1-2012	812-005-0140(T)	3-2-2012	Repeal	4-1-2012
800-015-0030	2-1-2012	Amend	3-1-2012	812-005-0250	3-2-2012	Amend	4-1-2012
800-020-0015	2-1-2012	Amend	3-1-2012	812-005-0800	1-1-2012	Amend	1-1-2012
800-020-0022	2-1-2012	Amend	3-1-2012	812-005-0800	3-2-2012	Amend	4-1-2012
800-020-0025	2-1-2012	Amend	3-1-2012	812-007-0020	3-2-2012	Amend	4-1-2012
800-025-0020	2-1-2012	Amend	3-1-2012	812-007-0302	3-2-2012	Amend	4-1-2012
800-025-0027	2-1-2012	Amend	3-1-2012	812-007-0350	3-2-2012	Amend	4-1-2012
801-001-0035	1-1-2012	Amend	2-1-2012	812-008-0000	1-1-2012	Amend	1-1-2012
801-001-0045	1-1-2012	Adopt	2-1-2012	812-008-0020	1-1-2012	Amend	1-1-2012
801-005-0010	1-1-2012	Amend	2-1-2012	812-008-0030	1-1-2012	Amend	1-1-2012
801-005-0300	1-1-2012	Amend	2-1-2012	812-021-0005	1-13-2012	Amend(T)	2-1-2012
801-010-0010	1-1-2012	Amend	2-1-2012	812-021-0015	11-18-2011	Amend(T)	1-1-2012
801-010-0040	1-1-2012	Amend	2-1-2012	812-021-0015	3-2-2012	Amend	4-1-2012
801-010-0050	1-1-2012	Amend	2-1-2012	812-021-0015(T)	3-2-2012	Repeal	4-1-2012
801-010-0065	1-1-2012	Amend	2-1-2012	812-021-0019	3-2-2012	Amend	4-1-2012
801-010-0073	1-1-2012	Amend	2-1-2012	812-021-0025	2-9-2012	Amend(T)	3-1-2012
801-010-0075	1-1-2012	Amend	2-1-2012	812-021-0025	3-2-2012	Amend	4-1-2012
801-010-0079	1-1-2012	Amend	2-1-2012	812-021-0025(T)	3-2-2012	Repeal	4-1-2012
801-010-0080	1-1-2012	Amend	2-1-2012	812-021-0030	2-9-2012	Amend(T)	3-1-2012
801-010-0085	1-1-2012	Amend	2-1-2012	812-021-0031	2-9-2012	Amend(T)	3-1-2012
801-010-0110	1-1-2012	Amend	2-1-2012	812-021-0040	3-2-2012	Amend	4-1-2012
801-010-0115	1-1-2012	Amend	2-1-2012	817-090-0025	3-12-2012	Amend(T)	4-1-2012
801-010-0120	1-1-2012	Amend	2-1-2012	817-090-0035	3-12-2012	Amend(T)	4-1-2012
801-010-0125	1-1-2012	Amend	2-1-2012	817-090-0045	3-12-2012	Amend(T)	4-1-2012
801-010-0130	1-1-2012	Amend	2-1-2012	817-090-0105	3-12-2012	Amend(T)	4-1-2012
801-010-0190	1-1-2012	Am. & Ren.	2-1-2012	817-120-0005	3-12-2012	Amend(T)	4-1-2012
801-010-0340	1-1-2012	Amend	2-1-2012	818-001-0087	1-27-2012	Amend	3-1-2012
801-010-0345	1-1-2012	Amend	2-1-2012	833-120-0011	12-15-2011	Amend	1-1-2012
801-040-0010	1-1-2012	Amend	2-1-2012	833-120-0021	12-15-2011	Amend	1-1-2012
801-040-0020	1-1-2012	Amend	2-1-2012	833-120-0031	12-15-2011	Amend	1-1-2012
801-040-0090	1-1-2012	Amend	2-1-2012	833-120-0041	12-15-2011	Amend	1-1-2012
801-040-0100	1-1-2012	Amend	2-1-2012	836-010-0000	1-1-2012	Amend	2-1-2012
801-040-0160	1-1-2012	Amend	2-1-2012	836-010-0011	1-1-2012	Amend	2-1-2012
801-050-0010	1-1-2012	Amend	2-1-2012	836-010-0012	1-1-2012	Repeal	2-1-2012
801-050-0020	1-1-2012	Amend	2-1-2012	836-011-0000	2-7-2012	Amend	3-1-2012
801-050-0040	1-1-2012	Amend	2-1-2012	836-011-0600	2-16-2012	Adopt	4-1-2012
806-010-0045	1-4-2012	Amend	2-1-2012	836-052-0138	1-1-2013	Amend	4-1-2012
808-002-0020	1-1-2012	Amend	2-1-2012	836-052-0143	1-1-2013	Adopt	4-1-2012
808-002-0390	1-1-2012	Adopt	2-1-2012	836-052-0508	2-14-2012	Amend	3-1-2012
808-002-0625	1-1-2012	Amend	2-1-2012	836-052-0768	2-14-2012	Adopt	3-1-2012

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836-052-0900	1-13-2012	Suspend	2-1-2012	839-002-0015	1-1-2012	Amend	2-1-2012
836-053-0410	12-19-2011	Amend	2-1-2012	839-002-0020	1-1-2012	Amend	2-1-2012
836-053-0415	12-19-2011	Adopt	2-1-2012	839-002-0025	1-1-2012	Amend	2-1-2012
836-053-0825	12-19-2011	Adopt	2-1-2012	839-002-0030	1-1-2012	Amend	2-1-2012
836-053-0830	12-19-2011	Adopt	2-1-2012	839-002-0035	1-1-2012	Amend	2-1-2012
836-053-0851	12-19-2011	Amend	2-1-2012	839-002-0040	1-1-2012	Amend	2-1-2012
836-053-0856	12-19-2011	Repeal	2-1-2012	839-002-0045	1-1-2012	Amend	2-1-2012
836-053-0857	12-19-2011	Adopt	2-1-2012	839-002-0050	1-1-2012	Amend	2-1-2012
836-053-0861	12-19-2011	Repeal	2-1-2012	839-002-0055	1-1-2012	Amend	2-1-2012
836-053-0862	12-19-2011	Adopt	2-1-2012	839-002-0060	1-1-2012	Amend	2-1-2012
836-053-0866	12-19-2011	Repeal	2-1-2012	839-002-0065	1-1-2012	Amend	2-1-2012
836-053-1000	12-19-2011	Amend	2-1-2012	839-002-0070	1-1-2012	Amend	2-1-2012
836-053-1030	12-19-2011	Amend	2-1-2012	839-002-0075	1-1-2012	Amend	2-1-2012
836-053-1033	12-19-2011	Adopt	2-1-2012	839-002-0080	1-1-2012	Amend	2-1-2012
836-053-1035	12-19-2011	Adopt	2-1-2012	839-005-0033	1-1-2012	Renumber	2-1-2012
836-053-1060	12-19-2011	Amend	2-1-2012	839-005-0033	2-8-2012	Am. & Ren.	3-1-2012
836-053-1070	12-19-2011	Amend	2-1-2012	839-005-0075	1-1-2012	Adopt	2-1-2012
836-053-1080	12-19-2011	Amend	2-1-2012	839-005-0075	2-8-2012	Adopt	3-1-2012
836-053-1100	12-19-2011	Amend	2-1-2012	839-005-0130	1-1-2012	Adopt	2-1-2012
836-053-1110	12-19-2011	Amend	2-1-2012	839-005-0130	2-8-2012	Adopt	3-1-2012
836-053-1140	12-19-2011	Amend	2-1-2012	839-005-0135	1-1-2012	Adopt	2-1-2012
836-053-1310	12-19-2011	Amend	2-1-2012	839-005-0135	2-8-2012	Adopt	3-1-2012
836-053-1340	12-19-2011	Amend	2-1-2012	839-005-0160	1-1-2012	Amend	2-1-2012
836-053-1342	12-19-2011	Amend	2-1-2012	839-005-0160	2-8-2012	Amend	3-1-2012
836-053-1350	12-19-2011	Amend	2-1-2012	839-005-0170	1-1-2012	Amend	2-1-2012
836-071-0500	1-1-2012	Amend	2-1-2012	839-005-0170	2-8-2012	Amend	3-1-2012
836-071-0501	1-1-2012	Adopt	2-1-2012	839-006-0440	1-1-2012	Amend	2-1-2012
836-071-0550	1-1-2012	Adopt	2-1-2012	839-006-0440	2-8-2012	Amend	3-1-2012
836-071-0560	1-1-2012	Adopt	2-1-2012	839-006-0450	1-1-2012	Amend	2-1-2012
836-071-0565	1-1-2012	Adopt	2-1-2012	839-006-0450	2-8-2012	Amend	3-1-2012
836-071-0570	1-1-2012	Adopt	2-1-2012	839-006-0455	1-1-2012	Amend	2-1-2012
836-200-0250	1-1-2012	Adopt	1-1-2012	839-006-0455	2-8-2012	Amend	3-1-2012
836-200-0255	1-1-2012	Adopt	1-1-2012	839-006-0470	1-1-2012	Amend	2-1-2012
836-200-0300	1-1-2012	Adopt	1-1-2012	839-006-0470	2-8-2012	Amend	3-1-2012
836-200-0305	1-1-2012	Adopt	1-1-2012	839-006-0480	1-1-2012	Amend	2-1-2012
836-200-0310	1-1-2012	Adopt	1-1-2012	839-006-0480	2-8-2012	Amend	3-1-2012
836-200-0315	1-1-2012	Adopt	1-1-2012	839-009-0325	1-1-2012	Amend	2-1-2012
837-012-0515	2-6-2012	Amend(T)	3-1-2012	839-009-0325	2-8-2012	Amend	3-1-2012
837-020-0080	1-24-2012	Amend	3-1-2012	839-009-0330	1-1-2012	Amend	2-1-2012
837-020-0085	1-24-2012	Amend	3-1-2012	839-009-0330	2-8-2012	Amend	3-1-2012
837-020-0115	1-24-2012	Amend	3-1-2012	839-009-0340	1-1-2012	Amend	2-1-2012
837-035-0000	1-24-2012	Amend	3-1-2012	839-009-0340	2-8-2012	Amend	3-1-2012
837-035-0060	1-24-2012	Amend	3-1-2012	839-009-0345	1-1-2012	Amend	2-1-2012
837-035-0080	1-24-2012	Amend	3-1-2012	839-009-0345	2-8-2012	Amend	3-1-2012
837-035-0100	1-24-2012	Amend	3-1-2012	839-009-0355	1-1-2012	Amend	2-1-2012
837-035-0160	1-24-2012	Amend	3-1-2012	839-009-0355	2-8-2012	Amend	3-1-2012
837-035-0200	1-24-2012	Amend	3-1-2012	839-009-0360	1-1-2012	Amend	2-1-2012
837-035-0220	1-24-2012	Amend	3-1-2012	839-009-0360	2-8-2012	Amend	3-1-2012
837-035-0240	1-24-2012	Amend	3-1-2012	839-009-0362	1-1-2012	Amend	2-1-2012
837-040-0020	2-10-2012	Amend(T)	3-1-2012	839-009-0362	2-8-2012	Amend	3-1-2012
837-040-0020	3-1-2012	Amend	3-1-2012	839-009-0365	1-1-2012	Amend	2-1-2012
839-001-0300	1-1-2012	Adopt	2-1-2012	839-009-0365	2-8-2012	Amend	3-1-2012
839-001-0560	1-1-2012	Amend	2-1-2012	839-011-0020	1-3-2012	Amend	2-1-2012
839-002-0001	1-1-2012	Amend	2-1-2012	839-011-0050	1-3-2012	Amend	2-1-2012
839-002-0002	1-1-2012	Amend	2-1-2012	839-011-0051	1-3-2012	Amend	2-1-2012



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839-011-0060	1-3-2012	Amend	2-1-2012	847-050-0010	1-1-2012	Amend(T)	1-1-2012
839-011-0070	1-3-2012	Amend	2-1-2012	847-050-0010	2-10-2012	Amend	3-1-2012
839-011-0072	1-3-2012	Amend	2-1-2012	847-050-0010(T)	2-10-2012	Repeal	3-1-2012
839-011-0074	1-3-2012	Amend	2-1-2012	847-050-0015	1-1-2012	Amend(T)	1-1-2012
839-011-0082	1-3-2012	Amend	2-1-2012	847-050-0015	2-10-2012	Amend	3-1-2012
839-011-0084	1-3-2012	Amend	2-1-2012	847-050-0015(T)	2-10-2012	Repeal	3-1-2012
839-011-0088	1-3-2012	Amend	2-1-2012	847-050-0020	1-1-2012	Amend(T)	1-1-2012
839-011-0090	1-3-2012	Amend	2-1-2012	847-050-0020	2-10-2012	Amend	3-1-2012
839-011-0140	1-3-2012	Amend	2-1-2012	847-050-0020(T)	2-10-2012	Repeal	3-1-2012
839-011-0141	1-3-2012	Amend	2-1-2012	847-050-0023	1-1-2012	Amend(T)	1-1-2012
839-011-0142	1-3-2012	Amend	2-1-2012	847-050-0023	2-10-2012	Amend	3-1-2012
839-011-0143	1-3-2012	Amend	2-1-2012	847-050-0023(T)	2-10-2012	Repeal	3-1-2012
839-011-0145	1-3-2012	Amend	2-1-2012	847-050-0025	1-1-2012	Amend(T)	1-1-2012
839-011-0162	1-3-2012	Amend	2-1-2012	847-050-0025	2-10-2012	Amend	3-1-2012
839-011-0175	1-3-2012	Amend	2-1-2012	847-050-0025(T)	2-10-2012	Repeal	3-1-2012
839-011-0265	1-3-2012	Amend	2-1-2012	847-050-0026	1-1-2012	Amend(T)	1-1-2012
839-011-0270	1-3-2012	Amend	2-1-2012	847-050-0026	2-10-2012	Amend	3-1-2012
839-011-0290	1-3-2012	Amend	2-1-2012	847-050-0026(T)	2-10-2012	Repeal	3-1-2012
839-011-0310	1-3-2012	Amend	2-1-2012	847-050-0027	1-1-2012	Amend(T)	1-1-2012
839-011-0320	1-3-2012	Amend	2-1-2012	847-050-0027	2-10-2012	Amend	3-1-2012
839-011-0334	1-3-2012	Amend	2-1-2012	847-050-0027	3-2-2012	Amend(T)	4-1-2012
839-025-0700	1-1-2012	Amend	2-1-2012	847-050-0027(T)	2-10-2012	Repeal	3-1-2012
839-050-0040	1-1-2012	Amend	2-1-2012	847-050-0029	1-1-2012	Amend(T)	1-1-2012
839-050-0310	1-1-2012	Amend	2-1-2012	847-050-0029	2-10-2012	Amend	3-1-2012
839-050-0340	1-1-2012	Amend	2-1-2012	847-050-0029(T)	2-10-2012	Repeal	3-1-2012
845-005-0425	1-1-2012	Amend	1-1-2012	847-050-0035	1-1-2012	Amend(T)	1-1-2012
845-009-0135	1-1-2012	Amend	1-1-2012	847-050-0035	2-10-2012	Amend	3-1-2012
845-015-0101	1-1-2012	Amend	1-1-2012	847-050-0035(T)	2-10-2012	Repeal	3-1-2012
845-015-0120	1-1-2012	Amend	1-1-2012	847-050-0037	1-1-2012	Amend(T)	1-1-2012
845-015-0185	1-1-2012	Amend	1-1-2012	847-050-0037	2-10-2012	Amend	3-1-2012
845-015-0190	1-1-2012	Amend	1-1-2012	847-050-0037(T)	2-10-2012	Repeal	3-1-2012
845-015-0196	1-1-2012	Amend	1-1-2012	847-050-0038	1-1-2012	Amend(T)	1-1-2012
845-015-0210	1-1-2012	Adopt	1-1-2012	847-050-0038	2-10-2012	Amend	3-1-2012
847-001-0000	2-7-2012	Amend(T)	3-1-2012	847-050-0038(T)	2-10-2012	Repeal	3-1-2012
847-001-0005	2-7-2012	Amend(T)	3-1-2012	847-050-0040	1-1-2012	Amend(T)	1-1-2012
847-001-0007	2-10-2012	Adopt	3-1-2012	847-050-0040	2-10-2012	Amend	3-1-2012
847-001-0010	2-7-2012	Amend(T)	3-1-2012	847-050-0040(T)	2-10-2012	Repeal	3-1-2012
847-001-0015	2-7-2012	Amend(T)	3-1-2012	847-050-0041	1-1-2012	Amend(T)	1-1-2012
847-001-0020	2-7-2012	Amend(T)	3-1-2012	847-050-0041	2-10-2012	Amend	3-1-2012
847-001-0022	2-7-2012	Amend(T)	3-1-2012	847-050-0041(T)	2-10-2012	Repeal	3-1-2012
847-001-0025	2-7-2012	Amend(T)	3-1-2012	847-050-0042	1-1-2012	Amend(T)	1-1-2012
847-001-0030	2-7-2012	Amend(T)	3-1-2012	847-050-0042	2-10-2012	Amend	3-1-2012
847-005-0005	1-1-2012	Amend(T)	2-1-2012	847-050-0042(T)	2-10-2012	Repeal	3-1-2012
847-005-0005	2-10-2012	Amend	3-1-2012	847-050-0043	1-1-2012	Amend(T)	1-1-2012
847-005-0005	3-2-2012	Amend(T)	4-1-2012	847-050-0043	2-10-2012	Amend	3-1-2012
847-005-0005(T)	2-10-2012	Repeal	3-1-2012	847-050-0043(T)	2-10-2012	Repeal	3-1-2012
847-008-0040	1-1-2012	Amend(T)	1-1-2012	847-050-0046	1-1-2012	Amend(T)	1-1-2012
847-008-0040	2-10-2012	Amend	3-1-2012	847-050-0046	2-10-2012	Amend	3-1-2012
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

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847-050-0060(T)	2-10-2012	Repeal	3-1-2012	853-050-0000	1-1-2012	Adopt	1-1-2012
847-050-0063	1-1-2012	Amend(T)	1-1-2012	853-050-0010	1-1-2012	Adopt	1-1-2012
847-050-0063	2-10-2012	Amend	3-1-2012	853-060-0000	1-1-2012	Adopt	1-1-2012
847-050-0063(T)	2-10-2012	Repeal	3-1-2012	853-060-0010	1-1-2012	Adopt	1-1-2012
847-050-0065	1-1-2012	Amend(T)	1-1-2012	855-019-0260	1-1-2012	Amend	2-1-2012
847-050-0065	2-10-2012	Amend	3-1-2012	855-019-0280	1-1-2012	Amend	2-1-2012
847-050-0065(T)	2-10-2012	Repeal	3-1-2012	855-019-0290	1-1-2012	Amend	2-1-2012
847-070-0045	2-10-2012	Amend	3-1-2012	855-031-0010	1-1-2012	Amend	2-1-2012
848-010-0015	3-1-2012	Amend	3-1-2012	855-031-0020	1-1-2012	Amend	2-1-2012
848-010-0020	3-1-2012	Amend	3-1-2012	855-031-0026	1-1-2012	Adopt	2-1-2012
848-010-0026	3-1-2012	Amend	3-1-2012	855-031-0045	1-1-2012	Amend	2-1-2012
848-010-0035	3-1-2012	Amend	3-1-2012	855-041-0095	1-1-2012	Amend	2-1-2012
848-035-0030	3-1-2012	Amend	3-1-2012	855-060-0004	1-1-2012	Adopt	2-1-2012
848-035-0040	3-1-2012	Amend	3-1-2012	855-080-0100	12-15-2011	Amend(T)	1-1-2012
848-040-0125	3-1-2012	Amend	3-1-2012	855-080-0100(T)	12-15-2011	Suspend	1-1-2012
848-045-0010	3-1-2012	Amend	3-1-2012	855-080-0103(T)	12-15-2011	Suspend	1-1-2012
850-050-0120	12-23-2011	Amend	1-1-2012	855-110-0005	12-15-2011	Amend	1-1-2012
850-060-0215	12-23-2011	Amend	1-1-2012	855-110-0007	12-15-2011	Amend	1-1-2012
851-002-0000	11-22-2011	Amend	1-1-2012	855-110-0010	12-15-2011	Amend	1-1-2012
851-062-0090	4-1-2012	Amend	4-1-2012	856-010-0015	12-30-2011	Amend	2-1-2012
851-062-0110	4-1-2012	Amend	4-1-2012	856-010-0027	12-30-2011	Adopt	2-1-2012
853-001-0000	1-1-2012	Repeal	1-1-2012	858-010-0010	2-15-2012	Amend(T)	3-1-2012
853-001-0005	1-1-2012	Repeal	1-1-2012	858-010-0011	2-15-2012	Amend(T)	3-1-2012
853-001-0020	1-1-2012	Repeal	1-1-2012	858-010-0012	2-15-2012	Amend(T)	3-1-2012
853-001-0025	1-1-2012	Repeal	1-1-2012	858-010-0013	2-15-2012	Amend(T)	3-1-2012
853-001-0030	1-1-2012	Repeal	1-1-2012	858-010-0016	2-15-2012	Amend(T)	3-1-2012
853-010-0010	1-1-2012	Repeal	1-1-2012	858-010-0017	2-15-2012	Amend(T)	3-1-2012
853-010-0015	1-1-2012	Repeal	1-1-2012	859-030-0005	2-3-2012	Amend(T)	3-1-2012
853-010-0017	1-1-2012	Repeal	1-1-2012	859-030-0010	2-3-2012	Amend(T)	3-1-2012
853-010-0020	1-1-2012	Repeal	1-1-2012	859-070-0040	2-3-2012	Adopt(T)	3-1-2012
853-010-0025	1-1-2012	Repeal	1-1-2012	859-200-0001	12-22-2011	Adopt(T)	2-1-2012
853-010-0035	1-1-2012	Repeal	1-1-2012	859-300-0050	12-13-2011	Amend	1-1-2012
853-010-0040	1-1-2012	Repeal	1-1-2012	859-300-0050(T)	12-13-2011	Repeal	1-1-2012
853-010-0045	1-1-2012	Repeal	1-1-2012	860-023-0080	1-1-2012	Repeal	1-1-2012
853-010-0050	1-1-2012	Repeal	1-1-2012	860-023-0090	1-1-2012	Repeal	1-1-2012
853-010-0055	1-1-2012	Repeal	1-1-2012	860-023-0100	1-1-2012	Repeal	1-1-2012
853-010-0060	1-1-2012	Repeal	1-1-2012	860-023-0110	1-1-2012	Repeal	1-1-2012
853-010-0065	1-1-2012	Repeal	1-1-2012	860-023-0120	1-1-2012	Repeal	1-1-2012
853-010-0070	1-1-2012	Repeal	1-1-2012	860-023-0130	1-1-2012	Repeal	1-1-2012
853-010-0074	1-1-2012	Repeal	1-1-2012	860-023-0140	1-1-2012	Repeal	1-1-2012
853-010-0075	1-1-2012	Repeal	1-1-2012	860-023-0150	1-1-2012	Repeal	1-1-2012
853-010-0076	1-1-2012	Repeal	1-1-2012	860-023-0160	1-1-2012	Repeal	1-1-2012
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

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860-036-0425	1-1-2012	Adopt	2-1-2012	918-400-0455	1-1-2012	Amend	2-1-2012
860-036-0505	1-1-2012	Amend	2-1-2012	918-400-0458	1-1-2012	Amend	2-1-2012
860-036-0605	1-1-2012	Amend	2-1-2012	918-440-0012	1-1-2012	Amend	2-1-2012
860-036-0610	1-1-2012	Amend	2-1-2012	918-460-0015	1-1-2012	Amend	2-1-2012
860-036-0615	1-1-2012	Amend	2-1-2012	918-460-0015	2-1-2012	Amend	3-1-2012
860-036-0625	1-1-2012	Am. & Ren.	2-1-2012	918-460-0510	1-1-2012	Amend	2-1-2012
860-036-0640	1-1-2012	Amend	2-1-2012	943-014-0300	12-1-2011	Adopt	1-1-2012
860-036-0705	1-1-2012	Amend	2-1-2012	943-014-0300(T)	12-1-2011	Repeal	1-1-2012
860-036-0708	1-1-2012	Adopt	2-1-2012	943-014-0305	12-1-2011	Adopt	1-1-2012
860-036-0710	1-1-2012	Amend	2-1-2012	943-014-0305(T)	12-1-2011	Repeal	1-1-2012
860-036-0715	1-1-2012	Amend	2-1-2012	943-014-0310	12-1-2011	Adopt	1-1-2012
860-036-0737	1-1-2012	Amend	2-1-2012	943-014-0310(T)	12-1-2011	Repeal	1-1-2012
860-036-0739	1-1-2012	Amend	2-1-2012	943-014-0315	12-1-2011	Adopt	1-1-2012
860-036-0740	1-1-2012	Amend	2-1-2012	943-014-0315(T)	12-1-2011	Repeal	1-1-2012
860-036-0745	1-1-2012	Amend	2-1-2012	943-014-0320	12-1-2011	Adopt	1-1-2012
860-036-0750	1-1-2012	Amend	2-1-2012	943-014-0320(T)	12-1-2011	Repeal	1-1-2012
860-036-0756	1-1-2012	Amend	2-1-2012	943-045-0000	12-4-2011	Adopt	1-1-2012
860-036-0757	1-1-2012	Amend	2-1-2012	943-045-0000(T)	12-4-2011	Repeal	1-1-2012
860-036-0815	1-1-2012	Amend	2-1-2012	943-045-0250	12-5-2011	Adopt	1-1-2012
860-036-0816	1-1-2012	Adopt	2-1-2012	943-045-0250(T)	12-5-2011	Repeal	1-1-2012
860-038-0480	3-15-2012	Amend	4-1-2012	943-045-0260	12-5-2011	Adopt	1-1-2012
860-038-0480(T)	3-15-2012	Repeal	4-1-2012	943-045-0260(T)	12-5-2011	Repeal	1-1-2012
860-039-0005	2-22-2012	Amend	4-1-2012	943-045-0280	12-5-2011	Adopt	1-1-2012
875-005-0005	12-12-2011	Amend(T)	1-1-2012	943-045-0280(T)	12-5-2011	Repeal	1-1-2012
875-040-0005	12-12-2011	Adopt(T)	1-1-2012	943-045-0290	12-5-2011	Adopt	1-1-2012
877-001-0020	12-29-2011	Amend	2-1-2012	943-045-0290(T)	12-5-2011	Repeal	1-1-2012
877-010-0015	12-29-2011	Amend	2-1-2012	943-045-0300	12-5-2011	Adopt	1-1-2012
877-010-0020	12-29-2011	Amend	2-1-2012	943-045-0300(T)	12-5-2011	Repeal	1-1-2012
877-015-0105	12-29-2011	Amend	2-1-2012	943-045-0310	12-5-2011	Adopt	1-1-2012
877-015-0108	12-29-2011	Amend	2-1-2012	943-045-0310(T)	12-5-2011	Repeal	1-1-2012
877-015-0136	12-29-2011	Amend	2-1-2012	943-045-0320	12-5-2011	Adopt	1-1-2012
877-020-0005	12-29-2011	Amend	2-1-2012	943-045-0320(T)	12-5-2011	Repeal	1-1-2012
877-020-0008	12-29-2011	Amend	2-1-2012	943-045-0330	12-5-2011	Adopt	1-1-2012
877-020-0010	12-29-2011	Amend	2-1-2012	943-045-0330(T)	12-5-2011	Repeal	1-1-2012
877-020-0016	12-29-2011	Amend	2-1-2012	943-045-0340	12-5-2011	Adopt	1-1-2012
877-020-0036	12-29-2011	Amend	2-1-2012	943-045-0340(T)	12-5-2011	Repeal	1-1-2012
877-025-0006	12-29-2011	Amend	2-1-2012	943-045-0350	12-5-2011	Adopt	1-1-2012
877-025-0011	12-29-2011	Amend	2-1-2012	943-045-0350(T)	12-5-2011	Repeal	1-1-2012
877-040-0050	12-29-2011	Amend	2-1-2012	943-045-0360	12-5-2011	Adopt	1-1-2012
918-098-01530	3-1-2012	Amend(T)	4-1-2012	943-045-0360(T)	12-5-2011	Repeal	1-1-2012
918-098-1000	1-1-2012	Amend	2-1-2012	943-045-0370	12-5-2011	Adopt	1-1-2012
918-098-1510	3-1-2012	Amend(T)	4-1-2012	943-045-0370(T)	12-5-2011	Repeal	1-1-2012
918-098-1590	3-1-2012	Adopt(T)	4-1-2012	943-045-0400	12-23-2011	Adopt	2-1-2012
918-098-1620	1-1-2012	Amend	2-1-2012	943-045-0400(T)	12-23-2011	Repeal	2-1-2012
918-225-0240	1-1-2012	Amend	2-1-2012	943-045-0410	12-23-2011	Adopt	2-1-2012
918-225-0430	1-1-2012	Amend	2-1-2012	943-045-0410(T)	12-23-2011	Repeal	2-1-2012
918-225-0435	1-1-2012	Amend	2-1-2012	943-045-0420	12-23-2011	Adopt	2-1-2012
918-225-0570	1-1-2012	Amend	2-1-2012	943-045-0420(T)	12-23-2011	Repeal	2-1-2012
918-225-0600	1-1-2012	Amend	2-1-2012	943-045-0430	12-23-2011	Adopt	2-1-2012
918-225-0600	1-1-2012	Amend	2-1-2012	943-045-0430(T)	12-23-2011	Repeal	2-1-2012
918-225-0606	1-1-2012	Adopt	2-1-2012	943-045-0440	12-23-2011	Adopt	2-1-2012
918-225-0609	1-1-2012	Adopt	2-1-2012	943-045-0440(T)	12-23-2011	Repeal	2-1-2012
918-225-0612	1-1-2012	Adopt	2-1-2012	943-045-0450	12-23-2011	Adopt	2-1-2012
918-225-0615	1-1-2012	Adopt	2-1-2012	943-045-0450(T)	12-23-2011	Repeal	2-1-2012
918-225-0618	1-1-2012	Adopt	2-1-2012	943-045-0460	12-23-2011	Adopt	2-1-2012
918-225-0620	1-1-2012	Amend	2-1-2012	943-045-0460(T)	12-23-2011	Repeal	2-1-2012



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943-045-0470	12-23-2011	Adopt	2-1-2012	945-001-0011	3-6-2012	Adopt	4-1-2012
943-045-0470(T)	12-23-2011	Repeal	2-1-2012	945-010-0001	3-6-2012	Adopt	4-1-2012
943-045-0480	12-23-2011	Adopt	2-1-2012	945-010-0006	3-6-2012	Adopt	4-1-2012
943-045-0480(T)	12-23-2011	Repeal	2-1-2012	945-010-0011	3-6-2012	Adopt	4-1-2012
943-045-0490	12-23-2011	Adopt	2-1-2012	945-010-0021	3-6-2012	Adopt	4-1-2012
943-045-0490(T)	12-23-2011	Repeal	2-1-2012	945-010-0031	3-6-2012	Adopt	4-1-2012
943-045-0500	12-23-2011	Adopt	2-1-2012	945-010-0041	3-6-2012	Adopt	4-1-2012
943-045-0500(T)	12-23-2011	Repeal	2-1-2012	945-010-0051	3-6-2012	Adopt	4-1-2012
943-045-0510	12-23-2011	Adopt	2-1-2012	945-010-0061	3-6-2012	Adopt	4-1-2012
943-045-0510(T)	12-23-2011	Repeal	2-1-2012	945-010-0071	3-6-2012	Adopt	4-1-2012
943-045-0520	12-23-2011	Adopt	2-1-2012	945-010-0081	3-6-2012	Adopt	4-1-2012
943-045-0520(T)	12-23-2011	Repeal	2-1-2012	945-010-0091	3-6-2012	Adopt	4-1-2012
943-060-0050	2-17-2012	Adopt(T)	4-1-2012	945-010-0101	3-6-2012	Adopt	4-1-2012
945-001-0001	3-6-2012	Adopt	4-1-2012	951-004-0003	1-1-2012	Amend	1-1-2012
945-001-0006	3-6-2012	Adopt	4-1-2012	951-004-0004	1-1-2012	Amend	1-1-2012