OREGON BULLETIN

Supplements the 2013 *Oregon Administrative Rules Compilation*

Volume 52, No. 3
March 1, 2013

For January 16, 2013–February 15, 2013

Published by
KATE BROWN
Secretary of State

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 at <http://arcweb.sos.state.or.us/pages/rules/index.html>. 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

2012–2013 Oregon Bulletin Publication Schedule

The Administrative Rules Unit accepts rulemaking notices and filings through its on-line filing system accessible on the OAR web site at <http://arcweb.sos.state.or.us/pages/rules/index.html>. 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 14, 2012	January 1, 2013
January 15, 2013	February 1, 2013
February 15, 2013	March 1, 2013
March 15, 2013	April 1, 2013
April 15, 2013	May 1, 2013
May 15, 2013	June 1, 2013
June 14, 2013	July 1, 2013
July 15, 2013	August 1, 2013
August 15, 2013	September 1, 2013
September 13, 2013	October 1, 2013
October 15, 2013	November 1, 2013
November 15, 2013	December 1, 2013

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.

TABLE OF CONTENTS

EXECUTIVE ORDER NO. 13 - 01

OREGON SMALL BUSINESS ADVISORY COUNCIL

The State of Oregon is committed to promoting growth and continued development of Oregon's business environment with specific emphasis on growing the small and medium sized business sectors.

The Governor would benefit from the assistance and leadership of a Small Business Advisory Council, working through the Oregon Business Development Commission, to provide recommendations to the Governor on how best to promote the growth and economic vitality of Oregon's small business sector.

IT IS HEREBY ORDERED AND DIRECTED:

1. The Oregon Small Business Advisory Council (the Council) is established.

2. The Council shall consist of small business owners and managers representing diverse interests and geographic areas. The members will be significantly involved in and connected to the communities and industries they represent. The Council should, to the extent possible, represent the diversity of small businesses across the state.

3. The Council shall consist of nine persons appointed by the Governor:

a. Five of the members shall represent each of the Governor's Regional Solution Team regions;

b. One member shall be an ex-officio member from Oregon Business Development Department; and

c. Three members shall be "at large."

4. The Council members shall annually select a Chair and Vice-Chair. Member terms are two years and members may serve no more than two consecutive terms.

5. When a vacancy occurs on the Council, a nominating committee appointed by the Council Chair shall develop a nominee list of recommended nominees that falls within Council membership guidelines for the Governor's appointment consideration.

6. Members of the Council may be reimbursed for travel expenses incurred in attending Council business pursuant to state travel regulations (ORS 292.495(2)), rules, policies and availability of budgeted funds.

7. The Council shall annually conduct forums in at least three different geographical regions served by the Governor's Regional Solution Teams to discuss ideas, barriers and state policies that impact the economic climate for small business in Oregon.

8. Consistent with the Governor's policies and objectives, the Council shall develop a report to the Governor with recommendations supporting the advancement and the success of the small business sector, compiled from information gathered from businesses around the state. This information may be used by the Governor and other policy makers to recommend changes in state programs, laws, policies and services for more efficient development of small business throughout Oregon. This annual report is to be submitted to the Governor's Office by June 30th of each year.

9. The Council will help promote the Governor's agenda for small business around the state. The Council shall not lobby independent of the Governor's agenda.

10. The Oregon Business Development Department shall provide staff and support to the Council.

11. This order rescinds and supersedes Executive Orders 08-03 and 08-13.

12. This order expires June 30, 2015.

Done at Salem, Oregon, this 31st day of January, 2013.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

EXECUTIVE ORDER NO 13 - 02

ESTABLISHING THE TASK FORCE ON TRAUMATIC BRAIN INJURY

Traumatic Brain Injury (TBI) represents a significant public health problem. Each year, almost 1.7 million people in the United States sustain brain injuries due to motor vehicle collisions, assaults, falls, firearm incidents, and sports activities. Of the total number of individuals injured each year, more than 124,000 will be left with permanent disability in social, behavioral, physical, and cognitive functioning. Currently, approximately 3.17 million people in the United States need help with daily living due to a TBI.

There are approximately 45,000 Oregonians with TBI and more than 3,000 individuals are added to this number every year. Over 1000 students in Oregon are hospitalized for brain injury each year. Approximately 16% of these children will be left with significant alterations in functioning (based on national averages) indicating a cumulative total of nearly 2000 students who should be identified for special education services. However, Oregon's Special Education Child Count for 2010-11 identified only 284 students with TBI.

Traumatic brain injury has become the signature injury of the Afghanistan and Iraq wars. The incidence rate among combat-exposed military personnel is estimated at 15-20%. However, as in the civilian population, the true incidence of brain injury in the military is likely much higher due to significant under-reporting. To illustrate, congressional research reports indicate that there are over 700 veterans with brain injury living in Oregon. However, state agency personnel reports indicate over 1700 veterans, many of whom may have brain injury, are currently receiving services through Oregon's Office of Seniors and People with Disabilities alone.

Oregonians with TBI are a growing population attempting to navigate private, state, and federal agencies to address their complex medical, rehabilitation, and vocational needs. Lack of coordinated, on-going services following injury is common and can result in persons with brain injury being served in higher cost private and state institutions such as emergency rooms, homeless shelters, and correctional facilities. Coordinated services early post-injury are thus critical to maximizing independence and reducing long-term costs to the state. Recent health care transformation efforts have created an unprecedented opportunity for coordinated services for this and other populations with complex needs.

Three areas of concern underscore the need for coordinated services for all persons with TBI:

(a) **Disabilities and access to services:** The physical, cognitive, and psychological disabilities following brain injury often prevent access to services. For example, impairments in memory, organization, and problem solving—the very skills needed to navigate complex service delivery systems often preclude persons with TBI from independently accessing these services.

(b) **Co-occurring disorders:** Brain injury can occur with other disorders including attention deficit disorder, mental illness, or drug/alcohol dependence. For example, many veterans with TBI also have post-traumatic stress disorder (PTSD). Treating these over-lapping conditions requires highly integrated care.

(c) **Diverse needs:** Just as no two individuals are alike, no two brain injuries are alike. Hence, individuals with TBI do not all need the same type and intensity of services. For example, students with TBI need person-centered individualized education programs and transition plans to maximize success. Similarly, adults with brain injury benefit from individualized, coordinated care plans. What is common to all persons with brain injury and their families is the need for assistance navigating the complex service-delivery system.

In 2001, Executive Order (EO) 01-02 created a Task Force on Traumatic Brain Injury. The EO 01-02 report drafted in 2002 provided recommendations to state agencies and advocacy organizations to focus on legislation on behalf of persons with traumatic brain injury and their families.

Since 2002, the service-delivery landscape for persons with brain injury has changed dramatically. The return of Oregon soldiers with TBI and continued improvements in life-saving medical procedures for civilians and military personnel alike contribute to the need for sustained, coordinated services across public agencies and private sector groups. This executive order repeals EO 01-02 and focuses on policy formation across state agencies.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Task Force on Traumatic Brain Injury ("Task Force") is established. The purpose of this Task Force is to formulate policies with state agencies focusing on improved service delivery for this population.

2. To ensure diversity of input, Task Force membership will include representation from the following categories:

a. Two brain injury survivors appointed by the Governor;

b. Two relatives of brain injury survivors appointed by the Governor;

c. Two medical professionals with experience in treating brain injury appointed by the Governor;

d. One member of the public appointed by the Governor;

e. One agency representative appointed by the director of the Brain Injury Alliance of Oregon;

f. One agency representative appointed by the director of Disability Rights Oregon;

g. One agency representative appointed by the director of the Oregon Department of Corrections;

h. One agency representative appointed by the director of the Oregon Department of Veterans' Affairs;

i. One agency representative appointed by the director of the Oregon Health Authority;

j. One agency representative appointed by the director of the Oregon Department of Human Services; and

k. One agency representative appointed by the director of the Oregon Department of Education.

3. The Task Force membership term for all members is three years. The 14 Task Force members may enlist others with specific expertise to develop the proposed policies. The Task Force members shall select the chair. Task force members will not be reimbursed for mileage or per diem.

4. At least seven members must be present for a quorum. The Task Force shall meet at least quarterly for three years after the EO takes effect.

5. The Task Force will take the lead on formulating policies in partnership with state agencies and groups that directly serve Oregonians with TBI, addressing the domains of (a) coordination of services, (b) prevention and awareness, and (c) employment, education, and housing.

6. The Task Force will address coordination of services by:

a. Developing joint policies with the state agencies that provide services to persons with TBI. These agencies include: Oregon Department of Education; Oregon Department of Veterans' Affairs; Oregon Health Authority; Oregon Department of Corrections; Oregon Youth Authority; Office of Vocational Rehabilitation Services; Office of Developmental Disability Services; and Office of Seniors and People with Disabilities.

b. Developing joint policies with healthcare delivery entities including coordinated care organizations for comprehensive, integrated services for people with TBI. Types of care considered will include medical, mental health, and cognitive rehabilitation services.

c. Developing joint policies with the Veterans' Administration and other military organizations, including the Oregon National Guard, to improve services delivered to veterans and returning military whether covered by service-related medical benefits or not.

7. The Task Force will address prevention and awareness by:

a. Developing policy with the Oregon Health Authority to reduce the incidence of TBI through a program of identification (screening and registry), prevention, and public awareness.

b. Developing policy with Oregon Youth Authority and the Oregon Department of Education to implement wide-scale TBI screening programs to identify and recommend treatment for students with TBI.

8. The Task Force will address education, employment, and housing by:

a. Developing policy with the Oregon Department of Education to improve quality of Individual Education Plans and Transition Plans for students with TBI.

b. Developing policy with the Office of Vocational Rehabilitation Services to improve employment outcomes of individuals with TBI.

c. Developing policy with the Office of Seniors and People with Disabilities, the Office of Developmental Disability Services, the Oregon Health Authority and Oregon Housing and Community Services to improve housing opportunities for people with TBI.

9. The Task Force will also advise on Oregon's Health Resources and Services Administration (HRSA) Traumatic Brain Injury Implementation grants, as needed.

10. The term Acquired Brain Injury (ABI) is the term used to describe damage resulting from traumatic causes (e.g., TBIs due to car crashes, falls, assaults) and non-traumatic causes (e.g., stroke, tumor, anoxia, meningitis). Persons with ABI due to non-traumatic causes benefit from similar services to those with TBI. The current Task Force will focus on TBI. However, persons with ABI would benefit from a similar policy development effort. Therefore, the Task Force will develop a strategy for future inclusion of ABI in state agency policy and/or legislation.

11. Administrative support for the Task Force will be shared by the Oregon Health Authority, Department of Human Services and the Oregon Department of Education or its designee.

12. This Executive Order hereby supersedes and replaces in total Executive Order 01-02.

13. This order shall expire January 29, 2016.

Done at Salem, Oregon, this 31st day of January, 2013.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

EXECUTIVE ORDER NO. 13 - 03

AMENDMENT TO EXECUTIVE ORDER 12 - 18

On December 14, 2012, I issued Executive Order No. 12-18 declaring a state of emergency in Clatsop, Columbia, Curry, Douglas, Lincoln, and Tillamook Counties due to damaging winds, heavy rains causing flooding, mudslides, landslides and erosion throughout the Counties. Polk County declared local emergency due to this same storm system which damaged state highways throughout these Counties with scour, washouts, sink holes, serious tree and debris flow, mudslides and landslides.

Pursuant to ORS 401.165, I find that the damaging winter weather noted in Executive Order No. 12-18 also created a threat to safety, and property in Polk County.

NOW, THEREFORE, IT IS DIRECTED AND ORDERED:

1. Executive Order No. 12-18 is amended to include Clatsop, Columbia, Curry, Douglas, Lincoln, Polk and Tillamook Counties in the list of counties in which a State of Emergency is declared to exist.

2. The Oregon Department of Transportation shall provide appropriate assistance and seek federal resources to effect recovery to transportation systems from this emergency.

Done at Salem, Oregon this 19th day of February, 2013.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

REQUEST FOR COMMENT RECOMMENDED REMEDIAL ACTIONS, PROPOSED CONSENT JUDGMENT FOR PROSPECTIVE PURCHASE AGREEMENT, WILLAMALANE PARK AND RECREATION DISTRICT, LANE COUNTY, OREGON

COMMENTS DUE: April 1, 2013
PROJECT LOCATION: Across Weyerhaeuser Road from the intersection of Pumice Place and S 61st Street, Southeast Springfield
PROPOSAL: The Willamalane Park and Recreation District is proposing to acquire the closed Weyerhaeuser Truck Road woodwaste landfill property from Weyerhaeuser to provide productive use and beneficial redevelopment of the property as a park. The landfill leaches low levels of metals such as iron and manganese to groundwater, and produces leachate that is currently discharged to the local wastewater treatment plant. Actions are proposed to be taken to reduce the migration of metals to groundwater and to reduce the generation of leachate.

Weyerhaeuser began operation of the landfill in about 1953 for disposal of wood debris, log pond dredgings, lime grits, fly ash, mud, and rocks from Weyerhaeuser's former Springfield mill complex. Active landfill operations were discontinued in 1982, at which time a final cover of fly ash and pond dredgings were graded over the landfill. Weyerhaeuser received a closure permit from DEQ on October 7, 1985. Weyerhaeuser continues to meet permit requirements including maintenance, monitoring and regular reporting to DEQ.

DEQ supports the proposed remedial actions to address the contamination and continued generation of leachate. These remedial actions include installing an engineered, low-permeability cover over the landfill to improve stormwater conveyance systems at the landfill and to prevent stormwater from soaking into the existing, permeable landfill cap and waste. DEQ also supports evaluating the potential for changing the leachate management system to reduce the size of (or eliminate the need for) a leachate storage lagoon.

DEQ's proposed consent judgment requires that plans be submitted to complete the remedial actions to DEQ for review, approval, and implementation. The landfill will continue to be managed under a DEQ solid waste disposal closure permit.

DEQ's prospective purchaser agreement program was created in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchase agreement is a tool that expedites the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a contaminated site.

The proposed consent judgment will provide Willamalane with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The proposed consent judgment will also provide Willamalane with third party liability protection.
HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eugene office at 165 E 7th Ave, Ste 100, Eugene, OR 97401. To schedule an appointment to review the file or to ask questions, please contact Bill Mason at (541) 687-7427. Summary information and a copies of the documents referenced above are available in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet. To review this material, go to http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp, then enter 5777 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5777 in the Site ID/Info column. To be considered, written comments should be sent to Bill Mason, Project Manager, at the address listed above or by email at mason.bill@deq.state.or.us, and must be received by 5:00 PM on Monday, April 1, 2013. A public meeting will be held upon written request by ten or more persons or by a group with a membership of 10 or more.
THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the proposed remedial actions taken at the site. A public notice of DEQ's final decision will be issued in this publication.
ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us. People with hearing impairments may call DEQ's TTY number, (800) 735-2900 or 711.

A CHANCE TO COMMENT ON A PROPOSED CONSENT ORDER FOR A PROSPECTIVE PURCHASER AGREEMENT AT THE FORMER WESTWOOD LUMBER MILL SITE

COMMENTS DUE: March 30, 2013
PROJECT LOCATION: 32941 East Saginaw Road, Saginaw, Lane County, Oregon
PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Order for a Prospective Purchaser Agreement (PPA) with Nevada Wood Preserving, Inc. (Nevada Wood) for the former Westwood Lumber mill site.
HIGHLIGHTS: The former Westwood Lumber Mill was developed sometime in the 1930s and operated until 2011. Various different wood processing activities occurred at the site including the treatment of wood with pentachlorophenol. Recent environmental investigations document that historical actitivities at the site resulted in naphthalene impacts to the shallow soils, shallow isolated areas of petroleum contamination in soil, minor localized shallow petroleum groundwater contamination, and dioxin contamination to near-surface soils and river sediments.

Nevada Wood is acquiring the Property and has agreed to conduct environmental activities including the following: excavating naphthalene-contaminated soil, capping and/or maintaining an asphalt cap over dioxin-contaminated soil, and evaluating the effect of historical practices by past operators on the sediments in the on-site stormwater system and in the Coast Fork of the Willamette River. If necessary, Nevada Wood will place an easement and equitable servitude on the site that may require maintaining the cap, placing no fishing signs along the site, and restricting placement of future groundwater wells within certain areas of the site. Nevada Wood will redevelop the site for timber-related activities, including as a raw wood products storage and redistribution facility.

Nevada Wood's redevelopment and remediation plans provide a substantial benefit to the State of Oregon by preventing additional contribution of dioxins to the Coast Fork of the Willamette River, removing heavily contaminated soil, and, if necessary, by reducing the likelihood of fishing along the length of the site. In addition, an unused brownfield property will be developed into a timber-related industrial facility, providing additional local tax revenue and jobs to the local economy.

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

The proposed Consent Order will provide Nevada Wood with a release from liability for claims by the State of Oregon under ORS §465.255 relating to any historical releases of hazardous substances at or from the Property. The proposed Consent Order will also provide Nevada with protection from potential contribution actions by third parties for recovery of remedial action costs associated with any historical releases at or from the Property. DEQ retains all existing rights it may have as to all other parties potentially liable for any releases.
HOW TO COMMENT: The proposed Consent Order and DEQ file on the Property may be reviewed at DEQ's Western Region office in Eugene by contacting Geoff Brown at (541) 686-7819. Upon written request by ten or more persons, or by a group having ten or

more members, a public meeting will be held to receive verbal comments on the proposed Consent Order. Written comments concerning the proposed Consent Order should be sent to Cheyenne Chapman at DEQ Headquarters, 811 SW 6th Avenue, Portland, Oregon 97204. Comments must be received by DEQ by 5:00 pm March 30, 2012. Questions may be directed to Ms. Chapman at that address or by calling (503) 229-6461.
THE NEXT STEP: DEQ will consider all public comments. A final decision concerning the proposed Consent Order will be made after consideration of public comments.

A CHANCE TO COMMENT ON PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT AND PROPOSED RECORD OF DECISION FOR ACTIONS REQUIRED TO PROTECT HUMAN HEALTH AT FORMER BOISE-CASCADE MINTO ISLAND PROPERTY, SALEM, OREGON

COMMENTS DUE: March 31, 2013
PROJECT LOCATION: North end of Minto-Brown Island, Salem, Oregon.
PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with the City of Salem for the Boise-Cascade Minto Island property located at the north end of the Minto-Brown Island, Salem, Oregon (the "Property"). Concurrent with this PPA, DEQ is proposing remedial actions in a Record of Decision (ROD) that are needed to protect the health of site workers and park visitors.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a property with existing contamination. DEQ has approved more than 100 Prospective Purchaser Agreements throughout the State since the program began.
HIGHLIGHTS: The City of Salem is acquiring the Property from Boise-Cascade as a conservation area. The 310-acre property contains important riparian floodplain areas that provide habitat for many fish and wildlife species, and benefits to water quality and flood protection. When combined with the City's Minto-Brown Island Park, acquisition of the Property will provide public ownership and management of over 1,200 acres of key Willamette River floodplain.

Parts of the island property were used historically for wastewater treatment and solid waste disposal. Soil and sediment samples collected from the former wastewater ponds and landfill at the property contain low levels of dioxins and PAHs that could exceed DEQ cleanup levels were people allowed unrestricted access to the those areas. The city has conducted an evaluation of the property and has proposed actions to protect the public from the contamination.

The city must use signs or fences near paths through the former industrial areas to protect recreational users from contact with the soil and sediment contamination in the former industrial ponds and the landfill areas. In addition, the city must inspect and maintain existing caps that cover former landfill and wastewater treatment pond sediments. Groundwater use on the property is also prohibited. With these actions DEQ has determined the property will be safe for its proposed use as a natural area and passive use park.

The proposed Consent Judgment will provide the City of Salem with a release from liability for claims by the State of Oregon under ORS §465.200 to 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the Property. The proposed Consent Judgment will also provide the City of Salem with third party liability protection. DEQ retains all existing rights it may have as to all other parties potentially liable for any releases.
HOW TO COMMENT: Written comments concerning the proposed Consent Judgment should be sent to Susan Turnblom, turnblom.susan@deq.state.or.us, at DEQ's Western Region Office, 165 East 7th Avenue, Suite 100, Eugene, Oregon, 97401-3049. Comments must be received by DEQ by 5:00 pm April 1, 2013. Questions may be directed to Ms. Turnblom at that address or by calling (541) 687-7464. The proposed Consent Judgment and DEQ file on the Property may be reviewed at DEQ's Western Region office in Eugene by contacting Denise Miller at (541) 686-7809.

To access information online: http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceId=355&SourceIdType=11

Upon written request by ten or more persons, or by a group having ten or more members, a public meeting will be held to receive verbal comments on the proposed Consent Judgment.
THE NEXT STEP: DEQ will consider all public comments. A final decision concerning the proposed Consent Judgment will be made after consideration of public comments.

REQUEST FOR COMMENTS PROPOSED SEDIMENT CLEANUP FOR PORTLAND WILLAMETTE SLOUGH INLET

COMMENTS DUE: 5 p.m., Monday, April 1, 2013
PROJECT LOCATION: Inlet off the Whitaker Slough, an arm of the Columbia Slough between NE 59th Place and NE 63rd Ave
PROPOSAL: The DEQ proposal includes dredging metal-contaminated sediment from the central portion of the inlet and entombing it within a protective cap along the adjacent shoreline area. The cap would be designed to create wetland benches which would be planted with native vegetation. If sufficient space is not available to contain all contaminated sediment in these areas, excess sediment would be removed from the inlet and disposed of at a permitted location.

This action is consistent with the remedial approach for the Columbia Slough which includes cleanup of "hot spot" areas of sediment contamination. Once the most highly contaminated sediment is addressed, DEQ expects contaminant concentrations in surface sediments to decline over time as clean sediment covers residual contamination.
HIGHLIGHTS: The Whitaker Slough inlet is approximately 1-acre in size and located 1 mile east of the confluence with the main stem of the Columbia Slough. The sediment in the inlet became contaminated primarily as a result of stormwater discharge via the adjacent Portland Willamette Company facility's private outfalls and discharges to City of Portland Outfall 77a from Columbia Blvd, Portland Blvd, and a number of commercial properties. Beginning in 2007, Portland Willamette Company completed a stormwater source control evaluation. Following this evaluation, the company cleaned out a ditch containing roofing debris and implemented best management practices for stormwater runoff. The City of Portland Stormwater Group is overseeing stormwater management at the facility under its stormwater discharge permit.

In 2009, Portland Willamette Company entered into a settlement with DEQ and received a release from liability for sediment contamination associated with its facility. DEQ is currently negotiating settlement with the City of Portland and the Oregon Department of Transportation for historical impacts resulting from Outfall 77a discharges. Funds from these settlements will be used to complete the cleanup of the inlet sediments.

The proposed remedy is consistent with Oregon rule and statute and, if properly implemented, protective of public health and the environment – Revised Statutes 465.200 ets seq. and Oregon Administrative Rules Chapter 340, Division 122, Sections 0010 through 0115.
HOW TO COMMENT: Send comments by 5 p.m., April 1, to DEQ Project Manager Jennifer Sutter at 2020 SW 4th Ave., Ste. 4000, Portland, OR 97201, sutter.jennifer@deq.state.or.us or 503-229-6148.

To review the project file, call the DEQ file specialist at 503-229-6729 for a file review appointment.

To access the site staff report and other documents in the DEQ Environmental Cleanup Site Information database, go to http://www.deq.state.or.us/lq/ECSI/ecsi.htm, then enter 1283 in the

Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 1283 in the Site ID/Info column.
THE NEXT STEP: DEQ will consider all public comments and the DEQ NWR regional administrator will make and publish the final decision after consideration of these comments.
ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. If you need information in another format, please contact DEQ toll free in Oregon at 800-452-4011, email at deqinfo@deq.state.or.us, or 711 for people with hearing impairments.

OPPORTUNITY TO COMMENT
ANALYSIS OF BROWNFIELD CLEANUP ALTERNATIVES, DIMMICK TOWER PROPERTY
GRANTS PASS, OREGON

COMMENT DUE: March 30, 2013
PROJECT LOCATION: Grants Pass, Oregon
PROPOSAL: The Department of Environmental Quality (DEQ) is providing notice for a public opportunity to review and comment on the Analysis of Brownfield Cleanup Alternatives (ABCA) for the Dimmick Tower property (Site) located on 751 NW Dimmick Street, Grants Pass, Oregon. The ABCA details the analysis and selection of protective cleanup options designed to address contamination at the Site.

Dimmick Tower is a five-story building, comprising a total of approximately 60,000 square feet, located within the 2-acre Josephine Garden property owned by Josephine County. Based on a review of previous environmental reports, the Dimmick Tower was built in 1963 and was used as a hospital until 2001. The current goal of the County is to have the Dimmick Tower demolished. However, prior to building demolition, several materials are required to be properly removed from the site in order to meet regulatory requirements. These materials include the following: asbestos containing materials (ACMs); petroleum products and chemicals; mercury switches; fluorescent light tubes and ballasts; and freon.

The ABCA, as well as more information concerning site-specific investigations is available in DEQ's Environmental Cleanup Site Information (ECSI) database located on the web at http://www.deq.state.or.us/lq/ecsi/ecsi.htm under Site ID 4726.

Site specific information is also available by contacting David Anderson, DEQ's project manager for this site. The Administrative File for this facility is located at DEQ's Bend office, and can be reviewed in person by contacting project manager at the number below to arrange for an appointment.
HOW TO COMMENT: The public comment period will extend from March 1 to 30, 2013. Please address all comments and/or inquiries to project manager at the following address:

David Anderson
Department of Environmental Quality
475 NE Bellevue Dr, Suite 110
Bend, OR 97701
(541) 633-2012
anderson.david@deq.state.or.us

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 consider all public comments received before finalizing the selected remedial action for the site. DEQ will provide written responses to all received public comments.

REQUEST FOR COMMENTS
PROPOSED CONDITIONAL NO FURTHER ACTION
FOR HERITAGE VILLA SITE

COMMENTS DUE: 5 p.m., April 1, 2013
PROJECT LOCATION: 8110 Highway 39, Henley, OR
PROPOSAL: The Oregon Department of Environmental Quality's Leaking Underground Storage Tank Program proposes to issue a conditional no further action determination for (CNFA) determination for the Heritage Villa site in Henley, Klamath County. The property, a former gas station, is comprised of a large storage garage, a mobile home, a single-family residence, and two multi-family residences.
HIGHLIGHTS: The Heritage Villa site was historically a gas station and subsequently had commercial retail stores. Two underground storage tanks (USTs) that were used to store gasoline, were decommissioned by removal approximately 30 years ago. Petroleum contamination at the site is generally the result of historic releases from the USTs. Site investigations showed that groundwater contamination at the site migrated off the property in a southerly direction; the magnitude and extent of contamination have been identified. Groundwater at the site has been monitored since early 2012. A risk-based assessment was performed and showed that with restrictions on the use of shallow groundwater, the residual contamination does not pose an unacceptable risk to human health or the environment.
HOW TO COMMENT: Send comments by 5 p.m., April 1, 2013, to DEQ Project Manager Joe Klemz, 475 NE Bellevue Dr, Ste 110, Bend, OR 97701, klemz.joe@deq.state.or.us or fax to (541) 388-8283.

To access site summary information and other documents in DEQ's LUST database, go to www.deq.state.or.us/lq/tanks/lust/LustPublicLookup.asp, enter 18- 97- 0005 in the LUST Number box and click "Lookup" at the bottom of the page. Next, click the link labeled 18-97-0005 in the Log Number column.

To review the project file, call Joe Klemz in Bend at (541) 633-2015 for a file review appointment.
THE NEXT STEP: DEQ will consider all public comments received before making a final decision on the proposed conditional no further action determination. DEQ will provide written responses to all public comments received.
ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. If you need information in another format, please contact DEQ toll free in Oregon at (800)-452-4011, email at deqinfo@deq.state.or.us, or 711 for people with hearing impairments.

REQUEST FOR COMMENTS
PROPOSED NO FURTHER ACTION FOR
FORMER BEAR VALLEY STORE

COMMENTS DUE: 5 p.m., April 1, 2013
PROJECT LOCATION: Highway 395 and First St., Seneca
PROPOSAL: The Oregon Department of Environmental Quality's Brownfields Program proposes to issue a no further action determination for the former Bear Valley Store site located at Highway 395 and First St., Seneca. DEQ issues a no further action determination when a cleanup has met regulatory standards.
HIGHLIGHTS: The Bear Valley Store was located on the property until the entire store complex burned down in 1981. The store at one time dispensed petroleum products. The site is currently a vacant lot. Petroleum contamination was discovered associated with four underground storage tanks (USTs). The USTs were decommissioned in 2000 and 2001. Approximately 150 tons of petroleum contaminated soil were excavated and transported off-site for disposal.

Remaining soil and groundwater contamination present at the site was determined by DEQ not to pose a risk to human health or the environment. A *Notice of Environmental Contamination* will be recorded on the property. The Brownfield Program has determined that no further action is required.
HOW TO COMMENT: Send comments by 5 p.m., April 1, 2013, to DEQ Project Manager Katie Robertson by phone at 541-278-4620, by mail at 700 SE Emigrant, Suite 330, Pendleton, OR 97801, by e-mail at robertson.katie@deq.state.or.us or by fax at 541-278-0168.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database" link, enter 3075 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 3075 in the Site ID/Info column. To review the project file, contact the project manager above for a file review appointment.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision on the proposed no further action determination. DEQ will provide written responses to all public comments received.
ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. If you need information in another format, please contact DEQ toll free in Oregon at 800-452-4011, email at deqinfo@deq.state.or.us, or 711 for people with hearing impairments.

REQUEST FOR COMMENTS
PROPOSED NO FURTHER ACTION DETERMINATION
FOR THE DALLES DISPOSAL SITE

COMMENTS DUE: Monday, April 1, 2013, 4:30 p.m.
PROJECT LOCATION: 2652 River Road, The Dalles, Oregon
PROPOSAL: The Oregon Department of Environmental Quality is proposing to issue a conditional no further action determination for The Dalles Disposal site. DEQ issues a no further action determination when a cleanup project has met regulatory standards.
HIGHLIGHTS: The 16-acre site includes approximately 4 acres that were used as a city landfill from the 1930s until the 1950s. Since 1975, this land has been used as a parking lot for The Dalles rodeo. Most of the site is covered with gravel that has been placed over the years as a parking surface. It is immediately south of the former Martin Marietta Superfund Site, which includes the former Northwest Aluminum plant where aluminum was manufactured from 1958 until 2002.

At DEQ's request, the owner conducted a site investigation in 2010 and 2011 that included the following:

-Sediment and surface water sampling of nearby wetlands,
-Geophysical survey of the landfill,
-Soil gas sampling on the landfill,
-Test pit construction and soil sampling
-Installation and sampling of five groundwater monitoring wells and sampling of an existing monitoring well

Based on this information, a human health and ecological risk assessment was conducted, which indicates that residual contamination does not exceed acceptable risk levels. As a precaution, DEQ requires that the gravel cover is maintained and a deed notice is issued to inform people of the presence of the landfill.

DEQ will issue a no further action determination for the site that is contingent on maintenance of the gravel cover, and issuance of the deed notice. This site will remain on DEQ's Confirmed Release List as long as these controls are in place.
HOW TO COMMENT: Send written comments fax, mail or email to:

Bob Schwarz, DEQ Project Manager
400 E. Scenic Drive, Suite 307
The Dalles, Oregon 97058
Fax: 541-298-7330
Email: Schwarz.bob@deq.state.or.us

Written comments should be sent by Monday, April 1, 2013. To schedule an appointment or to obtain a copy of the staff report, please contact Mr. Schwarz by email or by phone (541-298-7255, ext. 230).
THE NEXT STEP: DEQ will consider all comments received. A final decision concerning the proposed no further action determination will be made after consideration of public comments.
ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us.

People with hearing impairment may call DEQ's TTY number, 711.

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

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Board of Architect Examiners
Chapter 806

Rule Caption: Board of Architect Examiners 2013–15 Budget

Date:	Time:	Location:
3-19-13	9:30 a.m.	205 Liberty St. NE Salem, OR 97301
3-20-13	4 p.m.	205 Liberty St. NE Salem, OR 97301

Hearing Officer: James Denno
Stat. Auth.: ORS 671.125 & 182.462
Stats. Implemented: ORS 671.125 & 182.462
Proposed Amendments: 806-001-0003
Last Date for Comment: 3-22-13, 4:30 p.m.
Summary: Adopts the Board of Architect Examiners 2013–15 Budget of $1,144,449.
Rules Coordinator: Jim Denno
Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301
Telephone: (503) 763-0662

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Board of Chiropractic Examiners
Chapter 811

Rule Caption: Pre-Paid Treatment Plan amendments

Date:	Time:	Location:
3-21-13	10 a.m.	OBCE Administrative Offices 3218 Pringle Rd. SE., Suite 150 Salem OR 97302

Hearing Officer: Dave McTeague
Stat. Auth.: ORS 684
Other Auth.: ORS 684.100
Stats. Implemented: ORS 684.155 (1)(b)
Proposed Amendments: 811-015-0002
Last Date for Comment: 3-21-13, 10 a.m.
Summary: Pre-Paid Treatment Plan amendments.
Rules Coordinator: Donna Dougan
Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302
Telephone: (503) 373-1579

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Board of Medical Imaging
Chapter 337

Rule Caption: Update Instructor Guidelines for Limited X-Ray School Programs.

Date:	Time:	Location:
3-15-13	3 p.m.	800 NE Oregon St., Rm. 445 Portland, OR

Hearing Officer: Ed Conlow
Stat. Auth.: ORS 688.515
Stats. Implemented: ORS 688.515
Proposed Amendments: 337-010-0030
Last Date for Comment: 3-29-13, 4:30 p.m.
Summary: This rule change will authorize the use of an updated version of the Board's official document that provides course content, program requirements and course objectives for schools that provide instruction in limited x-ray machine operation.
Rules Coordinator: Ed Conlow
Address: Board of Medical Imaging, 800 NE Oregon St., Suite 1160A, Portland, OR 97232
Telephone: (971) 673-0216

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Department of Agriculture
Chapter 603

Rule Caption: Adopts Grade "A" Pasteurized Milk Ordinance, 2011 Revision and corrects clerical errors.

Date:	Time:	Location:
3-21-13	2 p.m.	Oregon Dept. of Agriculture 635 Capitol St. NE, Conf. Rm. D Salem, OR

Hearing Officer: Eric Edmunds
Stat. Auth.: ORS 561.020, 561.190, 616.230 & 621
Stats. Implemented: ORS 621.058, 621.060 & 621.261
Proposed Amendments: 603-024-0017, 603-024-0019, 603-024-0041, 603-024-0211, 603-024-0589, 603-024-0605, 603-024-0613, 603-024-0640
Last Date for Comment: 3-22-13, 5 p.m.
Summary: The Grade "A" Pasteurized Milk Ordinance (PMO) is designed to promote national uniformity and ensure a high level of excellence of milk sanitation practice in the United States. The PMO was most recently revised in 2011. The Oregon Administrative Rules (OARs) that regulate dairy practices in Oregon currently refer to the 2009 version of the PMO. Adopting the 2011 PMO and related documents by reference maintains consistency with federal standards.
Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4583

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Department of Community Colleges and Workforce Development
Chapter 589

Rule Caption: Updates the Adult High School Diploma Program Administrative Rule

Date:	Time:	Location:
3-22-13	9 a.m.	Public Service Bldg. 255 Capitol St. NE Basement Rm. C Salem OR 97310

Hearing Officer: Linda Hutchins
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 341.425
Proposed Amendments: 589-007-0600
Last Date for Comment: 3-22-13, 5 p.m.

Summary: The agency proposes to amend the Adult High School Diploma (AHSD) administrative rule to clarify the program's target population and accountability requirements, and align AHSD requirements with state high school graduation requirements.
Rules Coordinator: Linda Hutchins
Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-2456

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Department of Consumer and Business Services, Workers' Compensation Division
Chapter 436

Rule Caption: Employer-at-Injury program wage subsidies

Date:	Time:	Location:
3-25-13	10 a.m.	350 Winter St. NE, Rm. F Salem, OR

Hearing Officer: Fred Bruyns
Stat. Auth.: ORS 656.622, 656.726(4)
Stats. Implemented: ORS 656.622
Proposed Amendments: 436-105-0003, 436-105-0520
Last Date for Comment: 3-27-13, Close of Business
Summary: The agency proposes to amend OAR chapter 436, division 105, "Employer-at-Injury Program" to:

-Reduce the percentage of wage subsidy paid by the Workers' Benefit Fund from 50 percent to 45 percent of gross wages.

-Limit the applicability of OAR 436-105 to:

--Individual Employer-at-Injury programs that start on or after the effective date of the rules;

--Wage subsidy reimbursement requests where the wage subsidy period starts on or after the effective date of the rules; and

--Reimbursement requests for worksite modification or program purchases received on or after the effective date of the rules, no matter when the purchase was made.

Rules Coordinator: Fred Bruyns
Address: Department of Consumer and Business Services, Workers' Compensation Division, PO Box 14480, Salem, OR 97309-0405
Telephone: (503) 947-7717

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Amend rule to authorize citing registered owner for unattended vehicle parked in violation of rules.

Date:	Time:	Location:
4-26-13	8 a.m.	3406 Cherry Ave NE Salem, OR 97306

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 497.071
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 497.071
Proposed Amendments: 635-008-0151
Last Date for Comment: 4-25-13, 8 a.m.
Summary: Rule amendment will give law enforcement the authority to cite the registered owner of an unattended vehicle parked in violation of certain Commission rules.
Rules Coordinator: Therese Kucera
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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Rule Caption: Salmon Seasons for Commercial and Sport Fisheries In the Pacific Ocean

Date:	Time:	Location:
4-26-13	8 a.m.	3406 Cherry Ave NE Salem, OR 97306

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 506.036, 506.119, 506.129 & 506.750 et Seq.
Other Auth.: Magnusson-Stevens Sustainable Fisheries Act.
Stats. Implemented: ORS 496.162, 506.036, 506.109, 506.129 & 506.750 et Seq.
Proposed Adoptions: Rules in 635-003, 635-013
Proposed Amendments: Rules in 635-003, 635-013
Proposed Repeals: Rules in 635-003, 635-013
Last Date for Comment: 4-26-13, 8 a.m.
Summary: Amend rules related to commercial and sport salmon fishing in the Pacific ocean. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.
Rules Coordinator: Therese Kucera
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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Rule Caption: Amend Rules for Sport and Commercial Halibut, Sardine, Prawn, and Groundfish Fisheries

Date:	Time:	Location:
4-26-13	8 a.m.	3406 Cherry Ave NE Salem, OR 97306

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 496.162, 497.121, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.004, 496.009, 496.162, 506.109, 506.129, 508.306 & 508.535
Proposed Adoptions: Rules in 635-004, 635-005, 635-006, 635-039
Proposed Amendments: Rules in 635-004, 635-005, 635-006, 635-039
Proposed Repeals: Rules in 635-004, 635-005, 635-006, 635-039
Last Date for Comment: 4-26-13, 8 a.m.
Summary: Amendments to Oregon's regulations for sport and commercial halibut, sardine and groundfish fisheries will bring the State of Oregon concurrent with federally adopted regulations. Modifications establish 2013 seasons and/or quotas for these halibut and sardine fisheries, and allow a landing of groundfish under the federal Trawl Rationalization Program to be split between Washington and Oregon or California and Oregon wholesale fish dealers. Amendments to regulations for commercial prawn fisheries will disallow landing of prawns taken off Washington into Oregon if the vessel does not have the appropriate Washington State licenses and permits, and disallow targeted fishing of prawns using shrimp trawl or groundfish trawl gears. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.
Rules Coordinator: Therese Kucera
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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

Rule Caption: Homecare Workers Enrolled in the Consumer-Employed Provider Program

Date:	Time:	Location:
3-20-13	2:30 p.m.	500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 409.050, 410.070 & 410.090
Stats. Implemented: ORS 410.010, 410.020, 410.070, 410.612, 410.614, 411.802 & 411.803
Proposed Amendments: 411-030-0080, 411-031-0020, 411-031-0030, 411-031-0040, 411-031-0050
Proposed Repeals: 411-030-0080(T), 411-031-0020(T), 411-031-0040(T)
Last Date for Comment: 3-22-13, 5 p.m.
Summary: The Department of Human Services (Department) is proposing to permanently update OAR 411-030-0080 (Spousal Pay Program) and the rules in OAR chapter 411, division 031 for homecare workers enrolled in the Consumer-Employed Provider Program.

The proposed rules --

• Permanently implement the 2011-2013 Collective Bargaining Agreement between the Home Care Commission and the Service Employee's International Union (SEIU), Local 503, Oregon Public Employees' Union (OPEU);

• Maintain consistency for spousal pay providers with the rules for homecare workers in OAR chapter 411, division 031;

• Expand homecare worker enrollment standards and the criteria to deny a homecare worker's enrollment application based on a homecare worker's inability to present a valid social security or tax identification number;

• Clarify the definition of "Adult Protective Services" to include reference to the rules that govern adult protective services for individuals with developmental disabilities and mental or emotional disorders;

• Expand the criteria to inactivate a homecare worker's provider enrollment when payments have been suspended, as required by federal law under 42 CFR section 455.23;

• Change references from the "Client-Employed Provider Program" to the "Consumer-Employed Provider Program" and references from "client" to "consumer; and

• Include general housekeeping changes to reflect current practices, improve readability, and establish consistency with other Department rules.

Rules Coordinator: Christina Hartman
Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301
Telephone: (503) 945-6398

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Rule Caption: Contested Case Hearings

Date:	Time:	Location:
3-20-13	3 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 409.050, 410.070, 411.103 & 430.662
Stats. Implemented: ORS 183.452, 409.010, 411.103, 427.007 & 430.662
Proposed Adoptions: 411-001-0500, 411-001-0510, 411-001-0520
Proposed Amendments: 411-320-0175
Proposed Repeals: 411-001-0500(T)
Last Date for Comment: 3-22-13, 5 p.m.
Summary: The Department of Human Services (Department) is proposing to --

• Adopt OAR 411-001-0500 about contested case hearings to clarify which rules apply to contested case hearings concerning the Department's Aging and People with Disabilities' and Developmental Disabilities' programs. OAR 411-001-0500 will also make permanent certain changes adopted by temporary rule effective October 5, 2012 that indicate when the Department may not disclose contact information for witnesses in contested cases and the extent to which contested case hearings are open to the public;

• Adopt OAR 411-001-0510 about lay representation in contested case hearings to make permanent certain changes adopted by temporary rule effective October 5, 2012 that were made to implement ORS 183.452 authorizing the Department's use of an officer or employee of the Department as a lay representative that may appear on behalf of the Department during contested case hearings. OAR 411-001-0510 also sets out requirements for lay representatives and the restrictions that apply to interrogatories and requests for admission when the Department has a lay representative;

• Adopt OAR 411-001-0520 about late hearing requests in contested cases to implement ORS 411.103 and set out how the Department treats late hearing requests (when not covered by other conflicting rules), the time period under which a late hearing request will be considered, and the criteria that apply to determine if a late hearing request will be considered timely; and

• Amend OAR 411-320-0175 about hearings for developmental disability services eligibility determination to remove the criteria for consideration of late hearing requests. The criteria for consideration of late hearing requests in OAR 411-001-0520 will apply to these hearing requests. The Department is making this amendment to treat late hearing requests for Developmental Disabilities similarly to late hearing requests for Aging and People with Disabilities.

Rules Coordinator: Christina Hartman
Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301
Telephone: (503) 945-6398

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Rule Caption: Nursing Assistant Training and Competency Evaluation and Training Program (NATCEP) — Request for Reimbursement

Date:	Time:	Location:
3-21-13	10:30 a.m.	Human Service Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070
Proposed Amendments: 411-070-0470
Proposed Repeals: 411-070-0470(T)
Last Date for Comment: 3-25-13, 5 p.m.
Summary: The Department of Human Services (Department) is proposing to permanently amend OAR 411-070-0470 to make permanent the changes adopted by temporary rule effective January 1, 2013 that implemented the online reimbursement requests system for the Nursing Assistant Training and Competency Evaluation and Training Program (NATCEP). The current paper process used by Medicaid nursing facilities to request reimbursement for NATCEP was eliminated effective January 1, 2013 and replaced by the more sufficient online NATCEP reimbursement request system.
Rules Coordinator: Christina Hartman
Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301
Telephone: (503) 945-6398

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Updates discretionary disqualifying crimes and presumptive categories (HB 2712)
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: 259-009-0070
Last Date for Comment: 3-21-13, Close of Business
Summary: HB 2712 updated and simplified the current statutory revenue and distribution structure related to criminal fines, assessments and other financial penalties imposed on convictions for felonies, misdemeanors and violations other than parking infractions. The passage of this bill brought to light a number of misdemeanor and felony crimes previously unknown to the fire service. These crimes were reviewed by DPSST staff and a workgroup comprised of various members of the Fire Policy Committee. Based on their recommendations, a number of crimes were added to the discretionary disqualifying crimes list with presumptive categories.
Rules Coordinator: Linsay Hale
Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317
Telephone: (503) 378-2431

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Rule Caption: Update NFPA 1041 standard for professional qualifications for Fire Service Instructor
Stat. Auth.: ORS 181.640 & 181.650
Stats. Implemented: ORS 181.640 & 181.650
Proposed Amendments: 259-009-0005, 259-009-0062, 259-009-0080

Last Date for Comment: 3-21-13, Close of Business
Summary: This proposed rule adopts the NFPA 1041 standards for Fire Service Instructor Professional Qualifications, 2012 edition.
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: Provisional Driver Improvement; Process for Expanding Restricted Driving Privileges
Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.480
Stats. Implemented: ORS 809.480
Proposed Amendments: 735-072-0020, 735-072-0023
Last Date for Comment: 3-21-13, Close of Business
Summary: ORS 809.480(2) authorizes DMV to establish a driver improvement program for provisional drivers (drivers under 18 years of age) that is separate from the driver improvement program for adults. The Provisional Driver Improvement Program is established in OAR 735-072-0023. Through the Provisional Driver Improvement Program a provisional driver's driving privileges may be restricted for 90 days. The restrictions allow the provisional driver to drive only to and from work, for work purposes, and to drive with no passengers in the vehicle other than a parent, stepparent or guardian.

Currently OAR 735-072-0023 allows the person receiving a restriction under the Provisional Driver Improvement Program to request an interview with a DMV employee to re-evaluate the person's driving after the incident that caused the restriction to be imposed. The interviews are conducted in DMV field offices throughout the state. To improve efficiency and to insure consistency in application of the provisional driver improvement program, DMV is proposing to amend OAR 735-072-0023 to have the re-evaluation conducted by employees at DMV Headquarters through a written process rather than through an interview.

DMV also proposes to amend OAR 735-072-0020 to remove the definition for "Driver Improvement Course" because the term will no longer be used in these Division 72 administrative rules.

Text of proposed and recently adopted ODOT rules can be found at web site http://www.oregon.gov/ODOT/CS/RULES/Pages/index.aspx
Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Rule Caption: Update of farm rules
Stat. Auth.: ORS 184.616, 184.619 & 823.011
Stats. Implemented: ORS 802.010, 805.300, 805.310, 805.320, 805.322, 805.340, 805.350, 805.360, 805.370, 805.380, 805.390, 805.400 & 805.410
Proposed Amendments: 735-048-0000, 735-048-0020, 735-048-0030, 735-048-0040, 735-048-0050, 735-048-0060, 735-048-0070, 735-048-0080
Last Date for Comment: 3-21-13, Close of Business
Summary: Division 48 rules specify the qualifications a farmer needs to certify their farm with the Department. In addition, the rules describe the definitions, permitted uses, application and annual requalification and cancellation of farm plates. The proposed rule amendment is the outcome of an annual rule review resulting in minor changes to the rule language and reflects the current business practices. Minor changes were made to the language of the rules to be in compliance with Secretary of State standards. Corrections were made to the Statutory Authority and Statutes Implemented in the administrative rules.

Text of proposed and recently adopted ODOT rules can be found at web site http://www.oregon.gov/ODOT/CS/RULES/Pages/index.aspx
Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Department of Transportation,
Motor Carrier Transportation Division
Chapter 740

Rule Caption: Amendment of Federal safety and hazardous materials transportation regulations affecting motor carriers
Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232, 825.252 & 825.258
Stats. Implemented: ORS 823.061, 825.210, 825.250, 825.252 & 825.258
Proposed Amendments: 740-100-0010, 740-100-0065, 740-100-0070, 740-100-0080, 740-100-0085, 740-100-0090, 740-110-0010
Last Date for Comment: 3-21-13, Close of Business
Summary: These rules contain the annual adoption of federal motor carrier safety and hazardous materials transportation regulations. In addition, these rules cover the adoption of international standards related to driver, vehicle and hazardous materials out-of-service violations. The changes are necessary to 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.

Text of proposed and recently adopted ODOT rules can be found at web site http://www.oregon.gov/ODOT/CS/RULES/Pages/index.aspx
Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Motor Carrier Transportation Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Oregon Board of Naturopathic Medicine
Chapter 850

Rule Caption: Bring language for a Hearing request and answers current and clarified
Stat. Auth.: ORS 183 & 685
Stats. Implemented: ORS 183 & 685
Proposed Amendments: 850-001-0015
Last Date for Comment: 3-25-13, 3 p.m.
Summary: Will make language on hearing request and answer current and in compliance with ORS 183.
Rules Coordinator: Anne Walsh
Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

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Rule Caption: Amend the fee rule to include an inactive natural childbirth certificate fee
Stat. Auth.: ORS 685.125
Stats. Implemented: ORS 685.100
Proposed Amendments: 850-030-0035
Last Date for Comment: 3-25-13, 3 p.m.
Summary: Will update the fee rule and include a fee for an inactive status for those currently holding an active certificate in natural childbirth
Rules Coordinator: Anne Walsh
Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

Oregon Business Development Department
Chapter 123

Rule Caption: Minor housekeeping changes have been made.
Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285A.020, 285A.075, 285A.062, 286B.065
Proposed Amendments: 123-024-0001 – 123-024-0046
Last Date for Comment: 2-22-13, Close of Business
Summary: Minor housekeeping changes have been made to these rules. The context of the rules have not changed.
Rules Coordinator: Mindee Sublette
Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301
Telephone: (503) 986-0036

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Oregon Health Authority,
Division of Medical Assistance Programs
Chapter 410

Rule Caption: April 1, 2013 Dental Services rule changes for clarification and new CDT codes

Date:	Time:	Location:
3-15-13	10:30 a.m.	500 Summer St. NE, Rm. 137C Salem, OR 97301,

Hearing Officer: Cheryl Peters
Stat. Auth.: ORS 413.042, 414.065, & 414.707
Stats. Implemented: ORS 414.065 & 414.707
Proposed Amendments: 410-123-1060, 410-123-1160, 410-123-1200, 410-123-1220, 410-123-1240, 410-123-1260, 410-123-1490, 410-123-1620
Last Date for Comment: 3-19-13, 5 p.m.
Summary: Revisions to rules based on the American Dental Association's Current Dental Terminology 2013 changes. Adds coverage detail for newly-created procedures, removes language for codes no longer valid, revises language based on Health Evidence Review Commission's Prioritized List changes for April 1, 2013. Clarifies coverage of services to avoid ambiguity in the interpretation. Housekeeping changes as necessary.
Rules Coordinator: Cheryl Peters
Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6527

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Oregon Health Authority,
Office for Oregon Health Policy and Research
Chapter 409

Rule Caption: Repeal of Temporary Rule and Amendment to Patient-Centered Primary Care Home Rule
Stat. Auth.: ORS 413.042, 414.655 & 442.210
Stats. Implemented: ORS 413.042, 414.655 & 442.210
Proposed Amendments: 409-055-0030
Proposed Repeals: 409-055-0030(T)
Last Date for Comment: 3-21-13, 5 p.m.
Summary: The Oregon Health Authority, Office for Oregon Health Policy and Research is proposing to repeal temporary rule OAR 409-055-0030(T) and make permanent the discretionary 30-day grace period relating to the annual renewal recognition process and criteria for the Primary Care Home (PCPCH) Program.

These rules are available on the OHPR Website: http://www.oregon.gov/OHA/OHPR/pages/rulemaking/index.aspx

For hardcopy requests, call: (503) 373-1574.
Rules Coordinator: Zarie Haverkate
Address: Oregon Health Authority, Office for Oregon Health Policy and Research, 1225 Ferry St. SE, Salem, OR 97301
Telephone: (503) 373-1574

Oregon Health Insurance Exchange
Chapter 945

Rule Caption: Certification of Health Insurance Producers

Date:	Time:	Location:
4-4-13	10 a.m.	Cover Oregon 16760 SW Upper Boones Ferry Rd. Suite 200 Durham, OR 97224

Hearing Officer: Gregory Jolivette
Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.310
Proposed Adoptions: 945-050-0010, 945-050-0020
Last Date for Comment: 4-11-13, 5 p.m.
Summary: Establishes the process and requirements for certifying insurance producers to facilitate the transaction of business through the Exchange.
Rules Coordinator: Gregory Jolivette
Address: Oregon Health Insurance Exchange, 16760 SW Upper Boones Ferry Rd., Suite 200, Durham, OR 97224
Telephone: (503) 373-9406

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Oregon Liquor Control Commission
Chapter 845

Rule Caption: Sets licensing qualifications and operating standards for exterior areas.

Date:	Time:	Location:
3-21-13	10 a.m.	9079 SE McLoughlin Blvd Portland, OR 97222

Hearing Officer: Jesse Sweet
Stat. Auth.: ORS 471, 471.030, 471.040 & 471.730(1) & (5)
Stats. Implemented: ORS 471.030(1) & 471.315(1)(d)
Proposed Adoptions: 845-005-0329, 845-006-0309, 845-006-0310
Proposed Amendments: 845-005-0331
Last Date for Comment: 4-4-13, 5 p.m.
Summary: This package of rule changes clarifies licensing qualifications and operating standards for exterior areas. It distinguishes between premises that consist exclusively of exterior areas and those exterior areas that abut an annually licensed structure.

Two of the new rules included for adoption are OAR 845-005-0329, which describes the licensing criteria for exclusively exterior areas and OAR 845-006-0309, which describes compliance requirements and limitations for these exclusively exterior licensed premises.

The package also amends the current licensing criteria rule for exterior areas, OAR 845-005-0331, which pertains to exterior areas abutting a licensed structure, to provide additional clarity in the language of the rule. Along with the existing licensing criteria rule, staff proposes adoption of OAR 845-006-0310, which describes the compliance requirements for exterior areas abutting a licensed structure.
Rules Coordinator: Jesse Sweet
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222
Telephone: (503) 872-5250

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Oregon State Lottery
Chapter 177

Rule Caption: Amends rules for Lottery second chance drawings, promotions, giveaways, player loyalty programs, housekeeping changes

Date:	Time:	Location:
3-22-13	2 p.m.	Oregon State Lottery 500 Airport Rd. SE Salem, OR 97301

Hearing Officer: Larry Trott, Esq.
Stat. Auth.: ORS 461
Other Auth.: OR Constitution, Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.200, 461.300, 461.220 & 461.250

Proposed Amendments: 177-010-0003, 177-040-0050, 177-040-0200, 177-046-0015, 177-046-0080, 177-046-0100, 177-046-0110, 177-046-0140 , 177-050-0002, 177-050-0024, 177-050-0025, 177-050-0100, 177-051-0000, 177-051-0010, 177-051-0030, 177-051-0035, 177-051-0040, 177-051-0120, 177-051-0130, 177-052-0000, 177-052-0010 , 177-052-0020, 177-052-0030, 177-052-0040, 177-052-0050, 177-052-0060, 177-052-0070, 177-070-0005
Last Date for Comment: 3-22-13, 2:30 p.m.
Summary: The Oregon State Lottery has initiated permanent rule making to amend the above referenced administrative rules related to Lottery second chance drawings, promotions, giveaways, and player loyalty programs.

The amendments will add a definition of second chance drawing; amend the definition of prize; require a retailer to return non-winning tickets to the player; prohibit Lottery retailers from conducting second chance drawings using non-winning Lottery tickets; clarify that the Lottery or its authorized drawing agent may conduct drawings; prohibit multiple ownership of non-winning Lottery tickets submitted for second chance drawings; restrict who may claim a prize in a second chance drawing to the person who submitted the entry; authorize Lottery second chance drawings using Scratch-it tickets; require retailers to return unsold Scratch-it tickets within six weeks after activations have ended for that game in order to receive credit for unsold, activated tickets; make general housekeeping updates to Division 51 Promotions; remove an unneeded reference to the awarding of points and the use of a multiplier by the Lottery for player loyalty programs; specify that a person may have only one registered membership at a time; clarify that unclaimed second chance prizes are forfeited and remain the property of the Lottery Commission; and make various housekeeping changes to the rules and correct cross references.
Rules Coordinator: Mark W. Hohlt
Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301
Telephone: (503) 540-1417

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Oregon State Treasury
Chapter 170

Rule Caption: Update Administrative Rule for changes in ORS 295 effective January 1, 2013.
Stat. Auth.: ORS 293.525 & 295.001 to 295.108
Stats. Implemented: ORS 293 & 295
Proposed Amendments: 170-040-0020 – 170-040-0110
Last Date for Comment: 3-15-13, 5 p.m.
Summary: Effective January 1, 2013, ORS 295.001 to 295.108 was amended to allow for the inclusion of credit unions as qualified depositories for public funds. The changes proposed for Administrative Rule 170-040 update the language and ORS references within the rule to conform to these changes.
Rules Coordinator: Curtis Hartinger
Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 378-3150

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Teacher Standards and Practices Commission
Chapter 584

Rule Caption: Repeals obsolete professional development rules; repeals obsolete accreditation rules; removes obsolete language from admission rule.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120–342.430, 342.455–342.495 & 342.553
Proposed Amendments: 584-017-1028
Proposed Repeals: 584-017-0005, 584-017-0010, 584-017-0020, 584-017-0025, 584-017-0030, 584-017-0035, 584-017-0040, 584-017-0042, 584-017-0045, 584-017-0050, 584-017-0055, 584-017-0057, 584-017-0060, 584-017-0070, 584-017-0075, 584-017-0080, 584-017-0085, 584-017-0090, 584-017-0100, 584-017-0115, 584-017-0120, 584-017-0130, 584-017-0140, 584-017-0150, 584-017-0160, 584-017-0170, 584-017-0175, 584-017-0180, 584-017-0182, 584-017-0185, 584-017-0190, 584-017-0200, 584-017-0201, 584-017-0210, 584-017-0220, 584-017-0230, 584-017-0240, 584-017-0251, 584-017-0261, 584-017-0270, 584-017-0280, 584-017-0282, 584-017-0290, 584-017-0300, 584-017-0310, 584-017-0320, 584-017-0330, 584-017-0340, 584-017-0351, 584-017-0355, 584-017-0360, 584-017-0370, 584-017-0380, 584-017-0390, 584-017-0400, 584-017-0410, 584-017-0420, 584-017-0430, 584-017-0441, 584-017-0451, 584-017-0455, 584-017-0460, 584-017-0462, 584-017-0465, 584-017-0470, 584-017-0480, 584-017-0500, 584-017-0510, 584-017-0520, 584-017-0530, 584-017-0541, 584-017-0551, 584-017-0555, 584-017-0560, 584-017-0570, 584-017-0580, 584-090-0001, 584-090-0005, 584-090-0010, 584-090-0020, 584-090-0030, 584-090-0040, 584-090-0060
Last Date for Comment: 4-25-13, 2 p.m.
Summary: 584-017-1028 — Selection, Recruitment, Admission and Retention of Candidates — removes obsolete reference to waiver language; 584-017-0010 through 584-017-0580 — Repeals accreditation standards effective 1998 through 2012; 584-090-0001 through 584-090-0060 — repeals professional development rules effective 1998 through 2012.
Rules Coordinator: Victoria Chamberlain
Address: Teacher Standards and Practices Commission, 250 Division St. NE, Salem, OR 97301
Telephone: (503) 378-6813

Appraiser Certification and Licensure Board
Chapter 161

Rule Caption: Revisions to appraiser licensing and AMC registration requirements, and appraiser and AMC enforcement
Adm. Order No.: ACLB 1-2013
Filed with Sec. of State: 1-30-2013
Certified to be Effective: 1-31-13
Notice Publication Date: 12-1-2012
Rules Adopted: 161-006-0155, 161-010-0065, 161-520-0035, 161-570-0025, 161-570-0055, 161-570-0060
Rules Amended: 161-002-0000, 161-003-0020, 161-006-0025, 161-006-0160, 161-010-0010, 161-010-0020, 161-010-0035, 161-010-0045, 161-010-0080, 161-015-0000, 161-015-0010, 161-015-0025, 161-015-0030, 161-020-0005, 161-020-0055, 161-020-0110, 161-025-0025, 161-025-0030, 161-025-0050, 161-050-0000, 161-050-0040, 161-050-0050, 161-510-0010, 161-520-0010, 161-520-0030, 161-520-0045, 161-520-0050, 161-530-0010, 161-570-0030
Rules Repealed: 161-510-0030, 161-570-0045
Subject: Permanently adopts Oregon Administrative Rule 161, Division 06, Rule 0155 regarding allegation reports, Division 010, Rule 0065 regarding prerequisite experience and education requirements for state licensed appraiser; Division 520, Rule 0035 regarding form of application; Division 570, Rule 0025 regarding allegation reports, Rule 0055 regarding enforcement, and Rule 0060 regarding rules of procedure in contested cases: Permanently Amends Oregon Administrative Rules 161, Division 002, Rule 0000 regarding definitions; Division 003, Rule 0020 regarding fees; Division 006, Rule 0025 regarding licensee notification, and Rule 0160 regarding complaints, investigations and audits; Division 010, Rule 010 regarding renewal procedures, Rule 0020 regarding qualifying appraiser experience, Rule 0035 regarding experience and education requirements for state certified general appraisers, Rule 0045 regarding experience and education requirements for state certified residential appraisers, and Rule 0080 regarding appraiser assistant registration; Division 015, Rule 0000 regarding the application process, Rule 0010 regarding form of application, Rule 0025 regarding application from out-of-state credential holder, and Rule 0030 regarding submission of application; Division 020, Rule 0005 regarding scope, Rule 0055 regarding criteria for approval of continuing education course, and Rule 0110 regarding qualifying education course content guidelines; Division 025, Rule 0025 regarding supervising appraiser, Rule 0030 regarding appraiser assistant, and Rule 0050 regarding appraisal report retention requirements; Division 050, Rule 0000 regarding temporary non-resident registration, Rule 0040 regarding changes in application and renewal information, and Rule 0050 regarding reciprocity; Division 510, Rule 0010 regarding fees; Division 520, Rule 0010 regarding registration requirements, Rule 0030 regarding renewal or reactivation of registration, Rule 0045 regarding change in business name, and Rule 0050 regarding change of individual ownership; Division 530, Rule 0010 regarding criminal records check; and Division 570, Rule 0030 regarding complaints, investigations and audits: and Permanently Repeals Oregon Administrative Rule 161, Division 510, Rule 0030 regarding miscellaneous fees, and Division 570, Rule 0045 regarding appraisal management company investigations and audits.
Rules Coordinator: Karen Turnbow—(503) 485-2555

161-002-0000
Definitions

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

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

(2) "Administrator" means the administrator of the Board appointed by the Board.

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

(4) "Appraisal" or "Real Estate Appraisal" means "appraisal" as defined in USPAP.

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

(6) "Appraisal Report" means "report" as defined in USPAP.

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

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

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

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

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

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

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

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

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

(15) "Direct Supervision" of an appraiser assistant means:

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

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

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

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

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

(17) "Federal Financial Institution Regulatory Agency" means:

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

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

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

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

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

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

(23) "Mortgage banker" has the meaning defined in ORS 59.840.

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

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

(26) "Preparation" means compiling data, including reviewing and adopting such compiled data as one's own.

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

(28) "Professional real estate activity" has the meaning defined in ORS 696.010.

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

(30) "Real estate appraisal activity" has the meaning defined in ORS 674.100.

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

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

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

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

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

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

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

(38) "Transaction Value" means:

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

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

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

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

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

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

(40) "Workfile" means "workfile" as defined in USPAP.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0000; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 5-2007(Temp), f. 11-1-07, cert. ef. 1-1-08 thru 6-27-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 2-2009(Temp), f. 1-28-09, cert. ef. 1-30-09 thru 7-28-09; Administrative correction 8-21-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 5-2009(Temp), f. 12-15-09, cert. ef. 1-1-10 thru 6-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 4-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-003-0020
Fees

The Board shall charge and collect the following fees:

(1) Examination Fee — Actual Fee;

(2) Application Fee — $75;

(3) Fee for Certificate or License Issued (two years) — $550;

(4) Fee for Certificate of License Renewed (two years) — $500;

(5) Fee for Duplicate Certificate/License — $35;

(6) Fee for Inactive Certificate or License (two years) — $100;

(7) Fee for Renewal of Inactive Certificate or License (two years) — $100;

(8) Fee for Reactivation of Inactive Certificate or License — $60;

(9) Fee for Late License/Certificate Renewal (in addition to renewal fee) — $100;

(10) Fee for Temporary Registration — $150;

(11) Annual Federal Registry Fee (set by the ASC of the FFIEC) — Actual Fee;

(12) Appraiser Assistant Registration — $75;

(13) Appraiser Assistant Registration Renewal — $75;

(14) Supervising Appraiser Endorsement — $75

(15) FBI Criminal Background Check — Actual Fee;

(16) Fee for License History — $40;

(17) Qualifying Education Course — $125;

(18) Continuing Education Course — $75

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 3-1991(Temp), f. & cert. ef. 8-29-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-001-0020; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-006-0025
Budget

The Board hereby adopts by reference the Board's 2011–2013 Biennium Budget of $1,725,041 covering the real estate appraiser program for the period July 1, 2011 through June 30, 2013, and the appraisal management program for the period January 1, 2012 through June 30, 2013. The Board will amend budgeted accounts as necessary within the approved budget of $1,725,041 for the effective operation of the Board. The Board will not exceed the approved 2011–2013 Biennium Budget without amending this rule, notifying licensees, and holding a public hearing thereon as required by ORS Chapter 182.462(1)(2). Copies of the budget are available from the Board's office.

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

Stats. Implemented: ORS 674

Hist.: ACLB 4-2001(Temp), f. & cert. ef. 9-12-01 thru 3-1-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-11-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 4-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03; ACLB 5-2003, f. & cert. ef. 11-10-03; ACLB 2-2005(Temp), f. 6-16-05, cert. ef. 7-1-05 thru 12-28-05; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2007(Temp), f. 6-6-07, cert. ef. 7-1-07 thru 11-30-07; BOC 1-2007, f. 10-31-07, cert. ef. 11-1-07; ACLB 3-2009(Temp), f. 5-15-09, cert. ef. 7-1-09 thru 11-30-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 1-2011(Temp), f. 5-2-11, cert. ef. 7-1-11 thru 11-30-11; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-006-0155
Allegation Reports

(1) All allegation reports must be in writing.

(2) Any person may file an allegation report.

(3) A member of the Board may initiate an allegation report.

(4) The Board will accept anonymous allegation reports.

(5) The allegation report will be reviewed by the Administrator or the Administrator's designee to determine whether there are reasonable grounds to believe that a violation of ORS Chapter 674 and/or OAR Chapter 161 may have occurred that constitutes grounds for discipline under ORS 674.140. Reasonable grounds means a set of facts or circumstances which would cause a person of ordinary and prudent judgment to believe beyond a mere suspicion.

(6) An allegation report may be dismissed if the evidence or facts fail to establish proof of a violation. The Board shall notify the grievant in writing of any formal action taken on the allegation report.

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

Stats. Implemented: ORS 674.310

Hist.: ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-006-0160
Complaints, Investigations and Audits

(1) If the Administrator or Administrator's designee determines that there are reasonable grounds to believe that a violation of ORS Chapter 674 and/or OAR Chapter 161 occurred, the allegation report shall become a complaint, the Board will initiate the complaint process and the complaint will be investigated.

(2) The Administrator may also initiate a complaint.

(3) A Notice of Complaint, together with a true copy of the allegation report as submitted to the Board's office, including all supporting documentation, shall be promptly sent by certified mail, return receipt requested, to the last known address of the person against whom the complaint is filed. The Notice of Complaint shall require, and the Respondent must produce:

(a) True copies of records within a specific time period to which no extension will be granted; and

(b) A written response to the allegations set forth in the complaint within a specified time period.

(A) A respondent may request an extension to file a response to a notice of complaint. An extension of up to 30 days will be approved provided that the extension request:

(i) Substantiates that good cause exists to grant such an extension and that circumstances beyond the reasonable control of the respondent prevent a response within 30 days;

(i) Is submitted to the Board Administrator in writing on or before the response due date; and

(iii) Does not ask for an extension of time in excess of 30 days.

(B) The Administrator may grant one additional extension of no more than 30 days only upon showing of good cause.

(4) The investigation may include all inquiries deemed appropriate to ensure that each complaint is processed in accordance with ORS Chapter 183.

(5) The Board may initiate an audit or other type of inquiry or investigation to verify an individual's compliance with ORS 674 and OAR 161.

(6) Every licensed or certified appraiser or registered appraiser assistant must cooperate with the Board and must respond fully and truthfully to Board inquiries and comply with any requests from the Board, subject only to the exercise of any applicable right or privilege. Failure to cooperate with the Board is unethical and is grounds for discipline including revocation or suspension of a license, certificate or registration, imposition of a civil penalty, or denial of a license, certificate, or registration, or any combination thereof.

Stat. Auth.: ORS 674.170, 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 3-2005, f. & cert. ef 7-22-05; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-010-0010
Appraisers in Oregon and Renewal Procedures

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

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

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

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

(5) Each license or certificate may be renewed upon receipt of the renewal fee specified in OAR 161-003-0020, a complete renewal application that includes a current, recognizable, passport style color photograph of the applicant (taken within 30 days preceding receipt of the application), evidence of the completion of continuing education requirements as provided in OAR 161-020-0150, and the fee. The completed application, fee, and evidence of continuing education requirements must be received in the Board office on or before the expiration date of the license to be considered timely. If the expiration date falls on a weekend or legal holiday, the renewal application must be received no later than 5:00 p.m. on the next business day following the date of expiration.

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

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

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

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

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2005, f. & cert. ef 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-010-0020
Qualifying Appraiser Experience for Certification and Licensure

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

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

(b) Staff Appraisal prepared in conformance with USPAP;

(c) Review Appraisal prepared in conformance with USPAP;

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

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

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

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

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

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-010-0035
Prerequisite Experience and Education Requirements for State Certified General Appraisers

As a prerequisite to taking the examination for certification as a state certified general appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has:

(1) At least 3,000 cumulative hours of acceptable appraisal experience, including at least 1,500 hours of appraisal experience in non-residential appraising. "Cumulative" is defined as meaning that experience may be acquired over any time period of at least thirty (30) months.

(a) Applicants whose initial State Licensed Appraiser or State Certified Residential Appraiser credential was issued by the Board, and not by another state licensing agency, are only required to submit an experience log that documents completion of an additional 1,500 hours of non-residential appraisal experience.

(b) Applicants who hold an active Oregon State Licensed Appraiser or a State Certified Residential Appraiser credential obtained through reciprocity or in accordance with OAR 161-015-0025, are only required to submit an experience log that documents completion of an additional 1,500 hours of non-residential appraisal experience. Additionally, the applicant must provide evidence to the Board, from the State issuing the applicant's initial credential, documenting that the initial credential was approved and issued to the applicant based upon an experience log rather than an experience-related affidavit.

(c) Applicants who cannot fulfill the requirements in paragraph (1)(a) or (b) above, must complete an experience log documenting at least 3,000

cumulative hours of acceptable appraisal experience as set forth in paragraph (1) above.

(2) Successfully completed not less than 300 class hours of acceptable appraisal courses as set forth in OAR 161-020-0110(2)(c)), with the following exceptions as noted in paragraphs (2)(a), (2)(b) or (2)(c) below. Each applicant shall have successfully completed the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within four (4) years preceding the date of application and have successfully passed an examination thereon.

(a) Applicants holding a valid Oregon Appraiser Assistant registration may satisfy the educational requirements for the State Certified General Appraiser credential by completing the following additional education hours:

(A) Course(s) on General Appraiser Market Analysis and Highest and Best Use (30 hours in not less than 15 hour increments);

(B) Course(s) on Statistics, Modeling and Finance (15 hours);

(C) Course(s) on General Appraiser Sales Comparison Approach (30 hours in not less than 15 hour increments);

(D) Course(s) on General Appraiser Site Valuation and Cost Approach (30 hours in not less than 15 hour increments);

(E) Course(s) on General Appraiser Income Approach (60 hours in not less than 15 hour increments);

(F) Course(s) on General Appraiser Report Writing and Case Studies (30 hours in not less than 15 hour increments);

(G) Electives (30 hours in not less than 15 hour increments).

(b) Applicants holding a valid Oregon State Licensed Appraiser credential may satisfy the educational requirements for the State Certified General Appraiser credential by completing the following additional education hours:

(A) Course(s) on General Appraiser Market Analysis and Highest and Best Use (15 hours);

(B) Statistics, Modeling and Finance (15 hours);

(C) Course(s) on General Appraiser Sales Comparison Approach (15 hours);

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

(E) Course(s) on General Appraiser Income Approach (45 hours in not less than 15 hour increments);

(F) Course(s) on General Appraiser Report Writing and Case Studies (15 hours).

(G) Electives (30 hours in not less than 15 hour increments).

(c) Applicants holding a valid Oregon State Certified Residential Appraiser credential may satisfy the educational requirements for the State Certified General Appraiser credential by completing the following additional education hours:

(A) Course(s) on General Appraiser Market Analysis and Highest and Best Use (15 hours);

(B) Course(s) on General Appraiser Sales Comparison Approach (15 hours);

(C) Course(s) on General Appraiser Site Valuation and Cost Approach (15 hours);

(D) Course(s) on General Appraiser Income Approach (45 hours in not less than 15 hour increments);

(E) Course(s) on General Appraiser Report Writing and Case Studies (15 hours).

(3) A Bachelors degree or higher from an accredited college or university, unless the requirements of paragraph (4) below are satisfied.

(4) In lieu of the Bachelors degree, an applicant for state certified general appraiser shall successfully pass all of the following collegiate level subject matter courses from an accredited college, junior college, community college or university:

(a) English Composition;

(b) Micro Economics;

(c) Macro Economics;

(d) Finance;

(e) Algebra, Geometry, or higher mathematics;

(f) Statistics;

(g) Computer Science;

(h) Business or Real Estate Law; and

(i) Two elective courses in accounting, geography, agricultural economics, business management, or real estate.

(j) Total hours of equivalent college courses in lieu of a Bachelors degree: 30 semester credit hours or its equivalent for the state certified general appraiser. Any applicant using the in-lieu-of degree courses, must complete a minimum of 3 semester (4.5 quarter) credit hours in each collegiate level subject matter course noted above. If an accredited college or university accepts the College-Level Examination Program (CLEP) examination(s) and issues a transcript for the exam, showing its approval, it will be considered as credit for the college course.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0030 & 161-010-0040; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 2-2009(Temp), f. 1-28-09, cert. ef. 1-30-09 thru 7-28-09; Administrative correction 8-21-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-010-0045

Prerequisite Experience and Education Requirements for State Certified Residential Appraisers

As a prerequisite to taking the examination for certification as a state certified residential appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has:

(1) At least 2,500 cumulative hours of acceptable appraisal experience. "Cumulative" is defined as meaning that experience may be acquired over any time period of at least twenty-four (24) months.

(a) Applicants whose initial State Licensed Appraiser credential was issued by the Board, and not by another state licensing agency, are only required to submit an experience log that documents completion of an additional 500 hours of appraisal experience.

(b) Applicants who hold an active Oregon State Licensed Appraiser credential obtained through reciprocity or in accordance with OAR 161-015-0025, are only required to submit an experience log that documents completion of an additional 500 hours of appraisal experience. Additionally, the applicant must provide evidence to the Board, from the State issuing the applicant's initial credential, documenting that the initial credential was approved and issued to the applicant based upon an experience log rather than an experience-related affidavit.

(c) Applicants who cannot fulfill the requirements in paragraph (1)(a) or (b) above, must complete an experience log documenting at least 2,500 cumulative hours of acceptable appraisal experience as set forth in paragraph (1) above.

(2) Successfully completed not less than 200 class hours of acceptable appraisal courses as set forth in OAR 161-020-0110(2)(b), with the following exceptions as noted in paragraphs (2)(a) or (2)(b) below. Each applicant shall have successfully completed the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within four (4) years preceding the date of application and have successfully passed an examination thereon.

(a) Applicants holding a valid Oregon Appraiser Assistant registration may satisfy the educational requirements for the State Certified Residential Appraiser credential by completing the following additional education hours:

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

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

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

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

(E) Course(s) on Statistics, Modeling and Finance (15 hours);

(F) Course(s) on Advanced Residential Applications and Case Studies (15 hours);

(G) Electives (20 hours).

(b) Applicants holding a valid Oregon State Licensed Appraiser credential may satisfy the educational requirements for the State Certified Residential Appraiser credential by completing the following additional education hours:

(A) Course(s) on Statistics, Modeling and Finance (15 hours);

(B) Course(s) on Advanced Residential Applications and Case Studies (15 hours);

(C) Electives (20 hours).

(3) An Associate degree or higher from an accredited college or university, unless the requirements of paragraph (4) below are satisfied.

(4) In lieu of the Associate degree, an applicant for state certified residential appraiser shall successfully pass all of the following collegiate level subject matter courses from an accredited college, junior college, community college or university:

(a) English Composition;

(b) Principles of Economics (Micro or Macro);
(c) Finance;
(d) Algebra, Geometry, or higher mathematics;
(e) Statistics;
(f) Computer Science; and
(g) Business or Real Estate Law.

(h) Total hours of equivalent college courses in lieu of an Associate degree: 21 semester credit hours or its equivalent for the state certified residential appraiser. Any applicant using the in-lieu-of degree courses, must complete a minimum of 3 semester (4.5 quarter) credit hours in each collegiate level subject matter course noted above. If an accredited college or university accepts the College-Level Examination Program (CLEP) examination(s) and issues a transcript for the exam, showing its approval, it will be considered as credit for the college course.

Stat. Auth.: ORS 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 3-2005, f. & cert. ef 7-22-05; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 2-2009(Temp), f. 1-28-09, cert. ef. 1-30-09 thru 7-28-09; Administrative correction 8-21-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-010-0065
Prerequisite Experience and Education Requirements for State Licensed Appraisers

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

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

(2) Successfully completed not less than 150 classroom hours of acceptable appraisal courses as set forth in OAR 161-020-0110(2)(b), with the following exceptions as noted in paragraphs (2)(a) below. Each applicant shall have successfully completed the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within four (4) years preceding the date of application and have successfully passed an examination thereon.

(a) Applicants holding a valid Oregon Appraiser Assistant Registration may satisfy the educational requirements for the State Licensed Appraiser credential by completing the following additional education hours:

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

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

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

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

Stat. Auth.: ORS 674.305 & 674.310
Stats. Implemented: ORS 674
Hist: ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-010-0080
Appraiser Assistant Registration — Application and Renewal Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 2-2004, f. 5-25-04, cert., ef. 6-1-04; ACLB 3-2005, f. & cert. ef 7-22-05; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 2-2008(Temp), f. & cert. ef. 8-6-08 thru 2-1-09; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-015-0000
Application Process

Any person desiring to take an appraiser examination, must submit a completed pre-printed application evidencing completion of the required qualifying education and experience.

(1) Applicants must list qualifying education courses by date, course provider, and classroom hours.

(2) Applicants must submit documentation of course completion in the form of official college transcripts, signed letters, or signed certificates of completion. Course outlines or other items may be requested to verify the prerequisite education.

(3) Applicants must submit a pre-printed experience log which details hours of appraisal experience claimed for credit. Such hours must meet the requirements of OAR 161-010-0035, 161-010-0045, or 161-010-0065 as applicable.

(4) The applicant may be required to submit an affidavit from an employer to verify experience claimed.

(5) The applicant may also be required to submit some or all written reports or file memoranda claimed on the experience log.

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 3-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 1-2009, f. 1-28-09, cert. ef. 1-30-09; ACLB 1-2009(Temp), f. 1-28-09, cert. ef. 1-30-09 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-015-0010
Form of Application

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

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

(2) An application shall be accompanied by a current, recognizable passport style color photograph of the applicant taken within 30 days preceding receipt of the application.

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

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

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

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

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 2-2000, f. & cert. ef. 10-23-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2009, f. 1-28-09, cert. ef. 1-30-09; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-015-0025
Application from Out-of-State Credential Holder

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

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

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

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-015-0030
Submission of License or Certificate Application

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

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

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

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

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

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

(7) Applicants for licensure or certification must have a license history submitted directly to the Board office from each state in which he or she has ever been licensed or certified, or the Board may obtain a National Registry Appraiser License History report. License histories must be received by the board within thirty (30) days of receipt of application. Applicants must be in good standing in all states in which they are licensed or certified or the application will be denied.

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

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

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

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 2-1999, f. & cert. ef. 4-20-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-020-0005
Scope

This division outlines the requirements for qualifying education for state licensed, state certified residential and state certified general appraisers, continuing education for state licensed, state certified residential and state certified general appraisers, and the education course and course provider requirements. Course providers that have obtained approval of their course(s) under the Appraisal Qualifications Board of the Appraisal Foundation (AQB) Course Approval Program may be recognized by the Administrator as having satisfied the requirements of this rule. The Administrator retains the right to review, modify, or reject a course which has received AQB approval.

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674.310
Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-020-0000; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-020-0055
Criteria for Approval of Course as Continuing Education

In order to be approved as continuing education, the course must satisfy all criteria described in this rule.

(1) Current Classroom Offering — The course shall be a current offering of the course owner/affiliated entity that is presented by traditional classroom methods. Courses presented online, or by Compact Disc (CD), correspondence, videotape or remote television are eligible for approval only as provided in OAR 161-020-0140.

(2) Course Length and Content — The course shall involve a minimum of two classroom hours with the "Continuing Education Course Content Guidelines" in these rules.

(3) Course Description — The course materials or syllabus shall include a course description which clearly describes the content of the course.

(4) Summary Outline — If more than one major topic is to be covered in the course, the course materials or syllabus shall include a summary outline of major topics to be covered and the number of classroom hours devoted to each major topic.

(5) Learning Objectives — The course materials or syllabus shall include specific learning objectives which:

(a) are appropriate for a continuing education course;

(b) clearly state the specific knowledge and/or skills students are expected to acquire by completing the course;

(c) Are consistent with the course description;

(d) Are consistent with the instructional materials; and

(e) Are reasonably achievable within the number of classroom hours allotted for the course.

(6) Instructional Materials — Instructional materials for students shall be provided unless the applicant demonstrates to the satisfaction of the Administrator that such materials are not needed to accomplish the stated course learning objectives. Any such instructional materials shall:

(a) Be appropriate in view of the stated course learning objectives;

(b) Reflect current knowledge and practice;

(c) Contain no significant errors;

(d) Reflect correct grammatical usage and spelling;

(e) Effectively communicate and explain the information presented;

(f) Be suitable in layout and format; and

(g) Be suitably bound or packaged, and be produced in a quality manner.

(7) Instructor Qualification — Course provider shall keep written records documenting that their instructors meet the Board qualifications as set forth below:

(a) Three years of experience directly related to the subject matter to be taught; or

(b) A baccalaureate or higher degree in a field directly related to the subject matter to be taught; or

(c) Three years of experience teaching the subject matter to be taught; or

(d) A combination of education and experience equivalent to (a), (b) or (c) of this section

(e) For those instructing the Appraisal Foundation's National USPAP Course, and/or the seven-hour Appraisal Foundation's National USPAP Update Course:

(A) At least one instructor must be a certified residential or certified general appraiser and;

(B) The instructor must be an AQB certified USPAP instructor.

(f) For those instructing courses equivalent to either the Appraisal Foundation's National USPAP Course or the seven-hour Appraisal Foundation's National USPAP Update course:

(A) At least one instructor must be a certified residential or certified general appraiser.

(g) For those instructing the Supervising Appraiser/Appraiser Assistant Course:

(A) The instructor must be a certified residential or certified general appraiser; and

(B) The instructor must have completed a Board sponsored Supervising Appraiser/Appraiser Assistant Course and passed the final exam.

(8) Attendance Policy — The course owner/affiliated entity shall have a written attendance policy that requires student attendance to be verified. Policy must:

(a) Stipulate as to a percentage of attendance required by the student;

(b) Include on the attendance records form the Instructor(s) name and the criteria under which they qualified;

(c) Provide that non-members of the association or organization may apply for the course without membership in the association;

(d) Provide for retention of attendance records for a minimum of five years.

(9) Course Scheduling Policy — If the course involves more than eight classroom hours, the course owner/affiliated entity shall have an established policy on course scheduling that provides for a maximum of eight (8) classroom hours of instruction in any given day and for appropriate breaks during each class session.

(10) Course Completion Certificate Policy — The course owner/affiliated entity shall have an established policy assuring prompt issuance of signed course completion certificates to attendees which should include information regarding the number of classroom hours, and whether there was successful passage of the course examination (if applicable).

(11) Audit Policy — The course owner/affiliated entity shall permit the Administrator or the Administrator's representative to audit the course and course materials at no cost to the Administrator or the Administrator's representative in order to evaluate the instruction. The course owner/affiliated entity shall permit the Administrator or the Administrator's representative to review their records appropriate to selected course offerings.

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674.310
Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 3-1992(Temp), f. & cert. ef. 11-25-92; ACLB 4-1992(Temp), f. & cert. ef. 12-2-92; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-020-0020 and 161-020-0060; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 4-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-020-0110
Qualifying Education Course Content Guidelines

(1) General Guidelines:

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Basic Appraisal Principles;

(B) Basic Appraisal Procedures;

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

(D) Residential Appraiser Site Valuation and Cost Approach;

(E) Residential Sales Comparison and Income Approaches;

(F) Residential Report Writing and Case Studies;

(G) Statistics, Modeling and Finance;

(H) Advanced Residential Applications and Case Studies;

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

(J) General Appraiser Sales Comparison Approach;

(K) General Appraiser Site Valuation and Cost Approach;

(L) General Appraiser Income Approach;

(M) General Appraiser Report Writing and Case Studies;

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

(O) Elective courses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(G) Course(s) on Statistics, Modeling and Finance (15 hours);

(H) Course(s) on Advanced Residential Applications and Case Studies (15 hours);

(I) Electives (20 hours);

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

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

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

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

(C) Course(s) on General Appraiser Market Analysis and Highest and Best Use (30 hours in not less than 15 hour increments);

(D) Course(s) on Statistics, Modeling and Finance (15 hours);

(E) Course(s) on General Appraiser Sales Comparison Approach (30 hours in not less than 15 hour increments);

(F) Course(s) on General Appraiser Site Valuation and Cost Approach (30 hours in not less than 15 hour increments);

(G) Course(s) on General Appraiser Income Approach (60 hours in not less than 15 hour increments);

(H) Course(s) on General Appraiser Report Writing and Case Studies (30 hours in not less than 15 hour increments);

(I) Electives (30 hours in not less than 15 hour increments);

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

(3) Acceptable Courses. Listed below are the categories of courses that are acceptable under these rules:

(a) Courses on Basic Appraisal Principles (30 hours). A course(s) in this category must be broad in scope and focus on basic real estate appraisal concepts, principles, and methods that are applicable generally to the appraisal of most types of real estate. Basic Appraisal Principles courses would substantially include the following specific topics:

(A) Real Property Concepts and Characteristics:

(i) Basic Real Property Concepts;

(ii) Real Property Characteristics;

(iii) Legal Description.

(B) Legal Consideration:

(i) Forms of Ownership;

(ii) Public and Private Controls;

(iii) Real Estate Contracts;

(iv) Leases.

(C) Influences on Real Estate Values:

(i) Governmental;

(ii) Economic;

(iii) Social;

(iv) Environmental, Geographic and Physical.

(D) Types of Value:

(i) Market Value;

(ii) Other Value Types.

(E) Economic Principles:

(i) Classical Economic Principles;

(ii) Application and Illustrations of the Economic Principles.

(F) Overview of Real Estate Markets and Analysis:

(i) Market Fundamentals, Characteristics, and Definitions;

(ii) Supply Side Analysis;

(iii) Demand Analysis;

(iv) Use of Market Analysis;

(G) Ethics and How They Apply in Appraisal Theory and Practice

(b) Courses on Basic Appraisal Procedures (30 hours). A course(s) in this category must be broad in scope and focus on basic real estate appraisal procedures that are applicable generally to the appraisal of most types of real estate. Basic Appraisal Procedures courses would substantially include the following specific topics:

(A) Overview of Approaches to Value;

(B) Valuation Procedures:

(i) Defining the Problem;

(ii) Collecting and Selecting Data;

(iii) Analyzing;

(iv) Reconciling and Final Value Opinion;

(v) Communicating the Appraisal.

(C) Property Description:

(i) Geographic Characteristics of the Land/Site;

(ii) Geologic Characteristics of the Land/Site;

(iii) Location and Neighborhood Characteristics;

(iv) Land/Site Considerations for Highest and Best Use;

(v) Improvements- Architectural Styles and Types of Construction.

(D) Residential Applications.

(c) Courses on Residential Market Analysis and Highest and Best Use (15 hours) that would substantially include the following specific topics:

(A) Residential Markets and Analysis:

(i) Market Fundamentals, Characteristics and Definitions;

(ii) Supply Side Analysis;

(iii) Demand Analysis;

(iv) Use of Market Analysis.

(B) Highest and Best Use:

(i) Test Constraints;

(ii) Application of Highest and Best Use;

(iii) Special Considerations;

(iv) Market Analysis;

(v) Case Studies.

(d) Courses on Residential Appraiser Site Valuation and Cost Approach (15 hours) that would substantially include the following specific topics:

(A) Site Valuation:

(i) Methods;

(ii) Case Studies.

(B) Cost Approach:

(i) Concepts and Definitions;

(ii) Replacement/Reproduction Cost New;

(iii) Accrued Depreciation;

(iv) Methods of Estimating Accrued Depreciation;

(v) Case Studies.

(e) Courses on Residential Sales Comparison and Income Approaches (30 hours) that would substantially include the following specific topics:

(A) Valuation Principles & Procedures — Sales Comparison Approach;

(B) Valuation Principles & Procedures — Income Approach;

(C) Finance and Cash Equivalency;

(D) Financial Calculator Introduction;

(E) Identification, Derivation and Measurement of Adjustments;

(F) Gross Rent Multipliers;

(G) Partial Interests;

(H) Reconciliation;

(I) Case Studies and Applications.

(f) Courses on Residential Report Writing and Case Studies (15 hours) that would substantially include the following specific topics:

(A) Writing and Reasoning Skills;

(B) Common Writing Problems;

(C) Form Reports;

(D) Report Options and USPAP Compliance;

(E) Case Studies.

(g) Courses on Statistics, Modeling and Finance (15 hours) that would include the following specific topics:

(A) Statistics;

(B) Valuation Models (AVM's and Mass Appraisal);

(C) Real Estate Finance.

(h) Courses on Advanced Residential Applications and Case Studies (15 hours) that would substantially include the following specific topics:

(A) Complex Property, Ownership and Market Conditions;

(B) Deriving and Supporting Adjustments;
(C) Residential Market Analysis;
(D) Advanced Case Studies.
(i) Courses on General Appraiser Market Analysis and Highest and Best Use (30 hours) that would substantially include the following specific topics:
(A) Real Estate Markets and Analysis:
(i) Market Fundamentals, Characteristics and Definitions;
(ii) Supply Side Analysis;
(iii) Demand Analysis;
(iv) Use of Market Analysis.
(B) Highest and Best Use
(i) Test Constraints;
(ii) Application of Highest and Best Use;
(iii) Special Considerations;
(iv) Market Analysis;
(v) Case Studies.
(j) Courses on General Appraiser Sales Comparison Approach (30 hours) that would substantially include the following specific topics:
(A) Value Principles;
(B) Procedures;
(C) Identification and Measurement of Adjustments;
(D) Reconciliation;
(E) Case Studies.
(k) Courses on General Appraiser Site Valuation and Cost Approach (30 hours) that would substantially include the following specific topics:
(A) Site Valuation:
(i) Methods;
(ii) Case Studies.
(B) Cost Approach:
(i) Concepts and Definitions;
(ii) Replacement/Reproduction Cost New;
(iii) Accrued Depreciation;
(iv) Methods of Estimating Accrued Depreciation;
(v) Case Studies.
(l) Courses on General Appraiser Income Approach (60 hours) that would substantially include the following specific topics:
(A) Overview;
(B) Compound Interest;
(C) Lease Analysis;
(D) Income Analysis;
(E) Vacancy and Collection Loss;
(F) Estimating Operating Expenses and Reserves;
(G) Reconstructed Income and Expense Statement;
(H) Stabilized Net Operating Income Estimate;
(I) Direct Capitalization;
(J) Discounted Cash Flow;
(K) Yield Capitalization;
(L) Partial Interests;
(M) Case Studies.
(m) Courses on General Appraiser Report Writing and Case Studies (30 hours) that would substantially include the following specific topics:
(A) Writing and Reasoning Skills;
(B) Common Writing Problems;
(C) Report Options and USPAP Compliance;
(D) Case Studies.
(n) Courses eligible for approval as elective courses for Qualifying Education.

These courses are considered more appropriate for Continuing Education than for Qualifying Education under these rules, but can qualify as elective if they are at least 15 hours in duration and an exam is required. Courses must focus primarily on advanced concepts/methods, a specialized aspect of real estate appraising, or appraising one specific type of property. Examples of course topics may include, but are not limited to the following:
(A) Real Estate Investment Analysis;
(B) Feasibility Analysis;
(C) Condemnation Appraising/Right of Way Appraising;
(D) Review Appraising;
(E) Mass Appraisal;
(F) Subdivision Analysis;
(G) Litigation/Testifying as Expert Witness;
(H) Appraising Condominiums;
(I) Appraising Manufactured Housing;
(J) Appraising Multi-Family Housing;
(K) Appraising Office Buildings;
(L) Appraising Farms;
(M) Appraising Land;
(N) Appraising Machinery and Equipment.
(o) Courses on the Uniform Standards of Professional Appraisal Practice (USPAP):
(A) The Appraisal Foundation's National USPAP Course or its equivalent are the only acceptable courses for this category.
(4) Courses not eligible for approval as Qualifying Education. These types of courses are considered more appropriate for Continuing Education than for Qualifying Education under these rules. Courses which focus all or a vast majority of their instruction on only one comparatively narrow aspect of real estate appraising and which examine that one aspect in depth. These types of courses focus on the following topics:
(a) Estimating Building Costs;
(b) Estimating Accrued Depreciation;
(c) Cash Equivalency;
(d) Ellwood Mortgage-Equity Analysis;
(e) Use of Financial Calculators in Appraising;
(f) Valuation of Partial Interests.

Stat. Auth.: ORS 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ALCB 2-1994(Temp), f. & cert. ef. 5-2-94; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 3-2005, f. & cert. ef 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-025-0025
Supervising Appraiser (SA)

(1) Only qualified State Certified Residential Appraisers and State Certified General Appraisers may supervise Registered Appraiser Assistants.

(2) The supervising appraiser must directly supervise the registered appraiser assistant in each assignment to ensure that the results of each assignment comply with USPAP and all applicable appraisal laws and rules. To do so, the supervising appraiser must:

(a) ensure that the appraiser assistant gains sufficient knowledge, skills and abilities that will enable them to do all of the following:
(A) Define the appraisal problem.
(i) Identify and locate the real estate;
(ii) Identify the property rights to be valued;
(iii) Identify the use of the appraisal
(iv) Define value(s) to be estimated;
(v) Establish date(s) of value estimate(s);
(vi) Identify and describe the scope of the appraisal; and
(vii) Identify and describe limiting conditions or limitations.
(B) Conduct preliminary analysis, select and collect applicable data.
(i) Identify general data (regional, city and neighborhood) — social, economic, governmental and environmental factors;
(ii) Identify specific data (subject and comparables) — site and improvement, cost and depreciation, income/expense and capitalization rate, history of ownership and use of property; and
(iii) Identify competitive supply and demand (the subject market) — inventory of competitive properties, sales and listings, vacancies and offerings, absorption rates, demand studies.
(C) Conduct an analysis of the subject property which includes:
(i) Site/improvements;
(ii) Size;
(iii) Costs;
(iv) Elements of comparison; and
(v) Units of comparison.
(D) Conduct highest and best use analysis (specified in terms of use, time and market participants).
(i) Land as if vacant and available; and
(ii) Property as improved (existing or proposed).
(E) Estimate land value, including on-site improvements.
(F) Estimate value of the property using each of the three approaches to value — cost, sales comparison and income capitalization.
(G) Reconcile each value indication and reconcile the final value estimate.
(H) Report estimate(s) of value(s) as defined.
(b) Review each appraisal report the appraiser assistant prepares to ensure accuracy and reliability;

(c) Ensure that the appraisal report includes proper disclosure regarding the inspection of the subject and the comparable sales as required by OAR 161-025-0060(3).

(d) Make a clear and prominent disclosure of real estate appraisal assistance in each appraisal report by identifying each individual category of experience that the appraiser assistant provided as outlined in OAR 161-025-0025(2)(a)(A through H); and

(e) Accept responsibility for the appraisal report by signing and certifying that the report has been prepared in compliance with USPAP.

(f) Ensure that the appraiser assistant will be granted experience credit by doing the following:

(A) Verifying that the appraiser assistant is currently registered with the Board. Experience gained prior to registration or after a registration has lapsed will not be credited toward the experience hours required to become licensed or certified.

(B) Verifying that all appraisal experience is properly documented on the Appraiser Assistant Experience Log on an ongoing basis by ensuring that the Appraiser Assistant:

(i) Make entries when each assignment is completed to ensure that the log is complete and accurate.

(ii) Maintain a separate experience log for each supervising appraiser.

(C) Reviewing documentation on a monthly basis — reviewing the log, approve or disapprove log entries and edit as required, sign the log, have the appraiser assistant sign the log, and have the appraiser assistant maintain the ongoing log for any future application.

(D) Allowing the appraiser assistant to obtain copies of any appraisal reports on which they provided assistance.

(3) Any licensee who has been disciplined by the Board for violation(s) of ORS Chapter 674 and/or OAR Chapter 161 pursuant to a final order of the Board issued after June 1, 2004, may not supervise appraiser assistants as provided by the following presumptive guidelines unless substantial and compelling reasons exist to depart from these guidelines as determined by the Administrator or the Board:

(a) First Board Action: No restriction unless the first board action results in suspension or revocation or the final order in the action otherwise restricts the licensee's eligibility to act as a supervising appraiser.

(b) Second Board Action: Restricted from acting as a supervising appraiser for 24 months immediately following the date of the final order except as otherwise provided in the order.

(c) Third Board Action or any Board action resulting in suspension or revocation: Permanently restricted from acting as a supervising appraiser immediately following the date of the final order except as otherwise provided in the order.

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-025-0030
Appraiser Assistant

The appraiser assistant must register with the Board in order to receive experience credit towards obtaining a real estate appraiser license or certificate.

(1) An appraiser assistant must work under the direct supervision of an Oregon certified appraiser.

(2) The appraiser assistant, before performing an assignment for a supervising appraiser, must have the knowledge and experience to complete the assignment competently.

(3) All appraisal work completed by an appraiser assistant shall be prepared in compliance with USPAP and these administrative rules.

(4) An appraiser assistant may assist in the preparation of any and all components of the appraisal.

(5) An appraiser assistant may sign an appraisal report, provided their supervising appraiser co-signs the appraisal report and accepts full responsibility for the contents of the appraisal report.

(6) The extent of the assistance provided by an appraiser assistant to a supervising appraiser must be disclosed in the appraisal report as described in OAR 161-025-0025(2)(d).

(7) When inspecting a property, the appraiser assistant must not misrepresent their status and at all times clearly identify themselves as a registered appraiser assistant.

(8) The scope of practice for the appraiser assistant is the appraisal of those properties which the supervising appraiser is permitted to appraise.

(9) An appraiser assistant will only be granted experience credit if they have demonstrated that they have provided substantial professional real estate appraisal assistance in all categories of experience as outlined in OAR 161-025-0025(2)(a)(A through H).

(10) The appraiser assistant is entitled to obtain copies of any appraisal reports on which they provided professional real estate appraisal assistance.

(11) The appraiser assistant may have more than one supervising appraiser, each of whom must sign the Appraiser Assistant Registration Application. If the appraiser assistant subsequently adds or changes a supervising appraiser, the appraiser assistant must submit a Change or Add Supervising Appraiser form, signed by the new supervising appraiser(s) along with a copy of the Supervising Appraiser's Endorsement. Any experience gained with a new supervising appraiser prior to confirmation from the Board that the registration has been amended to include the new supervising appraiser(s) will not count as experience credit towards obtaining a real estate appraiser license or certificate.

(12) Appraiser Assistance Logs must be prepared and maintained as described in OAR 161-025-0025(2)(f)(B) and (C). Separate appraisal logs must be maintained for each supervising appraiser.

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-025-0050
Records and Appraisal Report Retention Requirements

(1) Every state certified appraiser and every state licensed appraiser shall maintain and have custody of records of all real estate appraisal activity conducted by the appraiser or make appropriate work file retention and/or retrieval arrangements with the party having custody of such records. Such records shall be maintained by the appraiser for a period of at least five years after the date of completion of the appraisal to which the record pertains, or at least two years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.

(2) Such records shall at all times be open for inspection by the Board or its duly authorized representatives.

(3) A chronological log of all real estate appraisal activity must be provided by each individual state certified appraiser or state licensed appraiser upon request by the Administrator.

Stat. Auth.: ORS 674.150, 674.305(8) & 674.310
Stats. Implemented: ORS 674.310
Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-050-0000
Temporary Non-Resident Registration of Out-of-State Appraisers

(1) The Board will recognize temporarily the license or certificate of an appraiser issued by another state if:

(a) The appraiser is a non-resident of Oregon;

(b) The appraiser's business is of a temporary nature; and

(c) The appraiser registers with the Board.

(2) Any out-of-state appraiser desiring to conduct real estate appraisal activity within the State of Oregon, must submit an application for temporary registration on a form prescribed by the Board. The application must include:

(a) The required registration fee, and

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

(3) The applicant must also request a license history from the applicant's resident state indicating applicant is currently in good standing. This verification must be submitted directly to the Board office by the applicant's resident state licensing authority. The license history must be received by the Board within 30 days of receipt of the application. Alternatively, the Board may obtain a National Registry Appraiser License History Report.

(4) The non-resident registration is only valid for a single appraisal assignment within the state.

(5) A single appraisal assignment may include one or more properties under one contract for a single client.

Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 3-1993(Temp), f. & cert. ef. 4-28-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-050-0040
Changes in Application/Renewal Information

(1) Every licensee, registered appraiser assistant or applicant must notify the Board, in writing or by e-mail, of a change in any of the following information within ten business days of the change:

(a) Name;
(b) Business or Employer physical and mailing address;
(c) Home physical and mailing address;
(d) Work telephone;
(e) Home telephone;
(f) Facsimile;
(g) Social Security Number; or
(h) E-mail address.

(2) Additionally, any licensee who is not currently a resident of the State of Oregon or who subsequently moves out of the state must submit an irrevocable consent to service of process form within ten business days of a change of business or employer physical and mailing addresses, and the address where records of their Oregon real estate appraisal activity are kept.

Stat. Auth.: ORS 674.305 & 674.310
Stats. Implemented: ORS 674.310
Hist.: ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-050-0050
Reciprocity

(1) The Administrator of the Board may enter into reciprocal agreements with other states in accordance with the following procedures:

(a) The Administrator shall determine that the standards, qualifications and examinations for the licensing and certifying of real estate appraisers in the other states are substantially similar to those in Oregon;

(b) The Administrator shall obtain the approval of the Board before entering into the agreement.

(2) Reciprocal agreements shall provide that the two states may issue licenses or certificates without examination, to license or certificate holders of the other state, upon payment of a mutually agreed upon fee, proof of current certificate and a certified letter of good standing from the other state.

(3) A reciprocal licensee shall comply with all statutes and rules governing licensed and certified appraisers in Oregon. Each reciprocal licensee shall immediately notify the Administrator of any disciplinary action taken in any other state in which the person holds a license or certificate.

(4) The Administrator may terminate a reciprocal agreement, with approval of the Board, if the administrator finds that the other state:

(a) Is not assisting the Administrator in enforcement activity for the protection of Oregon consumers;

(b) Is not maintaining and enforcing standards, qualifications, and examinations substantially similar to those of this state.

(5) Upon termination of a reciprocal agreement with another state, the Administrator may deny the issuance of a reciprocal license or certificate, or revoke a current reciprocal license or certificate from that state. Applicants, license and certificate holders from that state must then apply for a license or certificate in the same manner as other Oregon applicants.

(6) Reciprocal certificates are issued at the same level of certification as in the applicant's state.

(7) For purposes of this rule, "substantially similar" means that the other state's minimum standards qualifications for appraisal experience and education, and examinations meet the standards established by the Board as set forth in OAR 161, Division 10.

(8) Applications for a reciprocal license or certificate shall be processed in accordance with the written reciprocal agreement between the Board and the applicant's resident state.

Stat. Auth.: ORS 183.341, 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 3-1994, f. & cert. ef. 5-2-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-510-0010
Fees

The Board shall charge and collect the following non-refundable fees:

(1) Application fee — $1,000;
(2) Registration fee (two years) — $1,500;
(3) Fee for Registration Renewed (two years) — $3,000;
(4) Fee for Late Renewal — $100;
(5) Fee for Duplicate Registration — $10;
(6) Annual Appraisal Subcommittee (ASC) Fee — Actual Fee;
(7) Fingerprint and Background Checks — Actual Fee;
(8) Fee for Change or Addition of Subject Individual — $100;
(9) Fee for Change of Business Name — $100;
(10) Fee for Registration History — $40;
(11) Fee for Late Annual Report — $100.

Stat. Auth.: ORS 183.355, ORS 674.305(7), ORS 674.310 & 2011 OL Ch. 447
Stats. Implemented: ORS 674.310 & 2011 OL Ch. 447
Hist.: ACLB 5-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-520-0010
Registration Requirements

An appraisal management company applying for registration as an appraisal management company in Oregon shall submit to the Board all of the following:

(1) A completed application form listing the information required by ORS 674.205 as follows:

(a) The name, address, website address, phone and fax numbers of the appraisal management company. The name on the application form must match the name registered with the Oregon Secretary of State;

(b) The name, address, email and phone contact information of an individual that will be the initial point of contact for all communications with the Board;

(c) The name, address, email and phone contact information of controlling person(s) of the appraisal management company;

(d) The name, address, email and phone contact information of any subject individual that owns 10 percent or more of the appraisal management company;

(e) For all subject individuals, the license, certificate or registration numbers issued by any state to do business as an appraiser.

(f) For appraisal management companies, the license, certificate or registration numbers issued by any state to do business as an appraisal management company;

(g) If the appraisal management company is not domiciled in Oregon, the name and phone contact information for the entity's agent for service of process in this state;

(2) For subject individuals, a disclosure and documentation of any administrative action taken by any state to refuse, deny, cancel or revoke a license, certificate or registration to act as an appraiser;

(3) For the appraisal management company, a disclosure and documentation of any administrative action taken by any state to refuse, deny, cancel or revoke a license, certificate or registration to act as an appraisal management company;

(4) A signed certification on a form prescribed by the Board:

(a) That the appraisal management company complies with the minimum requirements in OAR 161-520-0020 regarding appraiser competency;

(b) That the appraisal management company maintains for at least five years:

(A) A record of each appraisal management services request the company receives and the appraiser who performs the real estate appraisal activity contained in the request;

(B) A copy of each written complaint received by the appraisal management company, along with proof of documentation showing the complaint was forwarded to the appraisal management company's client for the appraisal assignment.

(c) That the appraisal management company provides training to employees who select appraisers for an appraisal panel, select appraisers to perform real estate appraisal activity, or perform quality control examinations, and that the training complies with the requirements set forth in OAR 161-540-0010;

(d) That the appraisal management company requires each appraiser to provide the appraiser's certificate or license number issued by the Board and competency information required by OAR 161-520-0020;

(e) That the appraisal management company has written policies and procedures demonstrating compliance with ORS 674.220;

(f) That the appraisal management company has a system in place to require that appraisals are conducted independently and without inappropriate influence or coercion as required by the appraisal independence standards established under section 129E of the Truth in Lending Act, including any implementing regulations; and

(g) That the appraisal management company requires appraisers completing appraisals at the company's request to comply with the Uniform Standards of Professional Appraisal Practice.

(h) That any employee of the appraisal management company that performs the act or process of developing and communicating a reviewer's own opinion of value as part of the appraisal review for a property located in this state, is an Oregon licensed/certified real estate appraiser.

(5) Applicable fees as established in OAR 161, Division 510;

(6) A completed surety bond required by ORS 674.210 in a form and format approved by the Board;

(7) A copy of the appraisal management company's business registration filed with the Oregon Secretary of State established in OAR 161-510-0005.

(8) A completed background check authorization form for all subject individuals.

(9) Sealed envelopes containing fingerprint cards for all subject individuals, containing information specified in OAR 161-530-0020.

Stat. Auth.: ORS 183.355, ORS 674.305(7), ORS 674.310 & 2011 OL Ch. 447
Stats. Implemented: ORS 674.310 & 2011 OL Ch. 447
Hist.: ACLB 5-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-520-0030
Renewal or Reactivation of Registration

(1) An appraisal management company renewing a registration as an appraisal management company shall submit to the Board all of the following information:

(a) A completed renewal application form listing the information required by ORS 674.205(2) as follows:

(A) The name, address, website address, phone and fax numbers of the appraisal management company;

(B) The name, address, email and phone contact information of an individual that will be the initial point of contact for all communications with the Board;

(C) The name, address, email and phone contact information of the controlling person(s) of the appraisal management company;

(D) The name, address, email and phone contact information of any subject individual that owns 10 percent or more of the appraisal management company;

(E) For all subject individuals, the license, certificate or registration numbers issued by any state to do business as an appraiser or an appraisal management company;

(F) If the appraisal management company is not domiciled in Oregon, the name, address and phone contact information for the entity's agent for service of process in this state;

(b) For subject individuals, a disclosure and documentation of any administrative action taken by any state to refuse, deny, cancel or revoke a license, certificate or registration to act as an appraiser;

(c) For appraisal management companies, a disclosure and documentation of any administrative action taken by any state to refuse, deny, cancel or revoke a license, certificate or registration to act as an appraisal management company;

(d) A signed certification on a form prescribed by the Board that the appraisal management company continues to:

(A) Maintain a system to verify the competency of appraisers on the appraisal management company's appraiser panel that meets the minimum requirements in OAR 161-520-0020;

(B) Maintain and have custody of the following records for a minimum of five years:

(i) Each appraisal management services request the appraisal management company receives and the appraiser who performs the real estate appraisal activity contained in the request;

(ii) A copy of each written complaint, along with documentation showing the complaint was forwarded to the client of the appraisal;

(iii) Documentation of the training provided to each employee who selects appraisers for an appraiser panel, selects appraisers to perform real estate appraisal activity, or performs quality control examinations, and that said training complies with the requirements set forth in OAR 161-540-0010;

(C) Require that each appraiser provide the appraiser's certificate or license number issued by the Board;

(D) Maintain written policies and procedures demonstrating compliance with ORS 674.220;

(E) Have a system in place to require that appraisals be conducted independently and without inappropriate influence or coercion as required by the appraisal independence standards established under section 129E of the Truth in Lending Act, including any implementing regulations; and

(F) That the appraisal management company requires appraisers completing appraisals at the appraisal management company's request to comply with the Uniform Standards of Professional Appraisal Practice.

(G) That any employee of the appraisal management company that performs the act or process of developing and communicating a reviewer's own opinion of value as part of the appraisal review for a property located in this state, is an Oregon licensed/certified real estate appraiser.

(e) The certificate or registration numbers issued by any state to do business as an appraisal management company;

(f) Renewal fees established in OAR 161-510-0010; and

(g) A completed surety bond required by ORS 674.210.

(2) Renewal applications received after the expiration date and within one year of the date of expiration of the registration shall be assessed a late fee in addition to the renewal fee.

(3) An appraisal management company whose registration has expired shall cease operating as an appraisal management company in Oregon.

(4) If an appraisal management company does not submit a complete renewal application within one year from the date of expiration of the registration, the status of the registration becomes terminated and the appraisal management company must reapply pursuant to OAR 161-520-0010 and pay all applicable fees.

Stat. Auth.: ORS 183.355, ORS 674.305(7), ORS 674.310 & 2011 OL Ch. 447
Stats. Implemented: ORS 674.310 & 2011 OL Ch. 447
Hist.: ACLB 5-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-520-0035
Form of Application

(1) All applications must be submitted as prescribed in OAR 161-520-0010 and OAR 161-520-0030 on forms prescribed by the Board.

(2) Where space does not permit, the applicant may attach appropriate addendum. All questions must be answered. All forms must be signed and dated by the controlling person.

(3) Withholding information, misrepresentation, or submission of untrue or false statements as part of the application are deemed to demonstrate untrustworthiness and are cause for a civil penalty under ORS 674.995 and either denial of an application or subsequent disciplinary action, including revocation of registration.

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

Stat. Auth.: ORS 183.355, 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-520-0045
Change in Business Name

An appraisal management company must submit to the Board a notice of business name change within thirty (30) calendar days of the change. Such notification shall be in writing on a form prescribed by the Board along with the following:

(1) A corrected surety bond as required by ORS 674.210;

(2) A copy of the Secretary of State business registration with the company's new name; and

(3) Applicable fees as established in OAR 161-510-0010.

Stat. Auth.: ORS 183.355, 674.305 & 674.310
Stats. Implemented: ORS 674.305(7), 674.310(2), 674.205, 674.215, 674.230, 674.245 & 674.250
Hist.: ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-520-0050
Change of Individual Ownership

An appraisal management company with a change of individual ownership greater than fifty (50) percent interest in the appraisal management company, shall submit to the Board a notice of change of ownership. Such notification shall be in writing on a form prescribed by the Board, along with the following:

(1) A completed surety bond required by ORS 674.210;

(2) A copy of the Secretary of State business registration showing change of registered agent;

(3) A completed background check authorization form for the new subject individual, containing information specified in OAR 161-530-0020;

(4) A sealed envelope containing a fingerprint card for the subject individual;

(5) The application fee established in OAR 161-510-0010; and

(6) The fingerprint and background check fee established in OAR 161-510-0010.

Stat. Auth.: ORS 183.355, 674.305 & 674.310
Stats. Implemented: ORS 674.305(7), 674.310(2), 674.205, 674.215, 674.230, 674.245 & 674.250
Hist.: ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-530-0010
Criminal Records Check

(1) The Board shall conduct a criminal records check on a subject individual as a condition of issuing a registration as an appraisal management company, or when there is a change or addition of a subject individual of an appraisal management company.

(2) The subject individual shall submit a completed criminal background authorization on a form prescribed by the Board, along with a fingerprint card.

(3) The subject individual shall provide additional information, as requested by the Board, to resolve any issue hindering the completion of a criminal background check and/or fitness determination.

(3) The Board shall request that the Oregon State Police conduct Oregon and nationwide criminal records checks through fingerprint identification. The Board may request or conduct a Law Enforcement Data System (LEDS) criminal records check, as part of any criminal background check and/or fitness determination, to meet the requirements of this rule.

(4) If a subject individual refuses to consent to a criminal records check, including fingerprint identification, the Board shall not issue a registration as an appraisal management company. A subject individual may not contest any determination made based on a refusal to consent.

(5) Withholding information, misrepresentation, or submission of untrue or false statements as part of the criminal background authorization are deemed to demonstrate untrustworthiness and are cause for a civil penalty under ORS 674.995 and either denial or subsequent disciplinary action, including revocation of registration.

Stat. Auth.: ORS 183.355, ORS 674.305(7), ORS 674.310 & 2011 OL Ch. 447
Stats. Implemented: ORS 674.310 & 2011 OL Ch. 447
Hist.: ACLB 5-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-570-0025
Allegation Reports

An allegation report may be filed against an appraisal management company and submitted to the Board's office.

(1) All allegation reports must be in writing.

(2) Any person may file an allegation report.

(3) A member of the Board may initiate an allegation report.

(4) The Board will accept anonymous allegation reports.

(5) The allegation report will be reviewed by the Administrator or the Administrator's designee to determine whether there are reasonable grounds to believe that a violation of ORS Chapter 674 and/or OAR Chapter 161 may have occurred that constitutes grounds for discipline under ORS Chapter 674.

(6) An allegation report may be dismissed if the evidence or facts fail to establish proof of a violation. The Board shall notify the grievant in writing of any formal action taken on the allegation report.

Stat. Auth.: ORS 183.355, 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-570-0030
Complaints, Investigations and Audits

(1) If the Administrator or Administrator's designee determines that there are reasonable grounds to believe that a violation of ORS Chapter 674 and/or OAR Chapter 161 occurred, the allegation report shall become a complaint, the Board will initiate the complaint process and the complaint will be investigated.

(2) The Administrator may also initiate a complaint.

(3) A Notice of Complaint, together with a true copy of the allegation report as submitted to the Board, including all supporting documentation, shall be promptly sent via certified mail, return receipt requested, to the last known address of each controlling person of the appraisal management company. A controlling person must produce:

(a) True copies of records as specified in the Notice of Complaint within a specific time period to which no extension will be granted; and

(b) A written response to the allegations set forth in the complaint within a specific time period. The controlling person may request an extension to file a response. An extension of up to thirty (30) days will be approved provided the extension request is submitted to the Board in writing on or before the response due date.

(4) The Board may initiate an audit or other type of inquiry or investigation to verify an appraisal management company's compliance with ORS Chapter 674 and OAR Chapter 161.

(5) The investigation may include all inquiries deemed appropriate to ensure that each complaint is processed in accordance with ORS Chapter 183.

Stat. Auth.: ORS 183.355, 674.305 & 674.310
Stats. Implemented: ORS 674.305(7), 674.310(2), 674.205, 674.215, 674.230, 674.245 & 674.250
Hist.: ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-570-0055
Enforcement

(1) The Board may issue a notice of proposed disciplinary action for violation(s) of ORS 674.200 to 674.250, or of rules adopted by the Board.

(2) The Administrator or the Administrator's designee shall have the authority to negotiate and approve a stipulated settlement at any time prior to issuance of a Final Order by the Board.

(3) In the event of second or subsequent violations of ORS 674.200 to 674.250, or of rules adopted by the Board, the Administrator shall not consider a prior Final Order that was issued more than five (5) years preceding the date of the second or subsequent notice of proposed sanctions.

Stat. Auth.: ORS 183.355, 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

161-570-0060
Rules of Procedure in Contested Cases

(1) In addition to the requirements of the Attorney General's Model Rules of Procedure adopted by the Board, a party in a contested case must submit a written answer to the assertions or charges in the notice, to the Administrator, within thirty (30) days of the date of mailing of the Notice of Proposed Action or within sixty (60) days of the date of mailing of a Notice of Proposed Action for a denied application for registration.

(a) A hearing request and answer shall be made in writing to the Administrator, by the party or the party's representative.

(b) An answer shall include the following:

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

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

(c) Except for good cause:

(A) 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 matter alleged in the answer (affirmative defenses) shall be presumed to be denied; and

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

(2) If a request for a hearing is not made within the thirty (30) day or sixty (60) day period specified in subsection (1) of this rule, the party's right to a hearing is waived, and a default order will be issued against the party. A default order will also be entered if the party withdraws a hearing request or fails to appear at a scheduled hearing.

(3) Answers:

(a) Requests for an extension in which to file an answer to the notice shall be made in writing and directed to the Administrator within thirty (30) days of the date of service of a notice of proposed action or within sixty (60) days of the date of service of a proposed notice of denied application for registration. Extensions for requesting a hearing are not allowed.

(b) Amendments to answers must be submitted in writing and filed with the Administrator no less than twenty-one (21) days prior to the contested case hearing.

Stat. Auth.: ORS 183.355, 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13

Board of Architect Examiners
Chapter 806

Rule Caption: Prorates fee for 2013 and 2014 architect registration renewals to coincide with longer renewal cycle.
Adm. Order No.: BAE 1-2013
Filed with Sec. of State: 2-12-2013
Certified to be Effective: 2-12-13
Notice Publication Date: 1-1-2013
Rules Amended: 806-010-0105
Subject: Proposed changes to rule to prorate the fee for renewal of registration during the 2013 and 2014 renewal cycles which lengthen the renewal period by 6 months in order to transition the renewal cycle from a fiscal to calendar year cycle. The fee will by $250 in each of these two renewal cycles instead of $200, and the renewal will be good for 2-1/2 years instead of 2 years. Subsequent renewals will be for 2 calendar years at existing fees.
Rules Coordinator: Jim Denno—(503) 763-0662

806-010-0105
Fee Schedule

(1) Initial Registration:
(a) One year or less — $75;
(b) More than one year to two years — $150;
(2) Renewal — $200 (Fee for renewal in 2013 and 2014 is $250);
(a) Late Renewal — $100;
(b) Late CEH — $100;
(3) Examination Application Fee — $75;
(4) Reciprocal Application Fee — $100;
(5) Duplicate Wallet Card or Certificate — $25;
(6) Firm Registration — $100;
(7) Firm Renewal — $100;
(8) Reinstatement — $400;
(9) Miscellaneous:
(a) Labels, lists, or computer disk of licensees — $50;
(b) Copying charges:
(A) The first 5 pages — free;
(B) Additional pages — $0.25 per page.

Stat. Auth.: ORS 671.125
Stats. Implemented: ORS 671.085
Hist.: AE 3-1983, f. 1-12-83, ef. 3-1-83; AE 2-1984, f. & ef. 10-23-84; AE 1-1986, f. 11-12-86, ef. 11-13-86; AE 1-1988, f. & cert. ef. 3-14-88; AE 2-1988, f. & cert. ef. 9-9-88; AE 4-1992, f. & cert. ef. 9-2-92; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; BAE 5-2001, f. & cert. ef. 10-24-01; BAE 2-2002, f. & cert. ef. 4-30-02; BAE 4-2002, f. & cert. ef. 8-7-02; BAE 1-2003, f. & cert. ef. 1-15-03; BAE 2-2008, f. 3-7-08, cert. ef. 7-1-08; BAE 3-2010, f. & cert. ef. 12-14-10; BAE 3-2011, f. & cert. ef. 7-22-11; BAE 2-2012, f. & cert. ef. 8-13-12; BAE 1-2013, f. & cert. ef. 2-12-13

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Board of Parole and Post-Prison Supervision
Chapter 255

Rule Caption: Change number of votes required to impose an extended deferral from unanimous to majority.
Adm. Order No.: PAR 1-2013
Filed with Sec. of State: 2-15-2013
Certified to be Effective: 2-15-13
Notice Publication Date: 12-1-2012
Rules Amended: 255-062-0016
Subject: The rule amendment would change the number of Board votes required to impose a deferral of a projected parole date, of a parole consideration date, or of a subsequent hearing eligibility date from unanimous to majority.
Rules Coordinator: Shawna Harnden—(503) 945-0913

255-062-0016
Factors to be Considered in Establishing a Deferral Period Longer Than Two Years

Following an interview and consideration of all the information presented at the hearing, the Board may find by majority vote of the members participating in the hearing, that it is not reasonable to expect that the inmate would be granted a change in the terms of confinement, or it is not reasonable to expect that the inmate would be granted a firm release date before the end of a specified deferral period, not to exceed ten years, based on one or more of the following non-exclusive factors:

(1) A determination by the Board, based on the psychological evaluation and all the information available at the hearing, that the inmate has a mental or emotional disturbance, deficiency, condition, or disorder predisposing him/her to the commission of any crime to a degree rendering the inmate a danger to the health or safety of others;
(2) Infractions of institutional rules and discipline;
(3) Commission of crimes subsequent to the crime of conviction;
(4) Inmate's failure to demonstrate understanding of the factors that led to his/her criminal offense(s);
(5) Inmate's demonstrated lack of effort to address criminal risk factors of psychological or emotional problems;
(6) Inmate's demonstrated lack of effort to address criminal risk factors of substance abuse problems;
(7) Failure to seek and maintain appropriate work or training;
(8) Inmate's failure to seek out and benefit from programming including but not limited to sex offender treatment, batterers intervention programs, anger management, cognitive therapy, and victim impact panels where available;
(9) Inmate's inability to experience or demonstrate remorse or empathy;
(10) Demonstrated poor planning and foresight;
(11) Demonstrated impulsivity; or
(12) Demonstrated lack of concern for others, including but not limited to any registered victims.
(13) Refusal to participate in Board-ordered psychological evaluation(s) and/or refusal to participate in Board hearing.
(14) The inmate is serving a concurrent sentence over which the Board does not have release authority, and which has a release date ten or more years from the projected parole release date on the Board sentence.

Stat. Auth.: ORS 144.228, 144.232, 163.105, 163.115 & 2009 OL Ch. 660
Stats. Implemented: ORS 144.125, 144.228, 144.232, 144.280,144.185,163.105, 163.115 & 2009 OL Ch. 660
Hist.: PAR 6-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 9-2010, f. & cert. ef. 9-29-10; PAR 1-2013, f. & cert. ef. 2-15-13

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Board of Psychologist Examiners
Chapter 858

Rule Caption: Modifies requirements for licensure by endorsement, education and exam; clarifies criteria for complaint rejection
Adm. Order No.: BPE 1-2013
Filed with Sec. of State: 2-5-2013
Certified to be Effective: 2-5-13
Notice Publication Date: 1-1-2013
Rules Amended: 858-010-0010, 858-010-0015, 858-010-0016, 858-010-0017, 858-010-0030, 858-020-0025
Rules Repealed: 858-010-0010(T), 858-010-0015(T), 858-010-0016(T), 858-010-0017(T), 858-010-0030(T), 858-020-0025(T)
Subject: Modifies the core and clinical coursework content areas and adds a requirement for a minimum number of graded courses to the clinical psychology educational requirements for licensure as a psychologist for applicants who possess a doctoral degree from a regionally accredited, provincially chartered, or foreign program. Also allows these and psychologist associate applicants to complete limited coursework outside of their degree-granting program if the applicant's degree-granting program was deficient in required content areas. Modifies the requirements for licensure by endorsement and no longer requires applicants who have maintained an active psychologist license for 15 years or more to fulfill the EPPP exam requirement. Also clarifies the licensure by endorsement and standard application procedures. Establishes when a candidate for licensure must retake the jurisprudence exam. Clarifies the criteria used to reject a complaint filed with the Board.
Rules Coordinator: LaReé Felton—(503) 373-1196

858-010-0010
Education Requirements — Clinical Psychology

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) The curriculum of the program must:

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

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

(C) Include at least 30 semester hours or 45 quarter hours of credit in graded (not "pass-no pass") courses.

(l) The core program shall include a minimum of three graduate semester hours or 4.5 or more graduate quarter hours (when an academic term is other than a semester, credit hours will be evaluated on the basis of 15 hours of classroom instruction per semester hour) in each of the following substantive content areas:

(A) Scientific and professional ethics and standards;

(B) Research design and methodology;

(C) Statistics;

(D) Psychometric theory;

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

(F) Cognitive-affective bases of behavior such as learning, thinking, motivation, emotion, memory, cognitive information processing, or social cognition;

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

(H) Individual differences in behavior such as personality theory, human development, personnel psychology or abnormal psychology.

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

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

(o) Demonstration of competence in clinical psychology shall be met by a minimum of 18 semester hours or 27 quarter hours in the following areas: personality and intellectual assessment, diagnosis, therapeutic intervention, and evaluating the efficacy of intervention.

(p) If the doctoral program does not meet the core and/or clinical coursework requirements of (l) and (o), the applicant for licensure may remedy a deficiency of up to 6 semester hours or 9 quarter hours by completing graduate level coursework in the deficient content area(s) at a regionally accredited institution.

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

Stat. Auth.: ORS 675.030
Stats. Implemented: ORS 675.030(1)(b)(c)
Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13

858-010-0015
Education Requirements — Psychologist Associate

(1) To meet the education requirement of ORS 675.030(1), an applicant must possess a masters degree in psychology from a program at an institution of higher learning that was accredited by a regional accrediting agency at the graduate level as of the date the degree was awarded, or for Canadian universities, an institution of higher education that was provincially or territorially chartered.

(2) The masters program must include at least 45 quarter hours or 30 semester hours of graduate credit, 30 quarter hours or 20 semester hours of which must be in graded (not "pass–no pass") courses. Hours must be from at least five of the basic areas of psychology including:

(a) Experimental psychology; Learning theory; Physiological psychology; Motivation; Perception; Comparative psychology; Statistical methods; Design of research; Developmental psychology; Individual differences; Social psychology; Organizational psychology; Personality theory; Abnormal psychology; and

(b) A minimum of one graduate level course in ethics; and

(c) A minimum of one graduate level course psychological tests and measurements.

(3) If the masters program does not meet the coursework requirements of (2), the applicant for licensure may remedy a deficiency of up to one course or 3 semester hours or 4.5 quarter hours by completing graduate level coursework in the deficient content area at a regionally accredited institution.

Stat. Auth.: ORS 675.065
Stats. Implemented: ORS 675.065(1)(4)(c)
Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1989(Temp), f. & cert. ef. 2-24-89; PE 2-1989, f. & cert. ef. 5-24-89; PE 3-1989(Temp), f. & cert. ef. 9-7-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1993(Temp), f. & cert. ef. 2-12-93; PE 3-1993, f. & cert. ef. 4-13-93; PE 5-1993, f. & cert. ef. 10-6-93; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 1-2002(Temp), f. 1-28-02, cert. ef. 1-31-02 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13

858-010-0016
Standard Application Procedure

(1) Filing of Applications. Applicants must submit a complete application for licensure to the Board. The Board shall process each submitted application to determine if the application file is ready for review.

Applications are considered ready for review for completeness when the following items have been received:

(a) Final graduate level transcript(s) imprinted with date degree was awarded;

(b) Reference forms;

(c) Social Security Number Authorization Form;

(d) For non-APA accredited schools only:

(A) University Accreditation Form;

(B) Educational Record in Psychology Form; and

(C) Verification of pre-degree supervised work.

(e) Verification of post-degree supervised work experience (if completed);

(f) National written examination (EPPP) score (if taken);

(g) Verification of licensure in good standing in other states (if any);

(h) Application fee;

(i) Fingerprinting fee and results of the criminal background check; and

(j) Other clarifying information requested by the Board.

(2) The Board may issue a license if the candidate for licensure:

(a) Meets the education requirements of OAR 858-010-0010, 858-010-0011, or 858-010-0015;

(b) Completes the supervised work experience requirements of OAR 858-010-0036 or 858-010-0037.

(c) Passes the national written examination (EPPP); and

(d) Passes the Oregon jurisprudence examination.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030(1)(a), (b), (c), (d), (e) & (2)

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 6-2012(Temp), f. & cert. ef. 11-20-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13

858-010-0017

Licensure by Endorsement

Applicants that possess and have maintained an active license to practice psychology issued by a board that is a member jurisdiction of the Association of State and Provincial Psychology Boards based on a doctoral degree may be licensed by endorsement.

(1) Applicants who have maintained an active psychologist license based on a doctoral degree in psychology for less than 15 years must comply with the requirements set forth below:

(a) Filing of Applications: Applicants must submit a complete Licensure by Endorsement Application to the Board. The Board shall process each submitted application to determine if the application file is ready for review. Applications are considered ready for review for completeness when the following items have been received:

(A) Final graduate level transcript(s) imprinted with date degree was awarded;

(B) Social Security Number Authorization Form;

(C) An official verification of licensure in good standing from each health care professional license or registration, current or expired;

(D) A copy of the applicant's:

(i) Licensure file from the state(s) in which the applicant is licensed;

(ii) CPQ file from ASPPB;

(iii) Certification file from ABPP; or

(iv) HSPP file from the National Register.

(E) Endorsement Reference Forms from three mental health professionals;

(F) National written examination (EPPP) score;

(G) Application fee; and

(H) Fingerprinting fee and results of criminal background check.

(b) The Board may issue a license if the candidate for licensure:

(A) Has met the educational requirements for licensure of OAR 858-010-0010 or 858-010-0011;

(B) Has complied with the post-doctoral supervised work experience requirements of OAR 858-010-0036;

(C) Passes the Oregon jurisprudence examination; and

(D) Has received a passing score on the National Written Examination (EPPP).

(2) Applicants who have maintained an active psychologist license for 15 years or more must comply with the requirements set forth below:

(a) Filing of Applications: Applicants must submit a complete Licensure by Endorsement Application to the Board. The Board shall process each submitted application to determine if the application file is ready for review. Applications are considered ready for review for completeness when the following items have been received:

(A) Social Security Number Authorization Form;

(B) An official verification of licensure in good standing from each health care professional license or registration, current or expired;

(C) A copy of the applicant's:

(i) Licensure file from the state(s) in which the applicant is licensed;

(ii) CPQ file from ASPPB;

(iii) Certification file from ABPP; or

(iv) HSPP file from the National Register.

(D) Endorsement Reference Forms from three mental health professionals;

(E) National written examination (EPPP) score;

(F) Application fee; and

(G) Fingerprinting fee and results of criminal background check.

(b) The Board may issue a license if the candidate for licensure passes the Oregon jurisprudence examination.

(c) An applicant who meets the standard of section (2) above is not required to fulfill the EPPP exam requirement.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 6-2012(Temp), f. & cert. ef. 11-20-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13

858-010-0030

Procedures for Oregon Jurisprudence Examination

(1) Jurisprudence Examination. The purpose of the examination is to measure the candidate's knowledge and application of state laws and regulations related to the professional practice of psychology, including the American Psychological Association's ethical principles incorporated by Board statute and rule.

(a) Candidates whose education credentials, training and references have been accepted by the Board shall be notified in writing of their eligibility take the jurisprudence examination.

(b) The jurisprudence examination shall be administered at least twice a year.

(2) Eligible candidates prepared to take the jurisprudence examination must submit a written request to the Board postmarked at least 30 days prior to the examination date and pay the examination fee.

(3) The jurisprudence examination fee is not refundable except in extraordinary circumstances.

(4) The applicant shall be given no less than two weeks' notice of the date, time and place of the applicant's scheduled examination. Appearance at the scheduled examination shall constitute a waiver of the prior written notice.

(5) Special Accommodations. Requests for special accommodations for a disability or for English as a second language must be made at the time the written request to sit for the examination is made, or when the disability becomes known to the applicant. The request must include:

(a) Written verification of the disability from a qualified care provider (i.e. a person certified or licensed by the state to provide such services) detailing:

(A) Nature, extent and duration of disability; and

(B) Recommendation(s) for accommodation.

(b) English as a Second Language: Written request for reasonable accommodation detailing:

(A) Level of proficiency in English including, but not limited to, number of years speaking and/or writing English;

(B) History of special accommodations granted in similar testing circumstances;

(C) Other information to support request for special accommodation; and

(D) Recommendation(s) for accommodation.

(6) Administration.

(a) The Board shall determine the questions on each examination and shall determine the passing score.

(b) The Board shall provide a Candidate Handbook that includes a copy of the Board's examination rules, an explanation of the Board requirements related to scheduling and conduct during the examination, and current examination study materials. The Candidate Handbook shall be available at all times on the Board's website.

(c) Disqualification. A candidate sitting for the jurisprudence examination may be disqualified during or after the examination for conduct which affects the integrity of the candidate's performance or the examination. Disqualification will result in denial of the candidate's application.

(7) Scoring. Candidates shall be assigned a number so test scorers do not know the identity of the test taker until the examination report is pre-

pared for the Board. The Board shall notify each candidate in writing regarding the result of the examination within one week of the date of the examination. If a candidate has a complaint under investigation, the Board may delay issuing the licensure of that candidate until the complaint has been resolved.

(8) Reconsideration, Review and Reexamination.

(a) Within thirty days after notice of the examination results, a candidate who does not pass the examination may appeal in writing to have their examination rescored.

(b) Review. A candidate who does not pass the examination may review the examination record of incorrect questions and answers at the Board's office within a period of ninety days following the date of the examination and upon written request to the Board. The purpose of the review is to assist the candidate prepare to retake the examination. No more than one review shall be allowed.

(c) Reexamination. A candidate who does not pass the examination may be reexamined. If a candidate does not pass the second examination and wishes to take a third examination the candidate must submit a study plan for the Board's review and approval prior to sitting for the third examination. If a candidate fails to pass the third examination, the candidate's application for licensure shall be denied.

(d) A candidate for licensure who was formerly licensed in Oregon must re-take and pass the examination if their application for licensure is received more than 2 years after their license expired.

(e) A candidate for licensure must re-take and pass the examination if the candidate does not become licensed within 2 years of passing the exam.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1981(Temp), f. & ef. 12-9-81; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 1-1985(Temp), f. & ef. 12-20-85; PE 1-1986, f. & ef. 7-1-86; PE 1-1988, f. & cert. ef. 7-25-88; PE 3-1988(Temp), f. & cert. ef. 11-30-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 3-1992(Temp), f. & cert. ef. 12-10-91; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2000(Temp), f. 3-8-00, cert. ef. 3-8-00 thru 9-4-00; BPE 3-2000, f. & cert. ef. 9-7-00; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2004(Temp), f. & cert. ef. 3-2-04 thru 8-29-04; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2006, f. 8-29-06, cert. ef. 9-1-06; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13

858-020-0025

Complaints on Which the Board Can Act

Any complaint submitted to the Board must be specific as to the conduct upon which the complaint is based and why this conduct is cause for a complaint. The Board will review and accept for consideration complaints which might affect the licensure of psychologists and psychologist associates who are already licensed or are candidates for licensure, or which concern the possible practice of psychology by non-psychologists or unlicensed psychologists. A complaint concerning a licensed psychologist associate or psychologist resident may be regarded as a complaint against the supervisor. A complaint will be rejected if it does not allege a violation for which the Board has the grounds to impose sanctions pursuant to ORS 675.070. If authorized by ORS 676.160 to 676.180, a complaint may be referred to appropriate individuals or groups with the consent of the complainant.

Stat. Auth.: ORS 675.070

Stats. Implemented: ORS 675.070(2)

Hist.: BPE 3-1999, f. & cert. ef. 7-6-99; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13

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Department of Agriculture
Chapter 603

Rule Caption: Designates and explains general production and restricted districts for Brassica spp. (includes rapeseed/canola) production.

Adm. Order No.: DOA 1-2013

Filed with Sec. of State: 2-6-2013

Certified to be Effective: 2-6-13

Notice Publication Date: 1-1-2013

Rules Adopted: 603-052-0861, 603-052-0862, 603-052-0882, 603-052-0884, 603-052-0886, 603-052-0888, 603-052-0901, 603-052-0921

Rules Amended: 603-052-0860, 603-052-0870, 603-052-0880

Rules Repealed: 603-052-0850, 603-052-0852

Subject: These rules define control areas for Brassica spp. including rapeseed and provide regulations that will be applicable to the seeding and growing of rapeseed for any purpose in a general production area and protected districts. The rules are designed to recognize a farmers' right to grow their choice of product while balancing potential conflicts that may emerge with other producers because of cross-pollination, disease, pests, and volunteer plants. The rules designate areas of Oregon that will be classified as protected districts and Brassica spp. production will be restricted by rules that are specific to each protected district. All land not in a protected district will be regulated as general production area. Oregon has designated four protected districts.

Within the Willamette Valley Protected District best management practices apply to all Brassica spp. except for vegetable brassicas grown as a vegetable crop. Within the Willamette Valley Protected District, the Department has described a Rapeseed Exclusion Zone in which growing rapeseed is prohibited. Rapeseed production is allowed within the Willamette Valley Protected District only outside of the Rapeseed Exclusion Zone and then only up to a combined cumulative total acreage cap of 2,500 acres per production year. In addition, rapeseed may only be grown pursuant to a rapeseed production contract with the Oregon Department of Agriculture (ODA).

The Central Oregon Protected District consists of Crook, Deschutes, and Jefferson counties. Rapeseed production will require a research permit. Rapeseed fields must be isolated by at least three miles, and the location must be recorded at the appropriate Oregon State University County Extension office. Farming practices must manage plant disease, pests, and volunteer plants.

The Northeast Oregon Protected District consists of Baker, Union, and Wallowa counties, except for the following part of Wallowa County, which is designated as a general production area: Township 4N, Range 43E; Township 4N Range 44E; Township 4N, Range 45E; Township 5N, Range 43E; Township 5N, Range 44E; and Township 5N, Range 45E; and the portions of Township 6N, Range 43E; Township 6N, Range 44E; and Township 6N, Range 45E that are located within Oregon's borders. Rapeseed production is allowed, but is subject to certain requirements. The required isolation distance will be at least two miles, and all fields must be recorded at the appropriate Oregon State University County Extension Office. Farming practices must manage plant disease, pests, and volunteer plants.

The Malheur/Idaho Protected District consists of a three-mile wide strip of land along the Idaho border from the point where Payette County, Idaho's northern border intersects Malheur County's eastern border, south to the point where Highway 95 crosses the Oregon border. Rapeseed is prohibited in the Malheur/Idaho Protected District.

Production contracts for rapeseed production in the Willamette Valley Protected District may be entered into with ODA. Variances in the Willamette Valley Protected District may be obtained from ODA. Research permits may be issued by ODA if an accredited university is involved. ODA will maintain specified records of rapeseed fields. ODA has the authority to seek injunctive relief and seek summary destruction of any Brassica spp. that violates any rules or the terms of a production contract, variance, or research permit.

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

603-052-0860

Rapeseed Control Areas

As provided in ORS 570.405 and 570.450, the Oregon Department of Agriculture may establish control areas for Brassica spp. including rapeseed, for the general protection of the horticultural, agricultural or forest industries of Oregon by excluding from established control areas Brassica spp. or rapeseed plants that if, not managed in accordance with these rules, may be a menace to such areas and generally to horticultural, agricultural or forest industries. The Department may also establish the conditions for the production of Brassica spp. and rapeseed in control areas so as to protect against plant diseases, plant pests or other conditions as may constitute a menace to the horticultural, agricultural or forest industries of Oregon.

Stat. Auth.: ORS 561.190 & 570.450

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450
Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; AD 19-1991, f. & cert. ef. 12-5-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 3-2010, f. & cert. ef. 1-21-10; DOA 24-2012(Temp), f. & cert. ef. 8-10-12 thru 1-31-13; DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0861
General Production Area/Protected Districts

The seeding and growing of rapeseed by any person for any purpose in the state of Oregon shall be subject to the regulations of either the general production area or a protected district as described in these rules.

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405. 570.410–570.415 & 570.450
Stats. Implemented: ORS 570.405–570.415 & 570.450
Hist.: DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0862
Definitions

Unless the context requires otherwise, the following terms are defined as indicated:

(1) "Brassica spp." means any plants in the genus Brassica.

(2) "Cover crop brassica" means any species of brassica that is grown as a cover crop and is not allowed to flower.

(3) "Department" means the department of agriculture of the state of Oregon.

(4) "Director" means the director of the department or the Director's duly authorized representative.

(5) "Forage brassica" means any species of brassica that is grown for animal/livestock feed and is not allowed to flower.

(6) "Person" means an individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons having a joint or common interest, or any unit or agency of local, state, or federal government.

(7) "Producer" means any person who is the owner, tenant, or operator of land who has an interest in, and is entitled to receive all or any part of the proceeds from the sale of any commodity produced on that land.

(8) "Production Year" means the year in which the rapeseed crop is harvested.

(9) "Rapeseed " means plants of the species Brassica napus, Brassica rapa, Brassica juncea, or other brassica species grown for the purpose of edible or industrial oil production. Canola is a marketing term for some rapeseed crops and is included in this definition.

(10) "Vegetable Brassica spp." includes crops where the primary use is as a vegetable crop or as seed stock for planting. Species and common names for crops included in this category are Brassica napus (rutabaga, Siberian kale), B. rapa (turnip, turnip rapa, forage turnip, Napa or Chinese cabbage, Chinese flat cabbage, pak choi, pe-tsai, mizuna or mibuna, tendergreen mustard, and broccoli raab), B. juncea (Chinese mustard), B. oleracea (kale, collards, Chinese kale or Chinese broccoli or gai lan or kalian, cauliflower and heading broccoli, cabbage, brussel sprouts, kohl rabi and sprouting broccoli or calabrese) and B. carinata (Ethiopian mustard).

(11) "Field" For the purpose of this rule a field may include one or more contiguous plots of land managed as a single unit. These plots may be separated by an unimproved farm road, ditch or hedgerow.

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405. 570.410–570.415 & 570.450
Stats. Implemented: ORS 570.405–570.415 & 570.450
Hist.: DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0870
General Production Area

All lands in Oregon outside of protected districts constitute the General Production Area. Rapeseed production in the General Production Area is subject to the following best management practices:

(1) All rapeseed, cover crop brassica, and forage brassica seed stock that trades in commerce in the General Production Area must be accompanied by an official test stating that the untreated seed is free from blackleg (*Leptosphaeria maculans*); and

(2) All rapeseed, cover crop brassica, and forage brassica seed stock must also be treated prior to planting with a fungicide or treatment method approved for blackleg control.

(3) To prevent buildup of blackleg, blackrot, and other diseases and pests, oilseed or vegetable brassicas may not be grown on the same plot of land more than two years in every five.

(4) *Brassica* spp. crops grown in the General Production Area but transported into or through protected districts are subject to the transport requirements of the protected district through which the oilseed Brassica is transported.

Stat. Auth.: ORS 561.190 & 570.450
Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450
Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 24-2012(Temp), f. & cert. ef. 8-10-12 thru 1-31-13; DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0880
Protected Districts; Prohibitions

(1) Production of *Brassica* spp. seed crops requires special care and isolation. *Brassica* spp. may be grown within the following protected districts only in accordance with those rules governing each protected district. The following are protected districts:

(a) Willamette Valley Protected District;

(b) Central Oregon Protected District;

(c) Northeast Oregon Protected District;

(d) Malheur/Idaho Protected District.

(2) No person shall violate any provision of those rules governing each protected district.

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405. 570.410–570.415 & 570.450
Stats. Implemented: ORS 570.405–570.415 & 570.450
Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; AD 19-1991, f. & cert. ef. 12-5-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 1-2008, f. & cert. ef. 1-7-08; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 3-2010, f. & cert. ef. 1-21-10; DOA 24-2012(Temp), f. & cert. ef. 8-10-12 thru 1-31-13; DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0882
Willamette Valley Protected District

(1) The following area is designated as the Willamette Valley Protected Area: the area encompassed by a rectangle beginning at the northwest corner of Township 1N, Range 6W and proceeding east to the northeast corner of Township 1N, Range 2E, then south to the southeast corner of Township 19S, Range 2E, then west to the southwest corner of Township 19S, Range 6W, then north to the point of beginning. The Willamette Valley protected district boundaries were formed by giving consideration to the area historically pinned for Brassica spp. production (1995-2009) including a 3-mile wide buffer. This forms the rectangular shaped outer boundaries. See Figure 1.

(a) Rapeseed Exclusion Zone. The boundary of the Rapeseed Exclusion Zone is based upon consideration of the Willamette Valley Specialty Seed Association's pinning history for Brassica spp. seed production, recognizes the predominant historic footprint of Brassica spp. seed production between 1995 and 2012, and is identified by the solid purple area within the Willamette Valley Protected District. (See Figure 1.)

(2) Best Management Practices for All Brassica spp. The following best management practices apply to all Brassica spp. grown in the Willamette Valley Protected District except for Vegetable Brassicas grown as a vegetable crop:

(a) To prevent buildup of blackleg, blackrot, and other diseases and pests, Brassica spp. seed crops may not be grown on the same plot of land in two consecutive years and not more than two years in every five years;

(b) All Brassica spp. seed stock that trades in commerce in the protected district must be accompanied by an official test stating that the untreated seed was free from blackleg (Leptosphaeria maculans). In addition, after the official test, but prior to planting, the seed must be treated with a fungicide or treatment method approved for blackleg control (e.g. hot water);

(c) Cover crop and forage brassicas may be grown in the protected district provided these crops are not allowed to flower;

(d) All planting, harvest, and transportation equipment shall be cleaned to prevent any inadvertant spread of Brassica spp. from the field;

(e) Brassica producers shall be responsible for the removal of any inadvertent spread of seed or volunteer plants of Brassica spp. within a quarter mile of any plot of land utilized for Brassica spp. production during the year of production and the subsequent year. These plants must be controlled by the Brassica producer as soon as feasible prior to flowering or prior to April 15, whichever occurs first, and;

(f) All transport and handling of Brassica spp. within, into, or through the Willamette Valley Protected District shall be accomplished in suitably packaged, covered or sealed containers or vehicles to prevent the inadvertent spread of seed or production of volunteer plants and shall be limited to the following highways and the most direct routes to these highways: Interstate 5 and Highways 20, 22, 26, 27, 34, 47, 84, or 99.

(3) Additional Requirements for Production of Rapeseed. In addition to the requirements for growing and transporting Brassica spp., as specified in OAR 603-052-0882(2), any person seeking to grow rapeseed in the Willamette Valley Protected District must identify field locations for the growth of rapeseed outise of the the Rapeseed Exclusion Zone and must

obtain a Rapeseed Protected District Contract, a Research Permit, or a Variance from the Department.

(a) Rapeseed Exclusion Zone. No rapeseed may be grown within the Rapeseed Exclusion Zone described in OAR 603-02-0882 (1)(a.). Rapeseed is prohibited in this zone: See solid purple area on Figure 1.

(b) Rapeseed Protected District Contract. Any person seeking to grow rapeseed within the Willamette Valley Protected District but outside the Rapeseed Exclusion Zone must first enter into a Rapeseed Protected District Contract with the Department.

(c) Cap on Acreage. The total acreage of rapeseed in the Willamette Valley Protected District is limited to a maximum of 2,500 acres per production year. A minimum field size of 25 acres is required for the production of rapeseed.

(d) Allocation of Acres. For each production year, the Department will allocate acreages based on the number of acres requested. In the event that the combined cumulative total of requested acres exceeds the acreage cap of 2,500 acres, the Department will allocate acreage on a pro-rata basis consistent with the 25 acre field size minimum.

(4) Rapeseed Protected District Contract and Contract Terms. Any person seeking to grow rapeseed within the Willamette Valley Protected District must, before planting, enter into a Rapeseed Protected District Contract with the Department.

(a) Applications for a Rapeseed Protected District Contract must be in writing and directed to the Department's Plant Program Area.

(b) Any person applying for a Rapeseed Protected District Contract to grow rapeseed in the Willamette Valley Protected District must specify the location of those acres proposed for growing rapeseed.

(c) The Department will award contracts for planting by September 1 of each year for requests received on or before July 15 close of business.

(d) Each contract will describe the responsibilities and obligations of the producer.

(e) Contract terms may include but are not be limited to the following elements: disease and pest prevention requirements; planting, production, and transportation requirements; post-harvest management; volunteer prevention; cross-pollination prevention; approved production acreage; fees; spring vs. fall planting; duration of the contract; and prohibitions.

(f) Persons entering into a Rapeseed Protected District Contract with the Department are subject to a contract fee to cover the cost of enforcing or carrying out the Brassica spp. control area rules for the growth of rapeseed in the protected district pursuant to the Department's authority in ORS 570.412. The contract fee shall be established on a cost recovery basis and include the cost of processing applications for a Rapeseed Protected District Contract and monitoring rapeseed production within a protected district.

(5) Variances. At the request of any person seeking to grow rapeseed in the Willamette Valley Protected District, the Department may, after consultation with the Willamette Valley Specialty Seed Association, Specialty Seed Growers Association, Willamette Valley Oil Seed Growers Association, Oregon Clover Commission, and the Oregon Fresh Market Growers Association (OFMGA), grant a temporary one-year variance to the acreage cap provided only that the following factors are present:

(a) The acres proposed for a variance are located near the edges of the protected district and in such location as no other crops would be displaced or adversely affected by granting of a variance.

(b) If granted, a one-year variance is not subject to the acreage cap within the Willamette Valley Protected District.

(c) Growers receiving a variance must also enter into a Rapeseed Production Contract with the Department and pay all applicable fees as specified in the contract.

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405. 570.410–570.415 & 570.450
Stats. Implemented: ORS 570.405–570.415 & 570.450
Hist.: DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0884
Central Oregon Protected District

(1) The following area is designated as the Central Oregon Protected Area: the entire counties of Crook, Deschutes and Jefferson.

(2) Forage and cover crop rapeseed may be grown but shall not be allowed to flower.

(3) Rapeseed seed crops are prohibited in the Central Oregon Protected District except under Research Permit (see 603-052-0901(1)). All rapeseed grown under research permit must meet the following conditions:

(a) Within the Central Oregon Protected District the required isolation distance shall be not less than three miles;

(b) The location of all rapeseed fields must be recorded at the appropriate Oregon State University County Extension Office at least ten days prior to planting;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests rapeseed may not be grown on the same plot of land of land in two consecutive years and not more than two years in every five years;

(d) Rapeseed seed stock that trades in commerce in the protected district must be accompanied by an official test stating that the untreated seed was free from blackleg (Leptosphaeria maculans); the seed must also be treated (after the official test) prior to planting with a fungicide or treatment method approved for blackleg control;

(e) All planting, harvest, and transportation equipment shall be cleaned to prevent any inadvertant spread of rapeseed from the field;

(f) All unbagged loads of rapeseed transported within the protected district must be in enclosed bins or in containers lined and covered in a manner to prevent seed loss; and

(g) Any volunteer or uncontrolled rapeseed in or around production fields must be prevented from flowering by the producer.

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405. 570.410–570.415 & 570.450
Stats. Implemented: ORS 570.405–570.415 & 570.450
Hist.: DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0886
Northeast Oregon Protected District

(1) The following area is designated as the Northeast Oregon Protected District: the entire counties of Baker, Union and Wallowa, except the following part of Wallowa County which is designated as a general production area: Township 4N, Range 43E; Township 4N, Range 44E; Township 4N, Range 45E; Township 5N, Range 43E; Township 5N, Range 44E; and Township 5N, Range 45E; and those portions of Township 6N, Range 43E; Township 6N, Range 44E; and Township 6N, Range 45E falling within the State of Oregon.

(2) Forage and cover crop rapeseed may be grown but shall not be allowed to flower.

(3) Rapeseed seed crops are allowed in the Northeast Oregon Protected District subject to the following requirements:

(a) Within the Northeast Oregon Protected District the required isolation distance from any crops with which it could cross pollinate shall be not less than two miles;

(b) The location of all rapeseed fields must be recorded at the appropriate Oregon State University County Extension Office at least ten days prior to planting;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests rapeseed may not be grown on the same plot of land in two consecutive years and not more than two years in every five years;

(d) Rapeseed seed stock that trades in commerce in the protected district must be accompanied by an official test stating that the untreated seed was free from blackleg (Leptosphaeria maculans). After the official test, the seed must also be treated prior to planting with a fungicide or treatment method approved for blackleg control;

(e) All planting, harvest, and transportation equipment shall be cleaned to prevent any inadvertent spread of rapeseed from the field;

(f) All unbagged loads of rapeseed transported through or within the protected district must be in enclosed bins or in containers lined and covered in a manner to prevent seed loss; and

(g) Any volunteer or uncontrolled rapeseed in or around production fields must be prevented from flowering by the producer.

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405. 570.410–570.415 & 570.450
Stats. Implemented: ORS 570.405–570.415 & 570.450
Hist.: DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0888
Malheur/Idaho Protected District

(1) The following area is designated as the Malheur/Idaho Protected District: in Malheur County, a 3-mile wide strip of land along the Idaho border from the point where Payette County, Idaho's northern border intersects Malheur County's eastern border, south to the point where Highway 95 crosses the Oregon border. This strip of land borders Idaho's rapeseed production district IV (IDAPA 02.06.13) where rapeseed production is prohibited. The rest of Malheur Co. is a general production area.

(2) Forage and cover crop rapeseed may be grown but shall not be allowed to flower.

(3) Rapeseed seed crops are prohibited in the Malheur/Idaho Protected District.

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405. 570.410–570.415 & 570.450
Stats. Implemented: ORS 570.405–570.415 & 570.450
Hist.: DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0901
Research, Summary, Changes

(1) Research Permits. The Department may issue research permits in any protected district providing exemptions to the rapeseed control area rules for the purpose of research. Research plots under permit are not subject to the acreage cap within the Willamette Valley Protected District. Persons requesting a research permit shall petition the Department in writing and include the following:

(a) Research must include the involvement of an accredited university;

(b) All applicable conditions of rapeseed production must be met including pinning of fields;

(c) The Director retains the final authority to approve or deny research permit requests. Any action under a research permit shall be subject to any conditions or restrictions set forth in the permit, and these conditions and restrictions may vary depending on the proposed action and its potential risk.

(2) Summary. The Department will maintain a summary of rapeseed fields produced under contract or research permit with the Department including locations of acres planted, number of acres planted, dates planted, and contact persons.

(3) Changes to Rapeseed Control Area Rules. Interested persons may petition the Department to amend or repeal these rules, including designation changes creating or removing protected district status, by following the procedures in the Administrative Procedures Act, ORS 183.390.

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405. 570.410–570.415 & 570.450
Stats. Implemented: ORS 570.405–570.415 & 570.450
Hist.: DOA 1-2013, f. & cert. ef. 2-6-13

603-052-0921
Violations

(1) No person shall violate any control area rule or any Rapeseed Production Contract term governing the production of rapeseed in Oregon.

(2) Consistent with ORS 561.280 and ORS 570.405 and in addition to any other lawful remedy, the Director may bring an action to enjoin the violation or threatened violation of any provision of ORS 570.405 and ORS 570.450 or its rules, or violation of any Rapeseed Production Contract entered into by an applicant and the department. Such action may be filed in the circuit court of Marion County or in the county in which the violation or threatened violation occurs or is about to occur. Consistent with applicable law, the relief requested may include, but is not limited to, an order for summary destruction of any rapeseed crop.

(3) Notice of Noncompliance and Plan of Correction. In addition to, or in lieu of, any action to enjoin enforcement of the terms of a Rapeseed Production Contract, the Director may issue a Notice of Noncompliance and Plan of Correction to any person.

(a) A Notice of Noncompliance informs the person to whom the notice is directed of the violation, including a reference to the particular statute, administrative rules or contract term involved, and the location of the violation;

(b) A Plan of Correction directs the person to whom the plan of correction is directed to perform those actions necessary to comply with the particular statute, administrative rules or contract terms involved;

(A) Specifies a reasonable period of time by which compliance is to be achieved not to exceed five (5) calendar days after the notice is received;

(B) May include requirements for the person to whom the plan of correction is directed to report the completion of specific actions;

(c) A Notice of Noncompliance and Plan of Correction is issued by the Director, is an order other than contested case for purposes of judicial review, and must be served personally or by registered or certified mail.

(d) Failure to perform any of the requirements of a Plan of Correction may be considered by the Director as a failure to correct the violation within the period of time set for correction by the Director in the Notice of Noncompliance and Plan of Correction and may result in any lawful enforcement including, but not limited to, those remedies described in subsection (2) of this section.

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405. 570.410–570.415 & 570.450
Stats. Implemented: ORS 570.405–570.415 & 570.450
Hist.: DOA 1-2013, f. & cert. ef. 2-6-13

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Rule Caption: Establishes schedule of civil penalties for violations of various food safety laws and rules.
Adm. Order No.: DOA 2-2013
Filed with Sec. of State: 2-7-2013
Certified to be Effective: 2-7-13
Notice Publication Date: 11-1-2012
Rules Adopted: 603-013-0905, 603-013-0910, 603-013-0920, 603-013-0932, 603-017-0900, 603-017-0910, 603-017-0920, 603-017-0930, 603-021-0900, 603-021-0910, 603-021-0920, 603-021-0930, 603-022-0900, 603-022-0910, 603-022-0920, 603-022-0930, 603-024-0900, 603-024-0910, 603-024-0920, 603-024-0930, 603-025-0900, 603-025-0910, 603-025-0920, 603-025-0930, 603-028-0900, 603-028-0910, 603-028-0920, 603-028-0930, 603-100-0900, 603-100-0910, 603-100-0920, 603-100-0930
Subject: The rules create schedules of civil penalties that the Department of agriculture may impose when a person fails to comply with statutes or rules relating to various food safety issues. Civil penalty schedules are added to OAR Chapter 603, Divisions 13 (Slaughtering Establishments), 17 (Refrigerated Lockers), 21 (Bakeries and Nonalcoholic Beverages), 22 (Eggs), 24 (Definitions and Standards of Identity, Labeling and Other Regulations Relating to Fluid Milk and Dairy Products, 25 (Food Establishment Standards and Standards for Retail Service, 28 (Meat Products and Establishments) and 100 (Shellfish Sanitation). Penalties imposed will comply with ORS 183.745, except that any written application for a hearing must be received by the Department no later than 10 days after notice of a penalty. No penalty may exceed $10,000. Penalties are based on a monetary range that increases with the risk to public health, or in situations that make regulatory oversight impossible for the Department. To determine penalty amounts the Department will consider the gravity of the violation, past violations, and other mitigating circumstances.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-013-0905
Purpose

The Oregon Department of Agriculture Food Safety Program licenses and inspects all facets of Oregon's food distribution system, except restaurants, to ensure food is safe for consumption. Education and technical assistance are vital to the prevention, correction, and abatement of food safety violations, and are preferred over regulatory action. However, regulatory action may be necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. The Department intends to initiate civil penalty actions when educational measures, technical assistance, warning letters, compliance agreements or other remedial measures fail to achieve compliance.

Stat. Auth.: ORS 561.190, 603.995 & 619.996
Stat. Implemented: ORS 603.995 & 619.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-013-0910
Definitions

As used in OAR 603-013-0920 through 603-100-0930, unless otherwise required by the context, the following terms will be construed to mean:

(1) "Department" means the Oregon Department of Agriculture.

(2) "Interference" means hindering or impeding an activity or process, which includes, but is not limited to any harassment, unreasonable delay, threat, concealment, deceit, or obstruction.

(3) "Major," with respect to violations, means an incident, or series of incidents that cause a reasonable probability that serious adverse health consequences or death will occur.

(4) "Minor," with respect to violations, means an incident, or series of incidents that are not likely to cause adverse health consequences.

(5) "Moderate," with respect to violations, means an incident, or series of incidents that may cause temporary or medically reversible adverse health consequences, or where the probability of serious adverse health consequences is remote.

(6) "Repeat violation" means the recurrence of the same violation for each 24-hour period after a notice of noncompliance or assessment of civil penalty was issued within the preceding three years. It does not include a violation if the previous notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(7) "Same," with respect to violations, means an identical recurrence, exact repetition, or a continuation of a previous violation.

(8) "Violation" means the failure to comply with any requirement of ORS Chapter 603 or 619 or any rule adopted thereunder.

Stat. Auth.: ORS 561.190, 603.995 & 619.996
Stat. Implemented: ORS 603.995 & 619.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-013-0920
Schedule of Civil Penalties

(1) Operating an animal food slaughtering establishment or processing establishment without first obtaining a license therfor from the Department as required in ORS 619.031. Penalty — $5,000 to $10,000.

(2) Violation of ORS 619.031(7) by a person licensed under ORS 619.031(1)–(5). Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000;

(c) Major — $7,000 to $10,000.

Stat. Auth.: ORS 561.190, 603.995 & 619.996
Stat. Implemented: ORS 603.995 & 619.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-013-0932
Penalty factors; procedure

(1) In imposing a penalty pursuant to OAR 603-013-0910, the Department shall consider the following factors, which are listed in prioritized order:

(a) The immediacy and extent to which the violation threatens the public health or safety.

(b) Any prior violations of statutes, rules or orders pertaining to meat or meat related activities.

(c) The past history of the person incurring the penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(d) The economic and financial conditions of the person incurring the penalty, including any financial gains resulting from the violation.

(2) Each 24-hour period a violation continues after the period of time established for compliance will be considered a separate violation unless the Department finds a different period of time is more appropriate to describe the specific violation event.

(3) Repeat violations of OAR 603-013-0910 will be assessed as three times the penalty amount in OAR 603-013-0910, not to exceed $10,000.

(4) A civil penalty imposed under this rule will comply with ORS 183.745, except that the written application for a hearing must be received by the Department no later than 10 days after the mailing or personal service of the notice of civil penalty.

Stat. Auth.: ORS 561.190, 603.995 & 619.996
Stat. Implemented: ORS 603.995 & 619.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-017-0900
Purpose

The Oregon Department of Agriculture Food Safety Program licenses and inspects all facets of Oregon's food distribution system, except restaurants, to ensure food is safe for consumption. Education and technical assistance are vital to the prevention, correction, and abatement of food safety violations, and are preferred over regulatory action. However, regulatory action may be necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. The Department intends to initiate civil penalty actions when educational measures, technical assistance, warning letters, compliance agreements or other remedial measures fail to achieve compliance.

Stat. Auth.: ORS 561.190, 628.350, 628.995
Stat. Implemented: ORS 628.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-017-0910
Definitions

As used in OAR 603-017-0920 through 603-017-0930, unless otherwise required by the context, the following terms will be construed to mean:

(1) "Department" means the Oregon Department of Agriculture.

(2) "Interference" means hindering or impeding an activity or process, which includes, but is not limited to any harassment, unreasonable delay, threat, concealment, deceit, or obstruction.

(3) "Major," with respect to violations, means an incident, or series of incidents that cause a reasonable probability that serious adverse health consequences or death will occur.

(4) "Minor," with respect to violations, means an incident, or series of incidents that are not likely to cause adverse health consequences.

(5) "Moderate," with respect to violations, means an incident, or series of incidents that may cause temporary or medically reversible adverse health consequences, or where the probability of serious adverse health consequences is remote.

(6) "Repeat violation" means the recurrence of the same violation for each 24-hour period after a notice of noncompliance or assessment of civil penalty was issued within the preceding three years. It does not include a violation if the previous notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(7) "Same," with respect to violations, means an identical recurrence, exact repetition, or a continuation of a previous violation.

(8) "Violation" means the failure to comply with any requirement of ORS 628.210 to 628.370 or any rule adopted thereunder.

Stat. Auth.: ORS 561.190, 628.350, 628.995
Stat. Implemented: ORS 628.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-017-0920
Schedule of Civil Penalties

In addition to any penalty available under ORS 561.190 or 628.990, the Department may impose a civil penalty with respective amounts for:

(1) Owning, operating, or offering the services of any refrigerated locker plant without obtaining a license as explained in ORS 628.220 for each place of business from the Department. Penalty — $5,000 to $10,000.

(2) Failure to conspicuously display the license in the licensed plant at all times pursuant to ORS 628.220. Penalty — $100.

(3) Operating a refrigerated locker business at any address other than the address stated in the application submitted pursuant to ORS 628.230. Penalties:

(a) Minor — $100 to $3,500;

(b) Moderate — $3,501 to $7,000; or

(c) Major — $7,001 to $10,000.

(4) Permitting a person who has a communicable or infectious disease to work in or about any refrigerated locker plant, or to handle any food in connection with the operation of such plant in violation of ORS 628.270(2). Penalty — $500 to $5,000.

(5) Interference with a lawful inspection under authority of ORS 628.280. Penalty — $5,000 to $10,000.

(6) Failure to maintain sanitary and safety requirements of ORS 628.290. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(7) Failure to maintain adequate equipment, temperatures, or records as required in ORS 628.300. Penalty — $500 to $5,000.

(8) Failure to use nontoxic ink or other harmless substance to apply marks directly to meat or other food products as explained in ORS 628.310. Penalty — $100 to $5,000.

(9) Failure to identify any fresh carcass meats with a suitable tag or stamp, and place all meats that have not been previously chilled in a chill room for at least 24 hours before removal to the cutting room as explained in ORS 628.330. Penalty — $100 to $5,000.

(10) Failure to handle fish and wild game consistent with the provisions of ORS 628.340. Penalty — $500 to $5,000.

Stat. Auth.: ORS 561.190, 628.350, 628.995
Stat. Implemented: ORS 628.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-017-0930
Penalty Factors; Procedure

(1) In imposing a penalty pursuant to the schedule adopted pursuant to ORS 628.995, the Department shall consider the following factors, which are listed in prioritized order:

(a) The immediacy and extent to which the violation threatens the public health or safety.

(b) Any prior violations of statutes, rules or orders pertaining to refrigerated locker plants.

(c) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(d) The economic and financial conditions of the person incurring the penalty, including any financial gains resulting from the violation.

(2) Each 24-hour period a violation continues after the period of time established for compliance will be considered a separate violation unless the Department finds a different period of time is more appropriate to describe the specific violation event.

(3) Repeat violations of OAR 603-017-0910 will be assessed as three times the penalty amount in OAR 603-017-0910, not to exceed $10,000.

(4) A civil penalty imposed under this rule will comply with ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the mailing or personal service of the notice of civil penalty.

Stat. Auth.: ORS 561.190, 628.350, 628.995
Stat. Implemented: ORS 628.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-021-0900
Purpose

The Oregon Department of Agriculture Food Safety Program licenses and inspects all facets of Oregon's food distribution system, except restaurants, to ensure food is safe for consumption. Education and technical assistance are vital to the prevention, correction, and abatement of food safety violations, and are preferred over regulatory action. However, regulatory action may be necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. The Department intends to initiate civil penalty actions when educational measures, technical assistance, warning letters, compliance agreements or other remedial measures fail to achieve compliance.

Stat. Auth.: ORS 561.190, 625.995 & 635.995
Stat. Implemented: ORS 625.995 & 635.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-021-0910
Definitions

A bakery is subject to the definitions set forth in ORS Chapter 625, and OAR 603-025-0010. As used in OAR 603-021-0920 through 603-021-0930, unless otherwise required by the context, the following terms will be construed to mean:

(1) "Interference" means hindering or impeding an activity or process, which includes, but is not limited to any harassment, unreasonable delay, threat, concealment, deceit, or obstruction.

(2) "Major," with respect to violations, means an incident, or series of incidents that cause a reasonable probability that serious adverse health consequences or death will occur.

(3) "Minor," with respect to violations, means an incident, or series of incidents that are not likely to cause adverse health consequences.

(4) "Moderate," with respect to violations, means an incident, or series of incidents that may cause temporary or medically reversible adverse health consequences, or where the probability of serious adverse health consequences is remote.

(5) "Repeat violation" means the recurrence of the same violation for each 24-hour period after a notice of noncompliance or assessment of civil penalty was issued within the preceding three years. It does not include a violation if the previous notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(7) "Same," with respect to violations, means an identical recurrence, exact repetition, or a continuation of a previous violation.

(8) "Violation" means the failure to comply with any requirement of ORS 625.010 to 625.270 or Chapter 635, or any rule adopted thereunder.

Stat. Auth.: ORS 561.190, 625.995 & 635.995
Stat. Implemented: ORS 625.995 & 635.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-021-0920
Schedule of Civil Penalties

In addition to any penalty available under ORS 561.190 or 635.991, the Department may issue civil penalties with respective amounts for:

(1) Operating or participating in the operation of any bakery within this state without a license for that bakery pursuant to ORS 625.020(1). Penalties:

(a) Minor — $2,000 to $6,000;

(b) Moderate — $6,001 to $8,000; or

(c) Major — $8,001 to $10,000.

(2) Failure to display the numbered license certificate in a licensed bakery in accordance with ORS 625.070. Penalty — $100.

(3) Engaging within this state in the sale or distribution of any bakery product, other than exclusively as a retail food store or otherwise at retail at a fixed place or places of business, without holding a license so to do issued to that person by the Department pursuant to ORS 625.080. Penalties:

(a) Minor — $2,500 to $5,000;

(b) Moderate — $5,001 to $7,500; or

(c) Major — $7,501 to $10,000.

(4) Failure to display the numbered license certificate of a distributor licensed in accordance with ORS 625.120. Penalty — $100.

(5) Interference with a lawful inspection authorized under ORS 625.140. Penalty — $5,000 to $10,000.

(6) Violation of ORS 625.215, relating to prohibited bakery products. Penalties:

(a) Minor — $100 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(7) Violation of labeling standards in OAR 603-021-0015. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(8) Failure to meet the standard of identity for Bakery Products, cereal flours and related products with an established state or federal standard of identity as explained in ORS 616.780. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(9) Operating or engaging in the business of a nonalcoholic beverage manufacturer without first obtaining and thereafter maintaining a license, or renewal thereof, from the Department pursuant to ORS 635.027. Penalty — $5,000 to $10,000.

(10) Failure to maintain adequate sanitation or other measures as described in OAR 603-021-0007, 603-021-0010, 603-021-0710, or 603-021-0720 to 603-021-0750. Penalty — $500 to $5,000.

(11) Failure to maintain adequate facilities as described in OAR 603-021-0715. Penalty — $500 to $5,000.

(12) Labeling carbonated beverages, still drinks, or mineral waters inconsistent with the provisions of OAR 603-021-0755. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

Stat. Auth.: ORS 561.190, 625.995 & 635.995
Stat. Implemented: ORS 625.995 & 635.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-021-0930
Penalty factors; procedure

(1) In imposing a penalty pursuant to the schedule adopted under ORS 625.995 or 635.995, the Department shall consider the following factors, which are listed in prioritized order:

(a) The immediacy and extent to which the violation threatens the public health or safety.

(b) Any prior violations of statutes, rules or orders pertaining to Bakeries, Bakery Products, or Nonalcoholic Beverages.

(c) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(d) The economic and financial conditions of the person incurring the penalty, including any financial gains resulting from the violation.

(2) Each 24-hour period a violation continues after the period of time established for compliance will be considered a separate violation unless the Department finds a different period of time is more appropriate to describe the specific violation event.

(3) Repeat violations of OAR 603-021-0910 will be assessed as three times the penalty amount in OAR 603-021-0910, not to exceed $10,000.

(4) A civil penalty imposed under this rule will comply with ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the mailing or personal service of the notice of civil penalty.

Stat. Auth.: ORS 561.190, 625.995 & 635.995
Stat. Implemented: ORS 625.995 & 635.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-022-0900
Purpose

The Oregon Department of Agriculture Food Safety Program licenses and inspects all facets of Oregon's food distribution system, except restaurants, to ensure food is safe for consumption. Education and technical assistance are vital to the prevention, correction, and abatement of food safety violations, and are preferred over regulatory action. However, regulatory action may be necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. The Department intends to initiate civil penalty actions when educational measures, technical assistance, warning letters, compliance agreements or other remedial measures fail to achieve compliance.

Stat. Auth.: ORS 561.190, 632.995
Stat. Implemented: ORS 632.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-022-0910
Definitions

As used in OAR 603-022-0920 through 603-022-0930, unless otherwise required by the context, the following terms will be construed to mean:

(1) "Department" means the Oregon Department of Agriculture.

(2) "Federal Act" has the meaning in ORS 632.705(12).

(3) "Interference" means hindering or impeding an activity or process, which includes, but is not limited to any harassment, unreasonable delay, threat, concealment, deceit, or obstruction.

(4) "Major," with respect to violations, means an incident, or series of incidents that cause a reasonable probability that serious adverse health consequences or death will occur.

(5) "Minor," with respect to violations, means an incident, or series of incidents that are not likely to cause adverse health consequences.

(6) "Moderate," with respect to violations, means an incident, or series of incidents that may cause temporary or medically reversible adverse health consequences, or where the probability of serious adverse health consequences is remote.

(7) "Repeat violation" means the recurrence of the same violation for each 24-hour period after a notice of noncompliance or assessment of civil penalty was issued within the preceding three years. It does not include a violation if the previous notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(8) "Same," with respect to violations, means an identical recurrence, exact repetition, or a continuation of a previous violation.

(9) "Violation" means the failure to comply with any requirement of ORS 632.705 to 632.815, or any rules adopted thereunder.

Stat. Auth.: ORS 561.190, 632.995
Stat. Implemented: ORS 632.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-022-0920
Schedule of Civil Penalties

In addition to any penalty available under ORS 561.190, 632.990, or 619.993 the Department may impose a civil penalty with respective amounts for:

(1) Violation of the licensing requirements of ORS 632.715(1). Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(2) Failure to conspicuously display original or duplicate licenses as required in ORS 632.715(3). Penalty — $100.

(3) Engaging in the commercial breaking of eggs for the purpose of recovering therefrom, for human food, the whites, yolks or whole egg meats, or any part thereof, for resale as such, without first obtaining from the Department of Agriculture a permit to do so pursuant to ORS 632.730. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000

(4) Failure to pay a fee or fees pursuant to ORS 632.741. Penalty — $1,000 to $5,000.

(5) Failure to meet the invoicing requirements or record retention requirements of ORS 632.745. Penalty — $500 to $5,000.

(6) Failure to construct, maintain and utilize plant facilities and equipment utilized in processing eggs or egg products in accordance with the rules promulgated under the federal Act or promulgated by the Department. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000

(7) Interference with a lawful inspection authorized under ORS 632.761(1). Penalty — $5,000 to $10,000.

(8) Interference with the seizure, embargo or detention, in accordance with the provisions of ORS 561.605 to 561.630, of any eggs or egg products determined to be in violation of the provisions of ORS 632.705 to 632.815 or rules promulgated pursuant thereto. Penalty — $5,000 to $10,000.

(9) Interference with condemnation in accordance with the provisions of ORS 616.740, of any plant premises, facilities, equipment, containers or vehicles determined to be in violation of the provisions of ORS 632.705 to 632.815 or rules promulgated pursuant thereto. Penalty — $5,000 to $10,000.

(10) Violation of the labeling or advertising requirements of ORS 632.771. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(11) Selling eggs for human consumption in previously used consumer containers bearing the brand, trademark or officially designated number of another egg handler, unless the same is removed or defaced as explained in ORS 632.786(1). Penalty — $100 to $5,000.

(12) As a retailer, selling eggs from a bulk display without displaying the placard required by ORS 632.771(3). Penalty — $100 to $5,000.

(13) Delivering or selling eggs for human consumption that have been incubated or have been in either an artificial or natural incubator as explained in ORS 632.786(6). Penalty — $100 to $5,000.

(14) Delivering or selling for human consumption ova from slaughtered birds of any species as explained in ORS 632.786(7). Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(15) Selling any eggs or egg products that are adulterated or misbranded as explained in ORS 632.786(8). Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(16) Selling any eggs as fresh eggs unless they are of the quality or grade prescribed for fresh eggs by the Department or the Federal Act as explained in ORS 632.786(9). Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(17) Selling egg products for human consumption that have not been pasteurized, or as a food processor purchasing egg products that have not been pasteurized as explained in ORS 632.786(10). Penalty — $1,000 to $5,000.

(18) Advertising eggs or egg products in violation of the standards or requirements prescribed by the Department as explained in ORS 632.786(11). Penalty — $1,000 to $5,000.

(19) Using containers in the bulk sale of eggs that bear the trademark of another egg handler without the consent of the registrant of such trademark as explained in ORS 632.786(12). Penalty — $1,000 to $5,000.

(20) Failure to maintain sanitation standards of OAR 603-022-0500 through 603-022-0545, relating to egg candling and grading facilities and establishments. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Minor — $7,001 to $10,000.

Stat. Auth.: ORS 561.190, 632.995
Stat. Implemented: ORS 632.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-022-0930
Penalty factors; procedure

(1) In imposing a penalty pursuant to the schedule adopted pursuant to ORS 632.995, the Department shall consider the following factors, which are listed in prioritized order:

(a) The immediacy and extent to which the violation threatens the public health or safety.

(b) Any prior violations of statutes, rules or orders pertaining to eggs.

(c) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(d) The economic and financial conditions of the person incurring the penalty, including any financial gains resulting from the violation.

(2) Each 24-hour period a violation continues after the period of time established for compliance will be considered a separate violation unless the Department finds a different period of time is more appropriate to describe the specific violation event.

(3) Repeat violations of OAR 603-022-0910 will be assessed as three times the penalty amount in OAR 603-022-0910, not to exceed $10,000.

(4) A civil penalty imposed under this rule will comply with ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the mailing or personal service of the notice of civil penalty.

Stat. Auth.: ORS 561.190, 632.995
Stat. Implemented: ORS 632.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-024-0900
Purpose

The Oregon Department of Agriculture Food Safety Program licenses and inspects all facets of Oregon's food distribution system, except restaurants, to ensure food is safe for consumption. Education and technical assistance are vital to the prevention, correction, and abatement of food safety violations, and are preferred over regulatory action. However, regulatory action may be necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. The Department intends to initiate civil penalty actions when educational measures, technical assistance, warning letters, compliance agreements or other remedial measures fail to achieve compliance.

Stat. Auth.: ORS 561.190 & 621.995
Stat. Implemented: ORS 621.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-024-0910
Definitions

As used in OAR 603-024-0920 through 603-024-0930, unless otherwise required by the context, the following terms will be construed to mean:

(1) "Interference" means hindering or impeding an activity or process, which includes, but is not limited to any harassment, unreasonable delay, threat, concealment, deceit, or obstruction.

(2) "Major," with respect to violations, means an incident, or series of incidents that cause a reasonable probability that serious adverse health consequences or death will occur.

(3) "Minor," with respect to violations, means an incident, or series of incidents that are not likely to cause adverse health consequences.

(4) "Moderate," with respect to violations, means an incident, or series of incidents that may cause temporary or medically reversible adverse health consequences, or where the probability of serious adverse health consequences is remote.

(5) "Repeat violation" means the recurrence of the same violation for each 24-hour period after a notice of noncompliance or assessment of civil penalty was issued within the preceding three years. It does not include a violation if the previous notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(6) "Same," with respect to violations, means an identical recurrence, exact repetition, or a continuation of a previous violation.

(8) "Violation" means the failure to comply with any requirement of ORS 621.056, 621.057, 621.062, 621.070, 621.072, 621.076, 621.084, 621.088, 621.117, 621.122, 621.124, 621.161, 621.166, 621.183, 621.198, 621.207, 621.226, 621.259, 621.335, 621.340, 621.345, 621.418, 621.445 or 621.730, or any rules, regulations or standards adopted under ORS 621.060, 621.083, 621.096, 621.224 or 621.261.

Stat. Auth.: ORS 561.190 & 621.995
Stat. Implemented: ORS 621.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-024-0920
Schedule of Civil Penalties

In addition to any penalty available under ORS 561.190 or 621.991, the Department may impose a civil penalty with respective amounts for:

(1) Failure by a distributor, producer-distributor or dairy products plant licensee to employ a grader that accurately and impartially grades all milk or fluid milk purchased by the distributor, producer-distributor or licensee from producers before it is commingled with other milk or otherwise loses its identity pursuant to ORS 621.056. Penalty — $1,000 to $5,000.

(2) Violation of the grader recording requirements in ORS 621.057. Penalty — $100 to $5,000.

(3) The processing, distribution, sale or offer or exposure for sale fluid milk that does not conform to a standard of identity established by the Department as explained in ORS 621.062. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(4) The use of any grade designation on bottle caps, in advertising, on labels or in any other manner connected with the sale of fluid milk without a Department license for the person to use the grade designation as explained in ORS 621.070. Penalty — $5,000 to $10,000.

(5) Failure to obtain a license as required in ORS 621.072(2). Penalty — $5,000 to $10,000.

(6) Failure to obtain a license as required in ORS 621.072(4). Penalty — $1,000 to $5,000.

(7) Interference with a lawful inspection as authorized under ORS 621.072(5). Penalty — $5,000 to $10,000.

(8) Knowingly misrepresenting the annual gross dollar volume of sales and services by a license applicant within Oregon during the prior calendar year or, if the applicant maintains sales and service records on a fiscal basis, the prior fiscal year, for the requirements of ORS 621.072 or 621.166. Penalty — $1,000 to $5,000.

(9) Violation of the requirements of ORS 621.076(1), relating to container labeling. Penalty — $5,000 to $10,000.

(10) Bottling unpasteurized fluid milk off of the premises where it is produced as explained in ORS 621.076(2). Penalty — $5,000 to $10,000.

(11) A producer or producer-distributor selling or offering for sale fluid milk during the period that the license of the producer or producer-distributor to use a grade designation on fluid milk has been suspended under ORS 621.072 or 621.073. Penalty — $5,000 to $10,000.

(12) A distributor knowingly purchasing fluid milk from any person whose license to use a grade designation has been suspended under ORS 621.072 or 621.073. Penalty — $5,000 to $10,000.

(13) A distributor knowingly purchasing fluid milk from any person other than a person licensed under ORS 621.072. Penalty — $5,000 to $10,000.

(14) Violation of the labeling requirements of ORS 621.076(6). Penalty — $1,000 to $5,000.

(15) A distributor, producer-distributor, dairy products plant licensee or any other purchaser of milk from producers failing to weigh, sample and test fluid milk purchased by them from producers in the same manner as milk and cream are weighed, sampled and tested under ORS 621.096. Penalty — $1,000 to $5,000.

(16) Violation of ORS 621.088, relating to milk or cream to which water has been added. Penalty — $5,000 to $10,000.

(17) Violation of ORS 621.117, relating to pasteurized milk and disease-free goat and sheep herds. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(18) Operating or permitting the operation of any pasteurization equipment except under the direct personal supervision of a person licensed as a pasteurizer operator under ORS 621.266. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(19) A distributor, producer-distributor or dairy products plant licensee selling, offering or exposing for sale any milk or cream that has not been pasteurized or produced by a disease-free goat or sheep herd, except to another distributor, producer-distributor or dairy products plant licensee for the manufacture of milk, fluid milk or dairy products as explained in ORS 621.122(2). Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(20) Except as permitted by ORS 621.003, 621.012, 621.060 and 621.076, a person knowingly selling, offering or exposing for sale any milk or cream that has not been pasteurized or produced by a disease-free goat or sheep herd, except to a distributor, producer-distributor or dairy products plant licensee for the manufacture of milk, fluid milk or dairy products as explained in ORS 621.122(3). Penalty — $8,000 to $10,000.

(21) A distributor, producer-distributor or dairy products plant licensee selling, offering or exposing for sale any milk, fluid milk or dairy product processed or manufactured by the distributor, producer-distributor or licensee without all of the milk or cream constituents from cows having been pasteurized and all milk or cream constituents from goats or sheep were produced by a disease-free herd or have been pasteurized as explained in ORS 621.122(4). Penalty — $5,000 to $10,000.

(22) A person knowingly selling, offering or exposing for sale any dairy product without all of the milk or cream constituents of the product from cows have been pasteurized and all constituents from goats or sheep were produced by a disease-free herd or have been pasteurized as explained in ORS 621.122(5). Penalty — $8,000 to $10,000.

(23) A person falsely representing by word, design, device or by any other means that any milk, cream, fluid milk, dairy product, frozen dessert mix or frozen dessert has been pasteurized as explained in ORS 621.122(7). Penalty — $5,000 to $10,000.

(24) A distributor, producer-distributor or dairy products plant licensee failing to provide for the grading of all milk transported, received or purchased by the distributor, producer-distributor or licensee as required by

ORS 621.056, 621.057, 621.084 and 621.226 and regulations adopted under ORS 621.096. Penalty — $1,000 to $5,000.

(25) A person altering, removing or tampering with any condemnation tag affixed by the Department or a grader pursuant to the provisions of ORS 621.203 or 621.226. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(26) Violations of the requirements of ORS 621.122(10), relating to sampling, weighing, and testing milk or cream. Penalty — $500 to $5,000.

(27) A person selling or offering or exposing for sale any fluid milk with knowledge that the milk has been produced from a herd of cows, sheep or goats, one or more of which were infected with brucellosis at the time the milk was produced, or with knowledge that not all the animals in the herd have been tested or retested for brucellosis in a manner approved by the Department as explained in ORS 621.124. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(28) Operating a dairy products plant without a valid license for that plant as explained in ORS 622.161. Penalty — $5,000 to $10,000.

(29) Violation of the license requirements of ORS 621.166. Penalty — $5,000 to $10,000.

(30) A person operating a dairy products plant or a physical facility of a distributor or producer-distributor that fails to conform to the standards prescribed pursuant to ORS 621.176 and 621.181, relating to disease and contamination prevention. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(31) A producer storing milk that is to be sold to a dairy products plant or to be used at a physical facility of a distributor or producer-distributor, in bulk storage tanks, equipment, buildings or other facilities that do not conform to the standards prescribed pursuant to ORS 621.193. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(32) A distributor, producer-distributor or dairy products plant licensee receiving or purchasing milk from a producer, that is stored in bulk storage tanks, equipment, buildings or other facilities that do not conform to the standards prescribed pursuant to ORS 621.193. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(33) A person other than an authorized employee or agent of the Department removing a condemnation tag or marking from a container as explained in ORS 621.207(1). Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(34) A person placing any fluid milk, cream, milk or dairy product in a container bearing a condemnation tag or marking as explained in ORS 622.207(2). Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(35) A person using the contents of a container that has been condemned to manufacture, process or bottle fluid milk, cream, milk or dairy products as explained in ORS 622.207(3). Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(36) Failure of a grader to affix a condemnation tag and mix sufficient harmless red coloring matter with any milk, cream, dairy product or fluid milk when the milk, cream, dairy product or fluid milk is unlawful as described in ORS 621.226(2). Penalty — $500 to $5,000.

(37) Operating pasteurization equipment used by a distributor or producer-distributor or at a dairy products plant, and the distributor, producer-distributor or dairy products plant licensee fails to ensure that the pasteurization process is under the direct supervision of a pasteurizer operator licensed under ORS 621.266. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(38) A person engaging in the business of freezing or making frozen desserts and then selling those frozen desserts at wholesale without a license to carry on that business from the Department. Penalty — $5,000 to $10,000.

(39) A frozen dessert wholesaler selling, offering for sale or possessing with intent to sell a frozen dessert or frozen dessert mix that has an excessive bacteria count as established by rule of the Department. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(40) A person selling or offering for sale any product that the person represents to be a frozen dessert or that simulates or imitates the taste, texture or general composition of a frozen dessert unless the product conforms to the standard of identity for that frozen dessert established by rule of the Department pursuant to ORS 621.311. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(41) A person selling or offering for sale an imitation milk product that does not conform to a standard of quality and identity established by the Department as explained in ORS 621.418. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(42) Violation of ORS 621.445(1), relating to colored butter substitutes in any public eating place. Penalty — $100 to $500.

(43) A milk handler, dealer, licensee or purchaser of milk terminating or threatening to terminate the purchase of milk from a producer or seller, or taking or threatening to take other retaliatory action against a producer or seller of milk, because the producer or seller has exercised rights and privileges as authorized in ORS Chapter 621. Penalty — $1,000 to $5,000.

(44) Selling or offering for sale imitation milk products in the final delivery container that contain more than 20,000 bacteria per milliliter, 10 coliform per milliliter, or whose temperature exceeds 45 degrees Fahrenheit. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(45) Failure to maintain sanitation standards of OAR 603-024-0095. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(46) Violation of OAR 603-024-0379, relating to grading period of milk. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(47) Violation of OAR 603-024-0641, relating to transportation of milk and milk products. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

Stat. Auth.: ORS 561.190 & 621.995

Stat. Implemented: ORS 621.995

Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-024-0930

Penalty factors; procedure

(1) In imposing a penalty pursuant to the schedule adopted pursuant to ORS 621.995, the Department shall consider the following factors, which are listed in prioritized order:

(a) The immediacy and extent to which the violation threatens the public health or safety.

(b) Any prior violations of statutes, rules or orders pertaining to milk, dairy products or substitutes thereof.

(c) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(d) The economic and financial conditions of the person incurring the penalty, including any financial gains resulting from the violation

(2) Each 24-hour a violation continues after the period of time established for compliance will be considered a separate violation unless the Department finds a different period of time is more appropriate to describe the specific violation event.

(3) Repeat violations of OAR 603-024-0910 will be assessed as three times the penalty amount in OAR 603-024-0910, not to exceed $10,000.

(4) A civil penalty imposed under this rule will comply with ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the mailing or personal service of the notice of civil penalty.

Stat. Auth.: ORS 561.190 & 621.995
Stat. Implemented: ORS 621.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-025-0900
Purpose

The Oregon Department of Agriculture Food Safety Program licenses and inspects all facets of Oregon's food distribution system, except restaurants, to ensure food is safe for consumption. Education and technical assistance are vital to the prevention, correction, and abatement of food safety violations, and are preferred over regulatory action. However, regulatory action may be necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. The Department intends to initiate civil penalty actions when educational measures, technical assistance, warning letters, compliance agreements or other remedial measures fail to achieve compliance.

Stat. Auth.: ORS 561.190, 616.997 & 632.995
Stat. Implemented: ORS 616.997 & 632.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-025-0910
Definitions

As used in OAR 603-025-0920 through 603-025-0930, unless otherwise required by the context, the following terms will be construed to mean:

(1) "Department" means the Oregon Department of Agriculture.

(2) "Interference" means hindering or impeding an activity or process, which includes, but is not limited to any harassment, unreasonable delay, threat, concealment, deceit, or obstruction.

(3) "Major," with respect to violations, means an incident, or series of incidents that cause a reasonable probability that serious adverse health consequences or death will occur.

(4) "Minor," with respect to violations, means an incident, or series of incidents that are not likely to cause adverse health consequences.

(5) "Moderate," with respect to violations, means an incident, or series of incidents that may cause temporary or medically reversible adverse health consequences, or where the probability of serious adverse health consequences is remote.

(6) "Repeat violation" means the recurrence of the same violation for each 24-hour period after a notice of noncompliance or assessment of civil penalty was issued within the preceding three years. It does not include a violation if the previous notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(7) "Same," with respect to violations, means an identical recurrence, exact repetition, or a continuation of a previous violation.

(8) "Violation" means the failure to comply with any requirement of ORS Chapter 616 or any rules adopted thereunder.

Stat. Auth.: ORS 561.190, 616.997 & 632.995
Stat. Implemented: ORS 616.997 & 632.995

603-025-0920
Schedule of Civil Penalties

In addition to any penalty available under ORS 561.190, 616.992, 616.994, or 632.990 the Department may impose a civil penalty with respective amounts for:

(1) Violation of ORS 616.073(3), relating to sulfite use. Penalty — $500 to $5,000.

(2) The manufacture, sale or delivery, holding or offering for sale of any food that is adulterated or misbranded as explained in ORS 616.215(1). Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(3) The adulteration or misbranding of any food as explained in ORS 616.215(2). Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(4) The receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise as explained in ORS 616.215(3). Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(5) Violation of the labeling requirements of ORS 616.215(4). Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(6) The dissemination of any false advertisement as explained in ORS 616.215(5). Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(7) Interference with any inspection or investigation performed pursuant to ORS 616.286. Penalty — $5,000 to $10,000.

(8) The giving of a guaranty or undertaking which is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person from whom the person received in good faith the food as explained in ORS 616.215(7). Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(9) The removal or disposal of a detained or embargoed article in violation of ORS 616.225. Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(10) The alteration, mutilation, destruction, obliteration or removal of the whole or any part of the label of a food, if done while such article is held for sale and results in such article being misbranded as explained in ORS 616.215(9). Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(11) Forging, counterfeiting, simulating or falsely representing, or without proper authority using any mark, stamp, tag, label or other identification device authorized or required by rules promulgated under the provisions of ORS 616.205 to 616.295 and 616.305 to 616.315. Penalty — $5,000 to $10,000.

(12) The use by any person to the person's own advantage, or disclosure, other than to the Director or the authorized representative of the director or to the courts when relevant in any judicial proceeding under ORS 616.205 to 616.385, of any information acquired under the authority of ORS 616.205 to 616.385 concerning any method or process which is a trade secret entitled to protection. Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(13) Labeling or offering for sale any food fish product designated as halibut, with or without additional descriptive words, unless such food fish product is Hippoglossus hippoglossus or Hippoglossus stenolepsis as explained in ORS 616.217. Penalty — $500 to $5,000.

(14) Failure of a retail or wholesale food distributor to place a warning label on food containing diethylstilbestrol pursuant to ORS 616.333. Penalty — $500 to $5,000.

(15) Violation of rules promulgated under ORS 616.700, relating to sanitation requirements for food and food establishments. Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(16) Operating a food establishment without obtaining or maintaining a license as required in ORS 616.706. Penalties:

(a) Minor — $500 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(17) Knowingly misrepresenting the annual gross dollar volume of sales of covered operations by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales records on a fiscal basis, the prior fiscal year for the requirements of ORS 616.706. Penalty — $1,000 to $5,000.

(18) The unauthorized removal of a notice posted by the department under the authority of ORS 616.740. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(19) The manufacture, sale or delivery, holding or offering for sale of any food that does not conform to a standard of identity when the Department has adopted a standard of identity food as explained in ORS 616.761 to 616.775. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(20) Violation of ORS 616.785, relating to unenriched flours, macaroni, and noodle products. Penalty — $500 to $5,000.

(21) Interference with a lawful inspection under authority of ORS 616.790. Penalty — $5,000 to $10,000.

(22) Violation of the Open Date Labeling Laws of ORS 616.815, 616.820, 616.825 or 616.830 or the rules adopted under ORS 616.835, relating to open date labeling. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(23) Violation of ORS 616.860, relating to unit pricing. Penalty — $500 to $5,000.

(24) A retail seller of packaged consumer commodities failing to express unit retail price statements in terms of the price per single whole unit of weight, volume, measure or count as prescribed by administrative rules adopted by the Department under ORS 616.875 for particular consumer commodities or groups for consumer commodities. Penalty — $500 to $5,000.

Stat. Auth.: ORS 561.190, 616.997 & 632.995
Stat. Implemented: ORS 616.997 & 632.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-025-0930
Penalty factors; procedure

(1) In imposing a penalty pursuant to the schedule adopted pursuant to ORS 628.995, the Department shall consider the following factors, which are listed in prioritized order:

(a) The immediacy and extent to which the violation threatens the public health or safety.

(b) Any prior violations of statutes, rules or orders pertaining to food and other commodities.

(c) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(d) The economic and financial conditions of the person incurring the penalty, including any financial gains resulting from the violation.

(2) Each 24-hour period a violation continues after the period of time established for compliance will be considered a separate violation unless the Department finds a different period of time is more appropriate to describe the specific violation event.

(3) Repeat violations of OAR 603-025-0910 will be assessed as three times the penalty amount in OAR 603-025-0910, not to exceed $10,000.

(4) A civil penalty imposed under this rule will comply with ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the mailing or personal service of the notice of civil penalty.

Stat. Auth.: ORS 561.190, 616.997 & 632.995
Stat. Implemented: ORS 616.997 & 632.995
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-028-0900
Purpose

The Oregon Department of Agriculture Food Safety Program licenses and inspects all facets of Oregon's food distribution system, except restaurants, to ensure food is safe for consumption. Education and technical assistance are vital to the prevention, correction, and abatement of food safety violations, and are preferred over regulatory action. However, regulatory action may be necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. The Department intends to initiate civil penalty actions when educational measures, technical assistance, warning letters, compliance agreements or other remedial measures fail to achieve compliance.

Stat. Auth.: ORS 561.190, 603.995 & 619.996
Stat. Implemented: ORS 603.995 & 619.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-028-0910
Definitions

As used in OAR 603-028-0920 through 603-028-0930, in addition to the definitions set forth in OAR 603-028-0005 and 603-028-0600, the following shall apply:

(1) "Interference" means hindering or impeding an activity or process, which includes, but is not limited to any harassment, unreasonable delay, threat, concealment, deceit, or obstruction.

(2) "Major," with respect to violations, means an incident, or series of incidents that cause a reasonable probability that serious adverse health consequences or death will occur.

(3) "Minor," with respect to violations, means an incident, or series of incidents that are not likely to cause adverse health consequences.

(4) "Moderate," with respect to violations, means an incident, or series of incidents that may cause temporary or medically reversible adverse health consequences, or where the probability of serious adverse health consequences is remote.

(5) "Repeat violation" means the recurrence of the same violation for each 24-hour period after a notice of noncompliance or assessment of civil penalty was issued within the preceding three years. It does not include a violation if the previous notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(6) "Same," with respect to violations, means an identical recurrence, exact repetition, or a continuation of a previous violation.

(7) "Violation" means the failure to comply with any requirement of ORS Chapter 603 or 619 or any rules adopted thereunder.

Stat. Auth.: ORS 561.190, 603.995 & 619.996
Stat. Implemented: ORS 603.995 & 619.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-028-0920
Schedule of Civil Penalties

In addition to any penalty available under ORS 561.190, 603.992, or 619.993 the Department may impose a civil penalty with respective amounts for:

(1) Selling, offering to sell, or exposing for sale meat products, or engaging in any activity described or identified in ORS 603.025(4) without first obtaining and maintaining a license from the Department. Penalty — $5,000 to $10,000.

(2) Failure to carry a surety bond meeting the requirements of ORS 603.025(3) with one or more corporate sureties authorized to do business in this state, or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. Penalties:

(a) Minor — $2,500 to $5,000;

(b) Moderate — $5,001 to $7,500; or

(c) Major — $7,501 to $10,000.

(3) Failure to display the license required in ORS 603.025 in a conspicuous manner at the address shown on the license. Penalty — $100.

(4) Buying or selling carcasses of meat animals, meat or meat products capable of use as human food that are not marked, tagged or otherwise identified as inspected meat or meat products as required by ORS Chapter 619. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(5) Failure to comply with the custom slaughtering establishment requirements as required in ORS 603.045(2) – (7) or the provisions of OAR 603-028-0700, 603-028-0810, or 603-028-0825. Penalties:

(a) Minor — $500 to $3,500;

(b) Moderate — $3,501 to $6,500; or

(c) Major — $6,501 to $10,000.

(6) The owner or occupier of premises where animals are slaughtered permitting the same to remain unclean, to the extent that it constitutes a health hazard as explained in ORS 603.059. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(7) Violation of the slaughter methods prescribed in ORS 603.065(1)-(2). Penalty — $5,000 to $10,000.

(8) Violation of the sanitation requirements of ORS 619.026. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(9) Interference with lawful inspections by the Department as authorized by ORS 619.036(1) and (3). Penalty — $5,000 to $10,000.

(10) Interference with the lawful seizure, embargo, or detention of any food commodity, or lawful quarantine any building, equipment, vehicle or facility found upon inspection or test to be in violation of ORS 619.026 to 619.066 or of any rule adopted under ORS 619.026 to 619.066. Penalty — $5,000 to $10,000.

(11) Unapproved removal of a Department posted notice, or continued use of an establishment or vehicle when condemned by the Department as authorized in ORS 619.041. Penalty — $5,000 to $10,000.

(12) Having in the person's possession for any reason or purpose unwholesome meat or meat products that are not denatured and properly identified as explained in ORS 619.051(1). Penalty — $1,000 to $5,000.

(13) Carrying or transporting, by vehicle or otherwise, the carcass or meat of any meat animal destined for sale or distribution as food, that is not thoroughly protected from dust, dirt, flies or other contaminants as explained in ORS 619.051(2). Penalty — $1,000 to $5,000.

(14) Selling, holding or offering for sale any meat product if such meat product is from a meat animal not slaughtered under the auspices of the meat and poultry inspection program of the United States Department of Agriculture if federal regulations have been established for the inspection of the meat animal as explained in ORS 619.051(3). Penalty — $5,000 to $10,000.

(15) Failure to perform trichinae treatments as required in ORS 619.056. Penalties:

(a) $1,000 to $4,000;

(b) $4,001 to $7,000; or

(c) $7,001 to $10,000.

(16) Any person operating a retail meat seller establishment, as defined in ORS Chapter 603, in conjunction with a custom slaughtering establishment or custom processing establishment failing to mark, tag or identify all individually wrapped packages or containers of meat or meat products slaughtered, wrapped, prepared or handled for the owner of a meat animal, at the time and in the manner deemed necessary by the Department as explained in ORS 619.061. Penalty — $500 to $5,000.

(17) Violation of the provisions of ORS 619.355, 619.360, 619.365, or 619.370, relating to fryers. Penalty — $500 to $5,000.

(18) Willful violation of ORS 619.421, relating to lamb. Penalty — $500 to $5,000.

(19) Violation of OAR 603-028-0300, relating to packaging, labeling, advertising, and display. Penalties:

(a) Minor — $500 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(20) Violation of OAR 603-028-0405, relating to additives in raw meat and raw meat products. Penalty — $500 to $5,000.

(21) Violation of OAR 603-028-0500, relating to prohibited acts. Penalty — $5,000 to $10,000.

Stat. Auth.: ORS 561.190, 603.995 & 619.996
Stat. Implemented: ORS 603.995 & 619.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-028-0930
Penalty factors; procedure

(1) In imposing a penalty pursuant to the schedule adopted pursuant to ORS 603.995 or 619.996, the Department shall consider the following factors, which are listed in prioritized order:

(a) The immediacy and extent to which the violation threatens the public health or safety;

(b) Any prior violations of statutes, rules or orders pertaining to meat or meat related activities.

(c) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(d) The economic and financial conditions of the person incurring the penalty, including any financial gains resulting from the violation.

(2) Each 24-hour period a violation continues after the period of time established for compliance will be considered a separate violation unless the Department finds a different period of time is more appropriate to describe the specific violation event.

(3) Repeat violations of OAR 603-028-0910 will be assessed as three times the penalty amount in OAR 603-028-0910, not to exceed $10,000.

(4) A civil penalty imposed under this rule will comply with ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the mailing or personal service of the notice of civil penalty.

Stat. Auth.: ORS 561.190, 603.995 & 619.996
Stat. Implemented: ORS 603.995 & 619.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-100-0900
Purpose

The Oregon Department of Agriculture Food Safety Program licenses and inspects all facets of Oregon's food distribution system, except restaurants, to ensure food is safe for consumption. Education and technical assistance are vital to the prevention, correction, and abatement of food safety violations, and are preferred over regulatory action. However, regulatory action may be necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. The Department intends to initiate civil penalty actions when educational measures, technical assistance, warning letters, compliance agreements or other remedial measures fail to achieve compliance.

Stat. Auth.: ORS 561.190 & 622.996
Stat. Implemented: ORS 622.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-100-0910
Definitions

As used in OAR 603-100-0920 through 603-100-0930, unless otherwise required by the context, the following terms will be construed to mean:

(1) "Interference" means hindering or impeding an activity or process, which includes, but is not limited to any harassment, unreasonable delay, threat, concealment, deceit, or obstruction.

(2) "Major," with respect to violations, means an incident, or series of incidents that cause a reasonable probability that serious adverse health consequences or death will occur.

(3) "Minor," with respect to violations, means an incident, or series of incidents that are not likely to cause adverse health consequences.

(4) "Moderate," with respect to violations, means an incident, or series of incidents that may cause temporary or medically reversible adverse health consequences, or where the probability of serious adverse health consequences is remote.

(5) "Repeat violation" means the recurrence of the same violation for each 24-hour period after a notice of noncompliance or assessment of civil penalty was issued within the preceding three years. It does not include a violation if the previous notice is the subject of a pending appeal or if the notice has been withdrawn or successfully appealed.

(6) "Same," with respect to violations, means an identical recurrence, exact repetition, or a continuation of a previous violation.

(7) "Violation" means the failure to comply with any requirement of ORS 622.010 to 622.180, or any rule adopted thereunder.

Stat. Auth.: ORS 561.190 & 622.996
Stat. Implemented: ORS 622.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-100-0920
Schedule of Civil Penalties

In addition to any penalty available under ORS 561.190 or 622.992, the Department may impose a civil penalty with respective amounts for:

(1) Acting as a dealer without the certificate or certificates of shellfish sanitation issued by the Department as explained in ORS 622.020. Penalty — $5,000 to $10,000.

(2) Operating outside of the geographic area specified in a validated certificate of shellfish sanitation as explained in ORS 622.040. Penalty — $5,000 to $10,000.

(3) A dealer failing to display the certificate of a dealer or certificates of shellfish sanitation in accordance with the rules of ORS Chapter 622. Penalty — $100.

(4) A dealer sending or accepting any shellfish without a signed statement in accordance with ORS 622.160. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(5) A dealer who gathers or receives shellfish from any source other than designated in the certificate or certificates of shellfish sanitation and fails to keep accurate records of the amount and source of such shellfish, fails to retain the records for at least 90 days, or fails to provide access to the Department for inspection as explained in ORS 622.170. Penalties:

(a) Minor — $1,000 to $4,000;

(b) Moderate — $4,001 to $7,000; or

(c) Major — $7,001 to $10,000.

(6) Interference with a lawful inspection under ORS 622.180(2)(a). Penalty — $5,000 to $10,000.

(7) Interference with the taking of samples as requested by the Department under ORS 622.180(2)(b). Penalties:

(a) Minor — $1,000 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(8) Interference with the Department's condemnation, removal from sale, or destruction of any shellfish that are unfit for consumption, from an uncertified source, or are improperly certified as explained in ORS 622.180(1)(c). Penalty — $5,000 to $10,000.

(9) Violation of any requirement for dealers or harvesters found in the National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish, 2009 Revision. Penalties:
(a) Minor — $1,000 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(10) Failure of a grower or harvester to deliver shellfish intended for human consumption to a certified shellfish shipper within 24 hours of harvest as explained in OAR 603-100-0040. Penalties:
(a) Minor — $1,000 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

(11) Failure to tag shellstock harvested from non-interstate approved harvest areas pursuant to OAR 603-100-0050. Penalties:
(a) Minor — $1,000 to $4,000;
(b) Moderate — $4,001 to $7,000; or
(c) Major — $7,001 to $10,000.

Stat. Auth.: ORS 561.190 & 622.996
Stat. Implemented: ORS 622.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

603-100-0930
Penalty factors; procedure

(1) In imposing a penalty pursuant to the schedule adopted pursuant to ORS 621.995, the Department shall consider the following factors, which are listed in prioritized order:

(a) The immediacy and extent to which the violation threatens the public health or safety.

(b) Any prior violations of statutes, rules or orders pertaining shellfish.

(c) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(d) The economic and financial conditions of the person incurring the penalty, including any financial gains resulting from the violation.

(2) Each 24-hour period a violation continues after the period of time established for compliance will be considered a separate violation unless the Department finds a different period of time is more appropriate to describe the specific violation event.

(3) Repeat violations of OAR 603-024-0910 will be assessed as three times the penalty amount in OAR 603-024-0910, not to exceed $10,000.

(4) A civil penalty imposed under this rule will comply with ORS 183.745, except that the written application for a hearing must be received by the Department no later than 10 days after the mailing or personal service of the notice of civil penalty.

Stat. Auth.: ORS 561.190 & 622.996
Stat. Implemented: ORS 622.996
Hist.: DOA 2-2013, f. & cert. ef. 2-7-13

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

Rule Caption: Exempts certain permit applications from plan review by a certified individual
Adm. Order No.: BCD 1-2013(Temp)
Filed with Sec. of State: 2-1-2013
Certified to be Effective: 2-2-13 thru 7-31-13
Notice Publication Date:
Rules Amended: 918-098-1000
Subject: This rule allows individuals employed by a municipality administering and enforcing a building inspection program to review and approve certain "simple permit" applications related to one- and two-family dwellings. These employees must utilize a division approved checklist when reviewing a "simple permit" application. This rule does not create any new exemptions items from review.
Rules Coordinator: Richard J. Baumann—(503) 373-7559

918-098-1000
Purpose and Scope

(1) These rules establish minimum training, experience, certification, and certification renewal requirements for building officials and persons who perform specialty code plan review and inspections in this state.

(a) The certification requirements for commercial plumbing and electrical inspectors are located in OAR 918-695-0400 through 918-695-0410 and 918-281-0000 through 918-281-0020.

(b) Plan review and inspections required under the Oregon Reach Code are to be performed by individuals certified under these rules, OAR chapter 918, division 281, or chapter 918, division 695 to conduct plan review or inspections for the specialty code under which the particular Reach Code provision is regulated.

(c) Plan review certification is not required for individuals reviewing permit applications as a part of their permit issuance responsibilities for the following as they relate to one- and two-family dwellings:

(A) First floor decks attached to a dwelling which:

(i) Extend not more than 12 feet from the dwelling but not closer than three feet to a property line;

(ii) Are not more than 8 feet above grade;

(iii) Will not exceed a 40 PSF live load and not a combined live and dead load of 50 PSF; and

(iv) Are not in excess of a 2 horizontal 1 vertical ground slope.

(B) Car ports with a single slope that:

(i) Have a rafter span extending not more than 12 feet from a dwelling;

(ii) Are attached to the dwelling for the full length not to exceed 30 feet;

(iii) Have a maximum overhang of two feet that is not closer than three feet to a property line; and

(iv) Will not exceed a combined 50 PSF live and dead load.

(C) Patio covers that:

(i) Have a single slope roof;

(ii) Have a rafter span extending not more than 12 feet from the dwelling;

(iii) Are attached to the dwelling the full length not to exceed 30 feet;

(iv) Have a maximum overhang of two feet that is not closer than three feet to a property line; and

(v) Will not exceed a combined 50 PSF live and dead load.

(D) Fences not greater than 8 feet in height.

(E) Garage conversions as an accessory to a one- or two-family dwelling with no new cut openings in the existing wall.

(F) Window, door, or bathroom remodels where there are no load bearing or lateral bracing wall penetrations.

(G) Pole or manufactured steel structures with a maximum of 3,000 square feet which:

(i) Have a maximum 14 foot eave height;

(ii) Are not closer than three feet to the property line and at least 6 feet from all other buildings on the same lot; and

(iii) Fully engineered, including foundation where applicable.

(H) Mechanical equipment for the purposes of determining set-back requirements have been met.

(d) The building official is responsible for ensuring that persons performing permit reviews under this section utilize division approved checklist to perform reviews.

(e) The building official may determine based on unusual features, characteristics or other complicating circumstances that a certified individual must review a permit application.

(f) Where a jurisdiction routinely performs permit reviews for a type of project determined by the building official to be similar in complexity to the types of projects listed in subsection (c) of this rule, the building official may submit a checklist to the division for approval. If approved, the jurisdiction may utilize the checklist in the same manner as subsection (d).

(2) Nothing in these rules is intended to allow a person to violate statute or rule or change certification and licensing requirements set forth in statute.

(3) Nothing in these rules prevents the director from waiving procedural requirements in the rare circumstance where substantial compliance is impracticable.

Stat. Auth.: ORS 455.030, 455.055, 455.110, 455.500 & 455.720
Stats. Implemented: ORS 446.250, 455.030, 455.055, 455.110, 455.500, 455.622 & 455.720
Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 18-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 20-2011(Temp), f. & cert. ef. 7-12-11 thru 12-31-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 34-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 1-2013(Temp), f. 2-1-13, cert. ef. 2-2-13 thru 7-31-13

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

Rule Caption: Repeal Temporary Rule and Adopt Permanent Rule Governing Interest Rate Swap Transactions
Adm. Order No.: FCS 2-2013
Filed with Sec. of State: 1-23-2013
Certified to be Effective: 1-23-13
Notice Publication Date: 11-1-2012
Rules Adopted: 441-505-3090
Rules Repealed: 441-505-3090(T)
Subject: Like the temporary rule, the permanent rule gives Oregon chartered commercial banks authority to engage in interest rate swap transactions with and on behalf of the banks' loan customers and to pledge the banks' assets in connection with such transactions. While national banks and other financial institutions currently possess this authority, Oregon chartered banks may not engage in these types of transactions unless the Director of the Department of Consumer and Business Services permits them to do so under ORS 706.795. Without this rule, Oregon chartered commercial banks will be unable to compete on equal terms with national banks and other institutions.
Rules Coordinator: Shelley Greiner—(503) 947-7484

441-505-3090
Interest Rate Swap Transactions

(1) An Oregon commercial bank may engage in interest rate swap transactions as intermediary with and on behalf of the bank's customers and pledge bank assets to secure the transactions if the bank receives prior written approval from the Director of the Department of Consumer and Business Services and the following conditions are met to the director's satisfaction:

(a) The bank demonstrates to the director that it has the requisite knowledge and expertise to effectively analyze and engage in such transactions;

(b) The bank's board of directors has considered and adopted specific written polices and procedures governing such transactions, including but not limited to risk limits; and

(2) The aggregate risk exposure, at any time, to each counterparty shall not exceed the bank's legal lending limit.

Stat. Auth.: ORS 706.790
Stats. Implemented: ORS 706.795
Hist.: FCS 5-2012(Temp), f. 8-7-12, cert. ef. 8-8-12 thru 2-4-13; FCS 2-2013, f. & cert. ef. 1-23-13

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Department of Consumer and Business Services,
Insurance Division
Chapter 836

Rule Caption: Changes to Mortality Adjustment Factors in Calculating Deficiency Reserves When Valuing Life Insurance Policies
Adm. Order No.: ID 1-2013
Filed with Sec. of State: 2-6-2013
Certified to be Effective: 2-6-13
Notice Publication Date: 11-1-2012
Rules Amended: 836-031-0765
Subject: The National Association of Insurance Commissioners (NAIC) has updated its Valuation of Life Insurance Policies Model Regulation (Model #830) to remove restrictions on the mortality adjustment factors (X factors) in the deficiency reserve calculation. The deficiency reserve calculation allows insurers to adjust the valuation mortality to mortality that approximates the expected mortality by use of the X factors. The arbitrary restrictions that are removed from the rule prevent the use of mortality with the amount and slope similar to the expected mortality. Without this change, insurers may be required to report reserve liability larger than necessary and therefore overprice their product. This would place the insurers and consumers in an uncompetitive position.
Rules Coordinator: Shelley Greiner—(503) 947-7484

836-031-0765
General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves

(1) At the election of the insurer for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after January 1, 2000, and adopted by the Director of the Department of Consumer and Business Services by rule for this purpose). If select mortality factors are elected, they may be:

(a) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

(b) The select mortality factors in the Appendix; or

(c) Any other table of select mortality factors adopted by the NAIC after January 1, 2000, and adopted by the Director of the Department of Consumer and Business Services by rule for the purpose of calculating basic reserves.

(2) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after January 1, 2000, and adopted by the Director of the Department of Consumer and Business Services by rule for this purpose). If select mortality factors are elected, they may be:

(a) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

(b) The select mortality factors in the Appendix of this regulation;

(c) For durations in the first segment, X percent of the select mortality factors in the Appendix , subject to the following:

(A) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

(B) X is such that, when using the valuation interest rate used for basic reserves, subparagraph (i) is greater than or equal to subparagraph (ii);

(i) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

(ii) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

(C) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;

(D) The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of this subsection;

(E) The appointed actuary may decrease X at any valuation date as long as X continues to meet all the requirements of this subsection; and

(F) The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

(G) If X is less than 100 percent at any duration for any policy, the following requirements shall be met:

(i) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of OAR 836-031-0670;

(ii) The appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and

(iii) The appointed actuary shall annually opine for all policies subject to OAR 836-031-0750 to 836-031-0775 as to whether the mortality rates resulting from the application of X meet the requirements of this subsection. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

(d) Any other table of select mortality factors adopted by the NAIC after January 1, 2000, and adopted by the Director of the Department of Consumer and Business Services by rule for the purpose of calculating deficiency reserves.

(3) This section applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten years, the appropriate ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.

(4) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves.

(5) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one year after the date of the change shall be the greatest of the following:

(a) Reserves calculated ignoring the guarantee;

(b) Reserves assuming the guarantee was made at issue; and

(c) Reserves assuming that the policy was issued on the date of the guarantee.

(6) The Director of the Department of Consumer and Business Services may require that the insurer document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to January 1, 2000. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of OAR 836-031-0670.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 733.030, 733.210 & 733.300 - 733.322
Hist.: ID 7-1999, f. 12-29-99, cert. ef. 1-1-00; ID 1-2013, f. & cert. ef. 2-6-13

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Rule Caption: Adoption of Annual and Supplemental Statement Blanks and Instructions for Reporting Year 2012
Adm. Order No.: ID 2-2013
Filed with Sec. of State: 2-6-2013
Certified to be Effective: 2-6-13
Notice Publication Date: 11-1-2012
Rules Amended: 836-011-0000
Subject: This rulemaking prescribes, for reporting year 2012, the required forms for the annual and supplemental financial statements required of insurers, multiple employer welfare arrangements and health care service contractors under ORS 731.574, as well as the necessary instructions for completing the forms.
Rules Coordinator: Shelley Greiner—(503) 947-7484

836-011-0000
Annual Statement Blank and Instructions

(1) For the purpose of complying with ORS 731.574, every authorized insurer, including every health care service contractor and multiple employer welfare arrangement, shall file its financial statement required by 731.574 for the 2012 reporting year on the annual statement blank approved for the 2012 reporting year by the National Association of Insurance Commissioners, for the type or types of insurance transacted by the insurer.

(2) Every authorized insurer, including every health care service contractor, shall complete its annual statement blank under section (1) of this rule for the 2012 reporting year, according to the applicable instructions published for that year by the National Association of Insurance Commissioners, for completing the blank, as required by ORS 731.574.

(3) Every authorized insurer, including every health care service contractor, shall file each annual statement supplement for the 2012 reporting year, as required by the applicable instructions published for that year by the National Association of Insurance Commissioners, and shall complete the supplement according to those instructions.

(4) The applicable instructions published by the National Association of Insurance Commissioners referred to in this rules are available for inspection at the Insurance Division of the Department of Consumer and Business Services. Any person interested in inspecting those instructions should contact the Insurance Division using the contact information provided on the Insurance Division website at: www.insurance.orgon.gov/Contactus.html

(5) This rule is adopted under the authority of ORS 731.244, 731.574 and 733.210 for the purpose of implementing 731.574 and 733.210.

Stat. Auth.: ORS 731.244, 731.574 & 733.210
Stats. Implemented: ORS 731.574 & 733.210
Hist.: ID 8-1993, f. & cert. ef. 9-23-93; ID 10-1994, f. & cert. ef. 12-14-94; ID 7-1995, f. & cert. ef. 11-15-95; Renumbered from 836-013-0000; ID 4-1996, f. 2-28-96, cert. ef. 3-1-96; ID 16 -1996, f. & cert. ef. 12-16-96; ID 11-1997, f. & cert. ef. 10-9-97; ID 16-1998, f. & cert. ef. 11-10-98; ID 5-1999, f. & cert. ef. 11-18-99; ID 1-2001, f. & cert. ef. 2-7-01; ID 4-2002, f. & cert. ef. 1-30-02; ID 6-2003, f. & cert. ef. 12-3-03; ID 1-2006, f. & cert. ef. 1-23-06; ID 9-2007, f. & cert. ef. 11-8-07; ID 1-2009, f. & cert. ef. 1-29-09; ID 11-2009, f. & cert. ef. 12-9-09; ID 22-2010, f. 12-30-10, cert. ef. 1-1-11; ID 2-2012, f. & cert. ef. 2-7-12; ID 2-2013, f. & cert. ef. 2-6-13

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

Rule Caption: Adopt federal changes in construction to demolition and underground construction.
Adm. Order No.: OSHA 1-2013
Filed with Sec. of State: 2-14-2013
Certified to be Effective: 2-14-13
Notice Publication Date: 1-1-2013
Rules Amended: 437-003-0001
Subject: This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

Oregon OSHA amendments to 1926.800 as published in the August 17, 2012 Federal Register. This will bring all crane and derrick use in construction work under one subdivision CC, and it will correct the technical errors in the previous rule that substantively altered the demolition and underground construction provisions, and replace subparagraphs 1926.800(t)(1) through (4). The revisions made by this rulemaking will enable Oregon OSHA to cover all cranes and derricks used in construction under subpart CC. These revisions implement the original purpose of the rule and will benefit both employees and employers. Also, in this Federal Register are reference changes to 1926.856 and 1926.858; and will remove subdivision DD.

In December 2012, Oregon OSHA proposed to make the Federal OSHA amendments published in the November 9, 2012 Federal Register, in 1926.1400 to broaden the exemption for digger derricks. However, on February 7, 2013, OSHA published in the Federal Register a withdrawal of the direct final rulemaking (November 9, 2012 Federal Register) and instead, it is moving forward with proposed rulemaking that was published at the same time as the direct final. Therefore, Oregon OSHA is not proceeding with rulemaking concerning the digger derricks exemption at this time.

Oregon OSHA makes these amendments in construction.

Please visit our web site www.orosha.org

Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final rules.
Rules Coordinator: Sue C. Joye—(503) 947-7449

437-003-0001
Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, in the Federal Register:

(1) Subdivision A — GENERAL.

(a) 29 CFR 1926.1 Purpose and Scope, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.2 Variances from safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.3 Inspections — right of entry, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.6 Incorporation by reference, published 6/22/12, FR vol. 77, no. 121, p. 37587.

(2) Subdivision B — GENERAL INTERPRETATIONS.

(a) 29 CFR 1926.10 Scope of subpart, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.16 Rules of construction, published 4/6/79, FR vol. 44, p. 20940.

(3) Subdivision C — GENERAL SAFETY AND HEALTH PROVISIONS.

(a) 29 CFR 1926.20 General safety and health provisions, published 12/12/08, FR vol. 73, no. 240, pp. 75568–75589.

(b) 29 CFR 1926.21 Safety training and education, published 4/6/79, FR vol. 44, p. 20940; amended with AO 6-2012, repealed (b)(6), f. 9/28/12, ef. 4/1/13.

(c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved).

(d) 29 CFR 1926.23 First aid and medical attention, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.24 Fire protection and prevention, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.25 Housekeeping, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.26 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.27 Sanitation, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.28 Personal protective equipment, published 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.29 Acceptable certifications, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 3/7/96, FR vol. 61, no. 46, p. 9249.

(l) 29 CFR 1926.31 (Reserved).

(m) 29 CFR 1926.32 Definitions, published 6/30/93, FR vol. 58, no. 124, p. 35078.

(n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

(4) Subdivision D — OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS.

(a) 29 CFR 1926.50 Medical services and first aid, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).

(j) 29 CFR 1926.59 Hazard Communication, published 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1926.60 Methylenedianiline (MDA), published 12/12/08, FR vol. 73, no. 240, pp. 75568–75589.

(l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1926.62 Lead, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

NOTE: Cadmium has been redesignated as §1926.1127.

(n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response.

NOTE: Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.

(5) Subdivision E — PERSONAL PROTECTIVE AND LIFE SAVING EQUIPMENT.

(a) 29 CFR 1926.95 Criteria for personal protective equipment, published 11/15/07, FR vol. 72, no. 220, p. 64342.

(b) 29 CFR 1926.100 Head protection, published 6/22/12, FR vol. 77, no. 121, p. 37587.

(c) 29 CFR 1926.101 Hearing protection, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.102 Eye and face protection, published 6/30/93, FR vol. 58, no. 124, p. 35160.

(e) 29 CFR 1926.103 Respiratory protection, published 1/8/98, FR vol. 63, no. 5, p. 1297.

NOTE: 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.

(f) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.

(g) 29 CFR 1926.106 Working over or near water, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.107 Definitions applicable to this subpart, published 8/9/94, FR vol. 59, no. 152, p. 40729.

(6) Subdivision F — FIRE PROTECTION AND PREVENTION.

(a) 29 CFR 1926.150 Fire protection, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.151 Fire prevention, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.152 Flammable and combustible liquids, published 6/30/93, FR vol. 58, no. 124, p. 35162.

(d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 6/30/93, FR vol. 58, no. 124, p. 35170.

(e) 29 CFR 1926.154 Temporary heating devices, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.155 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(7) Subdivision G — SIGNS, SIGNALS, AND BARRICADES.

(a) 29 CFR 1926.200 Accident prevention signs and tags, published 6/30/93, FR vol. 58, no. 124, p. 35173; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(b) 29 CFR 1926.201 Signaling, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(c) 29 CFR 1926.202 Barricades, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(d) 29 CFR 1926.203 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(8) Subdivision H — MATERIALS HANDLING, STORAGE, USE AND DISPOSAL.

(a) 29 CFR 1926.250 General requirements for storage, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(b) 29 CFR 1926.251 Rigging equipment for material handling, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(c) 29 CFR 1926.252 Disposal of waste materials, published 4/6/79, FR vol. 44, p. 20940.

(9) Subdivision I — TOOLS — HAND AND POWER.

(a) 29 CFR 1926.300 General requirements, published 3/7/96, FR vol. 61, no. 46, p. 9250.

(b) 29 CFR 1926.301 Hand tools, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.302 Power operated hand tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.

(d) 29 CFR 1926.303 Abrasive wheels and tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.

(e) 29 CFR 1926.304 Woodworking tools, published 3/7/96, FR vol. 61, no. 46, p. 9251.

(f) 29 CFR 1926.305 Jacks — lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.

(10) Subdivision J — WELDING AND CUTTING.

(a) 29 CFR 1926.350 Gas welding and cutting, published 6/30/93, FR vol. 58, no. 124, p. 35179.

(b) 29 CFR 1926.351 Arc welding and cutting, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.352 Fire prevention, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 6/30/93, FR vol. 58, no. 124, p. 35179.

(e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 4/6/79, FR vol. 44, p. 20940.

(11) Subdivision K — ELECTRICAL.

(a) 29 CFR 1926.400 Introduction, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(b) 29 CFR 1926.401 (Reserved).

(c) 29 CFR 1926.402 Applicability, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(d) 29 CFR 1926.403 General requirements, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(e) 29 CFR 1926.404 Wiring design and protection, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.

(f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(g) 29 CFR 1926.406 Specific purpose equipment and installations, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(h) 29 CFR 1926.407 Hazardous (classified) locations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(i) 29 CFR 1926.408 Special systems, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(j) 29 CFR 1926.409 (Reserved).

(k) 29 CFR 1926.415 (Reserved).

(l) 29 CFR 1926.416 General requirements, published 8/12/96, FR vol. 61, no. 156, p. 41738.

(m) 29 CFR 1926.417 Lockout and tagging of circuits, published 8/12/96, FR vol. 61, no. 156, p. 41739.

(n) 29 CFR 1926.418 (Reserved).

(o) 29 CFR 1926.430 (Reserved).

(p) 29 CFR 1926.431 Maintenance of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(q) 29 CFR 1926.432 Environmental deterioration of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(r) 29 CFR 1926.433 - 29 CFR 1926.440 (Reserved).

(s) 29 CFR 1926.441 Battery locations and battery charging, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(t) 29 CFR 1926.442 - 29 CFR 1926.448 (Reserved).

(u) 29 CFR 1926.449 Definitions applicable to this subpart, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(12) Subdivision L — SCAFFOLDING.

(a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.451 General requirements, published 11/25/96, FR vol. 61, no. 228, p. 59831.

(c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.

(d) 29 CFR 1926.453 Aerial lifts, published 11/25/96, FR vol. 61, no. 228, p. 59832.

(e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.

(f) Appendix A to Subpart L Scaffold Specifications, published 8/7/12, FR vol. 77, no. 152, p. 46948.

(g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.

(h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(j) Appendix E to Subpart L Drawing and illustrations, published 11/25/96, FR vol. 61, no. 228, p. 59832.

(13) Subdivision M — FALL PROTECTION.

(a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.501 Duty to have fall protection, published 8/9/94, FR vol. 59, no. 152, p. 40732–40733; amended with AO 6-2002, f. and ef. 7/19/02.

(c) 29 CFR 1926.502 Fall protection systems criteria and practices, published 8/9/94, FR vol. 59, no. 152, p. 40733–40738; amended with AO 6-2002, f. and ef. 7/19/02.

(d) 29 CFR 1926.503 Training requirements. REPEALED with AO 6-2002, f. and ef. 7/19/02, replaced with OI.

(e) Appendix A to Subpart M Determining Roof Widths, published 8/9/94, FR vol. 59, no. 152, p. 40738–40742.

(f) Appendix B to Subpart M Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.

(g) Appendix C to Subpart M Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743–40746.

(h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.

(14) Subdivision N — HELICOPTERS, HOISTS, ELEVATORS, AND CONVEYORS.

(a) 29 CFR 1926.550 (Reserved).

(b) 29 CFR 1926.551 Helicopters, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.553 Base-mounted drum hoist, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(e) 29 CFR 1926.554 Overhead hoists, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.555 Conveyors, published 4/6/79, FR vol. 44, p. 20940.

(15) Subdivision O — MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS.

(a) 29 CFR 1926.600 Equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.601 Motor vehicles, REPEALED by OR-OSHA Admin. Order 6-2007, f. 9/26/07, ef. 9/26/07.

(c) 29 CFR 1926.602 Material handling equipment, published 12/1/98, FR vol. 63, no. 230, p. 66274; amended by AO 7-2003, f. 12/5/03, ef. 12/5/03.

(d) 29 CFR 1926.603 Pile driving equipment, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.604 Site clearing, published 7/22/77, FR vol. 42, p. 37674.

(f) 29 CFR 1926.605 Marine operations and equipment, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.606 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(16) Subdivision P — EXCAVATIONS.

(a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 10/31/89, FR vol. 54, no. 209, pp. 45959-45961.

(b) 29 CFR 1926.651 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.652 Requirements for protective systems, published 10/31/89, FR vol. 54, no. 209, pp. 45961-45962.

(d) Appendices A–F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962-45991.

(17) Subdivision Q — CONCRETE AND MASONRY CONSTRUCTION.

(a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(b) 29 CFR 1926.701 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.702 Requirements for equipment and tools, published 6/16/88, FR vol. 53, p. 22612.

(d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.

(e) 29 CFR 1926.704 Requirements for precast concrete, published 10/5/89, FR vol. 54, no. 192, p. 41088.

(f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.

(18) Subdivision R — STEEL ERECTION.

(a) 29 CFR 1926.750 Scope, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(b) 29 CFR 1926.751 Definitions, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(d) 29 CFR 1926.753 Hoisting and rigging, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(e) 29 CFR 1926.754 Structural steel assembly, published 4/3/06, FR vol. 71, no. 63, p. 16669.

(f) 29 CFR 1926.755 Column anchorage, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(g) 29 CFR 1926.756 Beams and columns, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(h) 29 CFR 1926.757 Open web steel joists, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(i) 29 CFR 1926.758 Systems-engineered metal buildings, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(j) 29 CFR 1926.759 Falling object protection, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(k) 29 CFR 1926.760 Fall protection, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(l) 29 CFR 1926.761 Training, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(m) Appendix A to Subpart R Guidelines for establishing the components of a site-specific erection plan: Nonmandatory Guidelines for Complying with §1926.752(e), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(n) Appendix B to Subpart R Reserved.

(o) Appendix C to Subpart R Illustrations of bridging terminus points: Nonmandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(p) Appendix D to Subpart R Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Nonmandatory Guidelines for Complying with §1926.760(c)(3), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(q) Appendix E to Subpart R Training: Nonmandatory Guidelines for Complying with §1926.761, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(r) Appendix F to Subpart R Perimeter columns: Nonmandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(s) Appendix G to Subpart R Fall protection systems criteria and practices from §1926.502: Nonmandatory Guidelines for Complying with Complying with §1926.760(d), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(t) Appendix H to Subpart R Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(19) Subdivision S — UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR.

(a) 29 CFR 1926.800 Tunnels and shafts, published 8/17/12, FR vol. 77, no. 160, p. 49722.

(b) 29 CFR 1926.801 Caissons, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.802 Cofferdams, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.803 Compressed air, published 7/11/86, FR vol. 51, p. 25318.

(e) 29 CFR 1926.804 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(f) Appendix A to Subpart S Decompression Tables, published 4/6/79, FR vol. 44, p. 20940.

(20) Subdivision T — DEMOLITION.

(a) 29 CFR 1926.850 Preparatory operations, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.852 Chutes, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.853 Removal of materials through floor openings, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.855 Manual removal of floors, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 8/17/12, FR vol. 77, no. 160, p. 49722.

(h) 29 CFR 1926.857 Storage, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.858 Removal of steel construction, published 8/17/12, FR vol. 77, no. 160, p. 49722.

(j) 29 CFR 1926.859 Mechanical demolition, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.860 Selective demolition by explosives, published 4/6/79, FR vol. 44, p. 20940.

(21) Subdivision U — BLASTING AND USE OF EXPLOSIVES.

(a) 29 CFR 1926.900 General provisions, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.901 Blaster qualifications, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.902 Surface transportation of explosives, published 6/30/93, FR vol. 58, no. 124, p. 35311.

(d) 29 CFR 1926.903 Underground transportation of explosives, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35311.

(f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35184.

(g) 29 CFR 1926.906 Initiation of explosive charges — electric blasting, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(h) 29 CFR 1926.907 Use of safety fuse, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.908 Use of detonating cord, published 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.909 Firing the blast, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.910 Inspection after blasting, published 4/6/79, FR vol. 44, p. 20940.

(l) 29 CFR 1926.911 Misfires, published 4/6/79, FR vol. 44, p. 20940.

(m) 29 CFR 1926.912 Underwater blasting, published 4/6/79, FR vol. 44, p. 20940.

(n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 4/6/79, FR vol. 44, p. 20940.

(o) 29 CFR 1926.914 Definitions applicable to this subpart, published 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.

(22) Subdivision V — POWER TRANSMISSION AND DISTRIBUTION.

(a) 29 CFR 1926.950 General requirements, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.951 Tools and protective equipment, published 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.952 Mechanical equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(d) 29 CFR 1926.953 Material handling, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.954 Grounding for protection of employees, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.955 Overhead lines, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.956 Underground lines, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.957 Construction in energized substations, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.958 External load helicopters, published 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.959 Lineman's body belts, safety straps, and lanyards, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.960 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(23) Subdivision W — ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION.

(a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 7/20/06, FR vol. 71, no. 139, p. 41127..

(d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/28/06, FR vol. 71, no. 39, p. 9909.

(24) Subdivision X — STAIRWAYS AND LADDERS.

(a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.

(c) 29 CFR 1926.1052 Stairways, published 8/23/91, FR vol. 56, no. 164, pp. 41793–41794.

(d) 29 CFR 1926.1053 Ladders, published 8/23/91, FR vol. 56, no. 164, pp. 41793–41794.

(e) 29 CFR 1926.1054 (Reserved).

(f) 29 CFR 1926.1055 (Reserved).

(g) 29 CFR 1926.1056 (Reserved).

(h) 29 CFR 1926.1057 (Reserved).

(i) 29 CFR 1926.1058 (Reserved).

(j) 29 CFR 1926.1059 (Reserved).

(k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.

(25) Subdivision Z — TOXIC AND HAZARDOUS SUBSTANCES.

(a) 29 CFR 1926.1101 Asbestos, published 1/9/09, FR vol. 74, no. 6, p. 858.

(b) 29 CFR 1926.1126 Chromium (VI), published; 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.

(c) 29 CFR 1926.1127 Cadmium, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(d) 29 CFR 1926.1152 Methylene Chloride, published 12/18/97, FR vol. 62, no. 243, p. 66275.

(26) Subdivision AA — (Reserved).

(27) Subdivision BB — (Reserved).

(28) Subdivision CC — Cranes and Derricks in Construction.

(a) 29 CFR 1926.1400 Scope, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.1401 Definitions, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(c) 29 CFR 1926.1402 Ground conditions, published 8/9/10, FR vol. 75, no. 152. Pp. 47906–48177.

(d) 29 CFR 1926.1403 Assembly/Disassembly — selection of manufacturer or employer procedures, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(e) 29 CFR 1926.1404 Assembly/Disassembly — general requirements (applies to all assembly and disassembly operations), published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(f) 29 CFR 1926.1405 Disassembly — additional requirements for dismantling of booms and jibs (applies to both the use of manufacturer procedures and employer procedures), published 8/9/10, FR vol. 75, no. 152. Pp. 47906–48177.

(g) 29 CFR 1926.1406 Assembly/Disassembly — employer procedures — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(h) 29 CFR 1926.1407 Power line safety (up to 350 kV) — assembly and disassembly, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(i) 29 CFR 1926.1408 Power line safety (up to 350 kV) — equipment operations, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(j) 29 CFR 1926.1409 Power line safety (over 35 kV), published 8/9/10, FR vol. 75, vol. 152, pp. 47906–48177.

(k) 29 CFR 1926.1410 Power line safety (all voltages) – equipment operations closer than the Table A zone, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(l) 29 CFR 1926.1411 Power line safety — while traveling, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(m) 29 CFR 1926.1412 Inspections, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(n) 29 CFR 1926.1413 Wire rope — inspection, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(o) 29 CFR 1926.1414 Wire rope — selection and installation criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(p) 29 CFR 1926.1415 Safety devices, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(q) 29 CFR 1926.1416 Operational aids, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(r) 29 CFR 1926.1417 Operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(s) 29 CFR 1926.1418 Authority to stop operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(t) 29 CFR 1926.1419 Signals — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(u) 29 CFR 1926.1420 Signals — radio, telephone or other electronic transmission of signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(v) 29 CFR 1926.1421 Signals — voice signals — additional requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(w) 29 CFR 1926.1422 Signals — hand signal chart, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(x) 29 CFR 1926.1423 Fall protection, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(y) 29 CFR 1926.1424 Work area control, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(z) 29 CFR 1926.1425 Keeping clear of the load, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(aa) 29 CFR 1926.1426 Free fall and controlled load lowering, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(bb) 29 CFR 1926.1427 Operator qualification and certification, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(cc) 29 CFR 1926.1428 Signal person qualifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(dd) 29 CFR 1926.1429 Qualifications of maintenance & repair employees, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(ee) 29 CFR 1926.1430 Training, published 8/9/10, FR vol. 75, no. 152, pp.47906–48177.

(ff) 29 CFR 1926.1431 Hoisting personnel, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(gg) 29 CFR 1926.1432 Multiple-crane/derrick lifts — supplemental requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(hh) 29 CFR 1926.1433 Design, construction and testing, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(ii) 29 CFR 1926.1434 Equipment modifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(jj) 29 CFR 1926.1435 Tower cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(kk) 29 CFR 1926.1436 Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(ll) 29 CFR 1926.1437 Floating cranes/derricks and land cranes/derricks on barges, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(mm) 29 CFR 1926.1438 Overhead & gantry cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(nn) 29 CFR 1926.1439 Dedicated pile drivers, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(oo) 29 CFR 1926.1440 Sideboom cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(pp) 29 CFR 1926.1441 Equipment with a rated hoisting/lifting capacity of 2,000 pounds of less, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(qq) 29 CFR 1926.1442 Severability, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(rr) Appendix A to Subdivision CC of 1926 — Standard Hand Signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(ss) Appendix B to Subdivision CC of 1926 — Assembly/Disassembly — Sample Procedures for Minimizing the Risk of Unintended Dangerous Boom Movement, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(tt) Appendix C to Subdivision CC of 1926 — Operator Certification — Written Examination — Technical Knowledge Criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03; OSHA 7-2003, f. & cert. ef. 12-5-03;

OSHA 8-2003, f. 12-30-03 cert. ef. 1-1-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 2-2006, f. & cert. ef. 4-28-06; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 5-2006, f. 8-7-06, cert. ef. 1-1-07; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 6-2007, f. & cert. ef. 9-26-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 1-2011, f. & cert. ef. 2-9-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2011, f. 12-8-11, cert. ef. 7-1-12; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 3-2012, f. & cert. e.f 8-20-12; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 1-2013, f. & cert. ef. 2-14-13

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Rule Caption: Adopt changes to personal protective equipment (PPE) in construction, and hole openings/skylights in general industry.
Adm. Order No.: OSHA 2-2013
Filed with Sec. of State: 2-15-2013
Certified to be Effective: 4-1-13
Notice Publication Date: 1-1-2013
Rules Adopted: 437-002-0023, 437-003-0134
Rules Amended: 437-002-0020, 437-002-0134, 437-003-0001
Rules Repealed: 437-003-0128
Subject: Personal Protective Equipment in Construction:

Oregon OSHA is revising the personal protective equipment (PPE) sections of its construction standards regarding requirements for eye and face protective devices, head protection, foot protection, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers.

Oregon OSHA updated the Division 2, subdivision I, Personal Protective Equipment references in its regulations on December 8, 2011. The update referenced more recent editions of applicable national consensus standards and removed requirements that employers prepare and maintain written training certification records. Oregon OSHA repealed all of Division 2/I rules with some exceptions and replaced them with a new Oregon initiated rule, 437-002-0134 Personal Protective Equipment, that includes sections covering the scope/application, hazard assessment, equipment, training, payment, fall protection, clothing, high visibility garments, and eye, head, foot, leg, hand and skin protection.

The change was mostly a format change that simplified the existing text while making little change to the overall rule requirements with a few exceptions. Oregon OSHA modified the hazard assessment requirement to clarify that employers must identify hazards to the entire body, including the torso and extremities, when performing the assessment. The assessment previously was limited to head, hands, eyes and face and foot protection.

We are removing the current PPE requirements in various locations of the construction standard and replacing them with the same requirements that are in General Industry standards of Division 2, Subdivision I. These requirements (with the exception of a written assessment certification) will be substantially similar allowing for greater consistency in construction and general Industry.

The design requirements for eye and face-protective devices, head protection, and foot protection are currently the same in Division 2 General Industry, Shipyard Employment, Marine Terminals, Longshoring, and Division 3 Construction. These revisions are a continuation of Oregon OSHA's effort to update consensus and industry standards.

Personal Protective Equipment in General Industry:

Oregon OSHA is also amending the general industry PPE rule 437-002-0134, to include ANSI Z89.1-2009, American National Standard for Industrial Head Protection, as another option of compliance, as published in the June 22, 2012 Federal Register. http://www.osha.gov/FedReg_osha_pdf/FED20120622A.pdf

Hole Openings (including skylights) in General Industry:

Oregon OSHA is also changing the hole covering requirements for holes in floors, roofs, and other walking/working surfaces (to include skylights and skylight screens). Currently employers in construction and general industry have different hole cover strength criteria. To eliminate the confusion and inconsistency, Oregon OSHA is changing the general industry requirements to be the same as the construction requirements as referenced in the Federal OSHA proposal for walking working surfaces and personal protective equipment (fall protection) found in the May 24. 2010 Federal Register http://www.osha.gov/FedReg_osha_pdf/FED20100524.pdf .

Oregon OSHA received no comments concerning this rulemaking during the comment period including three public hearings. These amendments are made in general industry and construction.

Please visit our web site www.orosha.org Click 'Rules' in the left vertical column and view our proposed, adopted, and final rules.
Rules Coordinator: Sue C. Joye—(503) 947-7449

437-002-0020
Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.21 Definitions, published 6/27/74, Federal Register, vol. 39, no. 125, pp. 23505–23508.

(2) 29 CFR 1910.22 General Requirements, published 6/27/74, FR vol. 39, no. 125, p. 23508.

(3) 29 CFR 1910.23 Guarding Floor and Wall Openings and Holes, published 2/10/84, FR vol. 49, p. 5321. Amended with Oregon OSHA AO 2-2013, f. 2/15/13, ef. 4/1/13.

(4) 29 CFR 1910.24 Fixed Industrial Stairs, published 2/10/84, FR vol. 49, p. 5321.

(5) 29 CFR 1910.25 Portable Wood Ladders, REPEALED. In Oregon, OAR 437-002-0026 applies.

(6) 29 CFR 1910.26 Portable Metal Ladders, REPEALED. In Oregon, OAR 437-002-0026 applies.

(7) 29 CFR 1910.27 Fixed Ladders, REPEALED. In Oregon, OAR 437-002-0027 applies.

(8) 29 CFR 1910.28 Safety Requirements for Scaffolding, published 4/12/88, FR vol. 53, p. 12121.

(9) 29 CFR 1910.29 Manually Propelled Mobile Ladder Stands and Scaffolds (Towers), published 6/27/74, FR vol. 39, no. 125, pp. 23529–23530.

(10) 29 CFR 1910.30 Other Working Surfaces, published 3/7/96, FR vol. 61, no. 46, p. 9235.

(11) 29 CFR 1910.31 Source of Standards, published 3/7/96, FR vol. 61, no. 46, p. 9235.

(12) 29 CFR 1910.32 Standards Organizations, published 3/7/96, FR vol. 61, no. 46, p. 9235.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.
Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: APD 4-1990, f. & cert. ef. 1-23-90; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 10-1999, f. & cert. ef. 9-10-99; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13

437-002-0023
Covers for Holes

Covers for holes in floors, roofs, and other walking/working surfaces (to include skylights and skylight screens) must be capable of supporting, without failure, at least twice the weight of employees, equipment, and materials that may be imposed on the cover at any one time.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13

437-002-0134
Personal Protective Equipment

Application. This rule applies to personal protective equipment and other protective equipment for the eyes, face, head, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers, wherever employees encounter hazardous processes or environments, chemical hazards, radiological hazards, or mechanical irritants that are capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

NOTE: The assessment for eyes, face, head, hands, and feet are currently in effect. The torso and extremities (e.g. arms and legs) element of the body assessment will not be enforced until July 1, 2012.

(1) Hazard assessment and equipment selection.

(a) The employer must assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) or other protective equipment. If such hazards are present, or likely to be present, the employer must:

(A) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

(i) All protective equipment must be of safe design and construction for the work to be performed.

(ii) Protective equipment must be worn and used in a manner which will make full use of its protective properties.

(B) Communicate selection decisions to each affected employee; and,

(C) Select PPE that properly fits each affected employee.

NOTE: Non-mandatory Appendix B contains an example of procedures that would comply with the requirement for a hazard assessment.

(b) The employer must verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

(2) Equipment.

(a) Where employees provide their own protective equipment, the employer is responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(b) All personal protective equipment must be provided, used, and maintained in a sanitary and reliable condition.

(c) Defective or damaged personal protective equipment must not be used

(d) Each employer must maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers.

(3) Training.

(a) The employer must provide training to each employee who is required by this section to use PPE and each employee that is provided training must know at least the following:

(A) When PPE is necessary;

(B) What PPE is necessary;

(C) How to properly don, doff, adjust, and wear PPE;

(D) The limitations of the PPE; and,

(E) The proper care, maintenance, useful life and disposal of the PPE.

(b) Each affected employee must demonstrate an understanding of the training specified in paragraph (3)(a) of this section, and the ability to use PPE properly, before being allowed to perform work requiring the use of PPE.

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (3)(b) of this section, the employer must retrain each such employee. Circumstances where retraining is required include, but are not limited to situations where:

(A) Changes in the workplace render previous training obsolete; or

(B) Changes in the types of PPE to be used render previous training obsolete; or

(C) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.

(4) Payment for protective equipment.

(a) Except as provided by paragraphs (4)(b) through (4)(f) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, must be provided by the employer at no cost to employees.

(b) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.

(c) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(d) The employer is not required to pay for:

(A) The logging boots required by OAR 437-007-0330 in division 7.

(B) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(C) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(e) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(f) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (2)(a) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer must not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (4)(b) through (4)(e) of this section.

(5) Fall Protection.

(a) All employees must be protected from fall hazards when working on unguarded surfaces more than 10 feet above a lower level or at any height above dangerous equipment.

(b) The employer must ensure that fall protection systems are provided, installed, and used according to the criteria in 1926.502(d), and 437-003-0502 in Division 3/M, Construction/Fall Protection.

(6) Work Clothing.

(a) Clothing must be worn which is appropriate to the work performed and conditions encountered.

(b) Appropriate high temperature protective clothing must be worn by workers who are exposed to possible contact with molten metals or other substances that can cause burns.

(c) Loose sleeves, ties, lapels, cuffs, or other loose clothing must not be worn near moving machinery.

(d) Clothing saturated or impregnated with flammable liquids, corrosive or toxic substances, irritants, or oxidizing agents must be removed immediately and not worn again until properly cleaned.

(e) Rings, wristwatches, earrings, bracelets, and other jewelry which might contact power driven machinery or electric circuitry, must not be worn.

(7) High Visibility Garments. Employees exposed to hazards caused by on highway type moving vehicles in construction zones and street/highway traffic must wear highly visible upper body garments. The colors must contrast with other colors in the area sufficiently to make the worker stand out. Colors equivalent to strong red, strong orange, strong yellow, strong yellow-green or fluorescent versions of these colors are acceptable. During hours of darkness, the garments must also have reflective material visible from all sides for 1000 feet.

(8) Eye And Face Protection.

(a) The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(b) The employer must ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

(c) The employer must ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(d) Eye and face PPE must be distinctly marked to facilitate identification of the manufacturer.

(e) The employer must ensure that each affected employee uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. The following is a listing of appropriate shade numbers for various operations. Tables and notes.

(f) Protective eye and face protection devices must comply with any of the following consensus standards

(A) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6;

(B) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6; or

(C) ANSI Z87.1-1989, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6.

(g) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be incompliance with the requirements of this section.

(h) Employees whose occupation or assignment requires exposure to laser beams shall be furnished laser safety goggles as required by Occupational Health Regulations which will protect for the specific wavelength of the laser and be of optical density adequate for the energy involved.

(9) Head Protection.

(a) The employer must ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling or flying objects.

(b) The employer must ensure that a protective helmet designed to reduce electrical shock hazard is worn by each such affected employee when near exposed electrical conductors which could contact the head.

(c) Head protection must comply with any of the following consensus standards:

(A) ANSI Z89.1-2009, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6;

(B) ANSI Z89.1-2003, American National Standard for Industrial Head Protection, which is incorporated by reference in §1910.6;

(C) ANSI Z89.1-1997, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6; or

(d) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(e) Employees who are exposed to power-driven machinery or to sources of ignition shall wear caps or other head covering which completely covers the hair.

(10) Foot Protection.

(a) The employer must ensure that each affected employee use protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards.

(b) Protective footwear must comply with any of the following consensus standards:

(A) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear, which are incorporated by reference in 1910.6;

(B) ANSI Z41-1999, American National Standard for Personal Protection — Protective Footwear, which is incorporated by reference in 1910.6; or

(C) ANSI Z41-1991, American National Standard for Personal Protection — Protective Footwear, which is incorporated by reference in §1910.6.

(c) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(d) Special types or designs of shoes or foot guards are required where conditions exist that make their use necessary for the safety of workers.

(11) Leg protection

(a) Leggings or high boots of leather, rubber, or other suitable material must be worn by persons exposed to hot substances or dangerous chemical spills.

(b) Employees using chain saws must wear chaps or leg protectors that cover the leg from the upper thigh to mid-calf. The protector must be material designed to resist cuts from the chain saw. Employers must provide this protection at no cost to the employee.

NOTE: To 437-002-0134(11)(b): Employees working in the tree and shrub services industry must follow rules on this subject in Subdivision 2/R instead of the above.

(12) Hand Protection.

(a) Employers must select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.

(b) Employers must base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards and potential hazards identified.

(c) Gloves must not be worn by persons whose hands are exposed to moving parts in which they could be caught.

(13) Skin protection. Where the need for their use is necessary, protective covering, ointments, gloves, or other effective protection must be provided for and used by persons exposed to materials which are hazardous to the skin.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13

437-003-0001
Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, in the Federal Register:

(1) Subdivision A — GENERAL.

(a) 29 CFR 1926.1 Purpose and Scope, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.2 Variances from safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.3 Inspections — right of entry, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.6 Incorporation by reference, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(2) Subdivision B — GENERAL INTERPRETATIONS.

(a) 29 CFR 1926.10 Scope of subpart, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.16 Rules of construction, published 4/6/79, FR vol. 44, p. 20940.

(3) Subdivision C — GENERAL SAFETY AND HEALTH PROVISIONS.

(a) 29 CFR 1926.20 General safety and health provisions, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(b) 29 CFR 1926.21 Safety training and education, published 4/6/79, FR vol. 44, p. 20940; amended with Oregon OSHA AO 6-2012, repealed (b)(6), f. 9/28/12, ef. 4/1/13.

(c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved).

(d) 29 CFR 1926.23 First aid and medical attention, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.24 Fire protection and prevention, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.25 Housekeeping, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.26 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.27 Sanitation, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.28 Personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(j) 29 CFR 1926.29 Acceptable certifications, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 3/7/96, FR vol. 61, no. 46, p. 9249.

(l) 29 CFR 1926.31 (Reserved).

(m) 29 CFR 1926.32 Definitions, published 6/30/93, FR vol. 58, no. 124, p. 35078.

(n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

(4) Subdivision D — OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS.

(a) 29 CFR 1926.50 Medical services and first aid, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).

(j) 29 CFR 1926.59 Hazard Communication, published 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1926.60 Methylenedianiline (MDA), published 12/12/08, FR vol. 73, no. 240, pp. 75568–75589.

(l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1926.62 Lead, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

NOTE: Cadmium has been redesignated as §1926.1127.

(n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response

NOTE: Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.

(5) Subdivision E — PERSONAL PROTECTIVE AND LIFE SAVING EQUIPMENT.

(a) 29 CFR 1926.95 Criteria for personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(b) 29 CFR 1926.100 Head protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(c) 29 CFR 1926.101 Hearing protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(d) 29 CFR 1926.102 Eye and face protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(e) 29 CFR 1926.103 Respiratory protection, published 1/8/98, FR vol. 63, no. 5, p. 1297.

NOTE: 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.

(f) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.

(g) 29 CFR 1926.106 Working over or near water, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.107 Definitions applicable to this subpart, published 8/9/94, FR vol. 59, no. 152, p. 40729.

(6) Subdivision F — FIRE PROTECTION AND PREVENTION.

(a) 29 CFR 1926.150 Fire protection, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.151 Fire prevention, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.152 Flammable and combustible liquids, published 6/30/93, FR vol. 58, no. 124, p. 35162.

(d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 6/30/93, FR vol. 58, no. 124, p. 35170.

(e) 29 CFR 1926.154 Temporary heating devices, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.155 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(7) Subdivision G — SIGNS, SIGNALS, AND BARRICADES.

(a) 29 CFR 1926.200 Accident prevention signs and tags, published 6/30/93, FR vol. 58, no. 124, p. 35173; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(b) 29 CFR 1926.201 Signaling, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(c) 29 CFR 1926.202 Barricades, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(d) 29 CFR 1926.203 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(8) Subdivision H — MATERIALS HANDLING, STORAGE, USE AND DISPOSAL.

(a) 29 CFR 1926.250 General requirements for storage, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(b) 29 CFR 1926.251 Rigging equipment for material handling, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(c) 29 CFR 1926.252 Disposal of waste materials, published 4/6/79, FR vol. 44, p. 20940.

(9) Subdivision I — TOOLS — HAND AND POWER.

(a) 29 CFR 1926.300 General requirements, published 3/7/96, FR vol. 61, no. 46, p. 9250.

(b) 29 CFR 1926.301 Hand tools, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.302 Power operated hand tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.

(d) 29 CFR 1926.303 Abrasive wheels and tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.

(e) 29 CFR 1926.304 Woodworking tools, published 3/7/96, FR vol. 61, no. 46, p. 9251.

(f) 29 CFR 1926.305 Jacks — lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.

(10) Subdivision J — WELDING AND CUTTING.

(a) 29 CFR 1926.350 Gas welding and cutting, published 6/30/93, FR vol. 58, no. 124, p. 35179.

(b) 29 CFR 1926.351 Arc welding and cutting, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.352 Fire prevention, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 6/30/93, FR vol. 58, no. 124, p. 35179.

(e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 4/6/79, FR vol. 44, p. 20940.

(11) Subdivision K — ELECTRICAL.

(a) 29 CFR 1926.400 Introduction, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(b) 29 CFR 1926.401 (Reserved).

(c) 29 CFR 1926.402 Applicability, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(d) 29 CFR 1926.403 General requirements, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(e) 29 CFR 1926.404 Wiring design and protection, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.

(f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(g) 29 CFR 1926.406 Specific purpose equipment and installations, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(h) 29 CFR 1926.407 Hazardous (classified) locations, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(i) 29 CFR 1926.408 Special systems, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(j) 29 CFR 1926.409 (Reserved).

(k) 29 CFR 1926.415 (Reserved).

(l) 29 CFR 1926.416 General requirements, published 8/12/96, FR vol. 61, no. 156, p. 41738.

(m) 29 CFR 1926.417 Lockout and tagging of circuits, published 8/12/96, FR vol. 61, no. 156, p. 41739.

(n) 29 CFR 1926.418 (Reserved).

(o) 29 CFR 1926.430 (Reserved).

(p) 29 CFR 1926.431 Maintenance of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(q) 29 CFR 1926.432 Environmental deterioration of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(r) 29 CFR 1926.433 — 29 CFR 1926.440 (Reserved).

(s) 29 CFR 1926.441 Battery locations and battery charging, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(t) 29 CFR 1926.442 — 29 CFR 1926.448 (Reserved).

(u) 29 CFR 1926.449 Definitions applicable to this subpart, published 7/11/86, FR vol. 51, no. 133, pp. 25294–25335.

(12) Subdivision L — SCAFFOLDING.

(a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.451 General requirements, published 11/25/96, FR vol. 61, no. 228, p. 59831.

(c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.

(d) 29 CFR 1926.453 Aerial lifts, published 11/25/96, FR vol. 61, no. 228, p. 59832.

(e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.

(f) Appendix A to Subpart L Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.

(g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.

(h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(j) Appendix E to Subpart L Drawing and illustrations, published 11/25/96, FR vol. 61, no. 228, p. 59832.

(13) Subdivision M — FALL PROTECTION.

(a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.501 Duty to have fall protection, published 8/9/94, FR vol. 59, no. 152, p. 40732–40733; amended with AO 6-2002, f. and ef. 7/19/02.

(c) 29 CFR 1926.502 Fall protection systems criteria and practices, published 8/9/94, FR vol. 59, no. 152, p. 40733–40738; amended with AO 6-2002, f. and ef. 7/19/02.

(d) 29 CFR 1926.503 Training requirements. REPEALED with AO 6-2002, f. and ef. 7/19/02, replaced with OI.

(e) Appendix A to Subpart M Determining Roof Widths, published 8/9/94, FR vol. 59, no. 152, p. 40738–40742.

(f) Appendix B to Subpart M Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.

(g) Appendix C to Subpart M Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743–40746.

(h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.

(14) Subdivision N — HELICOPTERS, HOISTS, ELEVATORS, AND CONVEYORS.

(a) 29 CFR 1926.550 (Reserved).

(b) 29 CFR 1926.551 Helicopters, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.553 Base-mounted drum hoist, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(e) 29 CFR 1926.554 Overhead hoists, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.555 Conveyors, published 4/6/79, FR vol. 44, p. 20940.

(15) Subdivision O — MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS.

(a) 29 CFR 1926.600 Equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.601 Motor vehicles, REPEALED by OR-OSHA Admin. Order 6-2007, f. 9/26/07, ef. 9/26/07.

(c) 29 CFR 1926.602 Material handling equipment, published 12/1/98, FR vol. 63, no. 230, p. 66274; amended by AO 7-2003, f. 12/5/03, ef. 12/5/03.

(d) 29 CFR 1926.603 Pile driving equipment, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.604 Site clearing, published 7/22/77, FR vol. 42, p. 37674.

(f) 29 CFR 1926.605 Marine operations and equipment, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.606 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(16) Subdivision P — EXCAVATIONS.

(a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 10/31/89, FR vol. 54, no. 209, pp. 45959–45961.

(b) 29 CFR 1926.651 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.652 Requirements for protective systems, published 10/31/89, FR vol. 54, no. 209, pp. 45961–45962.

(d) Appendices A–F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962-45991.

(17) Subdivision Q — CONCRETE AND MASONRY CONSTRUCTION.

(a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(b) 29 CFR 1926.701 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.702 Requirements for equipment and tools, published 6/16/88, FR vol. 53, p. 22612.

(d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.

(e) 29 CFR 1926.704 Requirements for precast concrete, published 10/5/89, FR vol. 54, no. 192, p. 41088.

(f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.

(18) Subdivision R — STEEL ERECTION.

(a) 29 CFR 1926.750 Scope, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(b) 29 CFR 1926.751 Definitions, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(d) 29 CFR 1926.753 Hoisting and rigging, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(e) 29 CFR 1926.754 Structural steel assembly, published 4/3/06, FR vol. 71, no. 63, p. 16669.

(f) 29 CFR 1926.755 Column anchorage, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(g) 29 CFR 1926.756 Beams and columns, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(h) 29 CFR 1926.757 Open web steel joists, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(i) 29 CFR 1926.758 Systems-engineered metal buildings, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(j) 29 CFR 1926.759 Falling object protection, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(k) 29 CFR 1926.760 Fall protection, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(l) 29 CFR 1926.761 Training, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(m) Appendix A to Subpart R Guidelines for establishing the components of a site-specific erection plan: Nonmandatory Guidelines for Complying with §1926.752(e), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(n) Appendix B to Subpart R Reserved.

(o) Appendix C to Subpart R Illustrations of bridging terminus points: Nonmandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(p) Appendix D to Subpart R Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Nonmandatory Guidelines for Complying with §1926.760(c)(3), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(q) Appendix E to Subpart R Training: Nonmandatory Guidelines for Complying with §1926.761, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(r) Appendix F to Subpart R Perimeter columns: Nonmandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(s) Appendix G to Subpart R Fall protection systems criteria and practices from §1926.502: Nonmandatory Guidelines for Complying with Complying with §1926.760(d), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(t) Appendix H to Subpart R Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(19) Subdivision S — UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR.

(a) 29 CFR 1926.800 Tunnels and shafts, published 8/17/12, FR vol. 77, no. 160, p. 49722.

(b) 29 CFR 1926.801 Caissons, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.802 Cofferdams, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.803 Compressed air, published 7/11/86, FR vol. 51, p. 25318.

(e) 29 CFR 1926.804 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(f) Appendix A to Subpart S Decompression Tables, published 4/6/79, FR vol. 44, p. 20940.

(20) Subdivision T — DEMOLITION.

(a) 29 CFR 1926.850 Preparatory operations, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.852 Chutes, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.853 Removal of materials through floor openings, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.855 Manual removal of floors, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 8/17/12, FR vol. 77, no. 160, p. 49722.

(h) 29 CFR 1926.857 Storage, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.858 Removal of steel construction, published 8/17/12, FR vol. 77, no. 160, p. 49722.

(j) 29 CFR 1926.859 Mechanical demolition, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.860 Selective demolition by explosives, published 4/6/79, FR vol. 44, p. 20940.

(21) Subdivision U — BLASTING AND USE OF EXPLOSIVES.

(a) 29 CFR 1926.900 General provisions, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.901 Blaster qualifications, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.902 Surface transportation of explosives, published 6/30/93, FR vol. 58, no. 124, p. 35311.

(d) 29 CFR 1926.903 Underground transportation of explosives, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35311.

(f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35184.

(g) 29 CFR 1926.906 Initiation of explosive charges — electric blasting, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(h) 29 CFR 1926.907 Use of safety fuse, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.908 Use of detonating cord, published 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.909 Firing the blast, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.910 Inspection after blasting, published 4/6/79, FR vol. 44, p. 20940.

(l) 29 CFR 1926.911 Misfires, published 4/6/79, FR vol. 44, p. 20940.

(m) 29 CFR 1926.912 Underwater blasting, published 4/6/79, FR vol. 44, p. 20940.

(n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 4/6/79, FR vol. 44, p. 20940.

(o) 29 CFR 1926.914 Definitions applicable to this subpart, published 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.

(22) Subdivision V — POWER TRANSMISSION AND DISTRIBUTION.

(a) 29 CFR 1926.950 General requirements, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.951 Tools and protective equipment, published 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.952 Mechanical equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(d) 29 CFR 1926.953 Material handling, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.954 Grounding for protection of employees, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.955 Overhead lines, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.956 Underground lines, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.957 Construction in energized substations, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.958 External load helicopters, published 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.959 Lineman's body belts, safety straps, and lanyards, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.960 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(23) Subdivision W — ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION.

(a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 7/20/06, FR vol. 71, no. 139, p. 41127.

(d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/28/06, FR vol. 71, no. 39, p. 9909.

(24) Subdivision X — STAIRWAYS AND LADDERS.

(a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.

(c) 29 CFR 1926.1052 Stairways, published 8/23/91, FR vol. 56, no. 164, pp. 41793–41794.

(d) 29 CFR 1926.1053 Ladders, published 8/23/91, FR vol. 56, no. 164, pp. 41793–41794.

(e) 29 CFR 1926.1054 (Reserved).

(f) 29 CFR 1926.1055 (Reserved).

(g) 29 CFR 1926.1056 (Reserved).

(h) 29 CFR 1926.1057 (Reserved).

(i) 29 CFR 1926.1058 (Reserved).

(j) 29 CFR 1926.1059 (Reserved).

(k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.

(25) Subdivision Z — TOXIC AND HAZARDOUS SUBSTANCES.

(a) 29 CFR 1926.1101 Asbestos, published 1/9/09, FR vol. 74, no. 6, p. 858.

(b) 29 CFR 1926.1126 Chromium (VI), published; 3/17/10, FR vol. 75, no. 51, pp. 12681–12686.

(c) 29 CFR 1926.1127 Cadmium, published 12/12/08, FR vol. 73, no. 240, pp. 75568–75589.

(d) 29 CFR 1926.1152 Methylene Chloride, published 12/18/97, FR vol. 62, no. 243, p. 66275.

(26) Subdivision AA — (Reserved).

(27) Subdivision BB — (Reserved).

(28) Subdivision CC — Cranes and Derricks in Construction

(a) 29 CFR 1926.1400 Scope, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(b) 29 CFR 1926.1401 Definitions, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(c) 29 CFR 1926.1402 Ground conditions, published 8/9/10, FR vol. 75, no. 152. Pp. 47906–48177.

(d) 29 CFR 1926.1403 Assembly/Disassembly — selection of manufacturer or employer procedures, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(e) 29 CFR 1926.1404 Assembly/Disassembly — general requirements (applies to all assembly and disassembly operations), published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(f) 29 CFR 1926.1405 Disassembly — additional requirements for dismantling of booms and jibs (applies to both the use of manufacturer procedures and employer procedures), published 8/9/10, FR vol. 75, no. 152. Pp. 47906–48177.

(g) 29 CFR 1926.1406 Assembly/Disassembly — employer procedures — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(h) 29 CFR 1926.1407 Power line safety (up to 350 kV) — assembly and disassembly, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(i) 29 CFR 1926.1408 Power line safety (up to 350 kV) — equipment operations, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(j) 29 CFR 1926.1409 Power line safety (over 35 kV), published 8/9/10, FR vol. 75, vol. 152, pp. 47906–48177.

(k) 29 CFR 1926.1410 Power line safety (all voltages) — equipment operations closer than the Table A zone, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(l) 29 CFR 1926.1411 Power line safety — while traveling, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(m) 29 CFR 1926.1412 Inspections, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(n) 29 CFR 1926.1413 Wire rope — inspection, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(o) 29 CFR 1926.1414 Wire rope — selection and installation criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(p) 29 CFR 1926.1415 Safety devices, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(q) 29 CFR 1926.1416 Operational aids, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(r) 29 CFR 1926.1417 Operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(s) 29 CFR 1926.1418 Authority to stop operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(t) 29 CFR 1926.1419 Signals — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(u) 29 CFR 1926.1420 Signals — radio, telephone or other electronic transmission of signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(v) 29 CFR 1926.1421 Signals — voice signals — additional requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(w) 29 CFR 1926.1422 Signals — hand signal chart, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(x) 29 CFR 1926.1423 Fall protection, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(y) 29 CFR 1926.1424 Work area control, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(z) 29 CFR 1926.1425 Keeping clear of the load, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(aa) 29 CFR 1926.1426 Free fall and controlled load lowering, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(bb) 29 CFR 1926.1427 Operator qualification and certification, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(cc) 29 CFR 1926.1428 Signal person qualifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(dd) 29 CFR 1926.1429 Qualifications of maintenance & repair employees, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(ee) 29 CFR 1926.1430 Training, published 8/9/10, FR vol. 75, no. 152, pp.47906–48177.

(ff) 29 CFR 1926.1431 Hoisting personnel, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(gg) 29 CFR 1926.1432 Multiple-crane/derrick lifts — supplemental requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(hh) 29 CFR 1926.1433 Design, construction and testing, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(ii) 29 CFR 1926.1434 Equipment modifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(jj) 29 CFR 1926.1435 Tower cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(kk) 29 CFR 1926.1436 Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(ll) 29 CFR 1926.1437 Floating cranes/derricks and land cranes/derricks on barges, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(mm) 29 CFR 1926.1438 Overhead & gantry cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(nn) 29 CFR 1926.1439 Dedicated pile drivers, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(oo) 29 CFR 1926.1440 Sideboom cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(pp) 29 CFR 1926.1441 Equipment with a rated hoisting/lifting capacity of 2,000 pounds of less, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(qq) 29 CFR 1926.1442 Severability, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(rr) Appendix A to Subdivision CC of 1926 — Standard Hand Signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(ss) Appendix B to Subdivision CC of 1926 — Assembly/Disassembly — Sample Procedures for Minimizing the Risk of Unintended Dangerous Boom Movement, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

(tt) Appendix C to Subdivision CC of 1926 — Operator Certification — Written Examination — Technical Knowledge Criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906–48177.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 8-2003, f. 12-30-03 cert. ef. 1-1-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 2-2006, f. & cert. ef. 4-28-06; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 5-2006, f. 8-7-06, cert. ef. 1-1-07; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 6-2007, f. & cert. ef. 9-26-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 1-2011, f. & cert. ef. 2-9-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2011, f. 12-8-11, cert. ef. 7-1-12; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 3-2012, f. & cert. e.f 8-20-12; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 1-2013, f. & cert. ef. 2-14-13; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13

437-003-0134

Personal Protective Equipment

Application. This rule applies to personal protective equipment and other protective equipment for the eyes, face, head, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers, wherever employees encounter hazardous processes or environments, chemical hazards, radiological hazards, or mechanical irritants that are capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(1)(a) Hazard assessment and equipment selection.

(b) The employer must assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) or other protective equipment. If such hazards are present, or likely to be present, the employer must:

(A) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

(i) All protective equipment must be of safe design and construction for the work to be performed.

(ii) Protective equipment must be worn and used in a manner which will make full use of its protective properties.

(B) Communicate selection decisions to each affected employee; and,

(C) Select PPE that properly fits each affected employee.

NOTE: Non-mandatory Appendix B contains an example of procedures that would comply with the requirement for a hazard assessment.

(2) Equipment.

(a) Where employees provide their own protective equipment, the employer is responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(b) All personal protective equipment must be provided, used, and maintained in a sanitary and reliable condition.

(c) Defective or damaged personal protective equipment must not be used

(d) Each employer must maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers.

(3) Training.

(a) The employer must provide training to each employee who is required by this section to use PPE and each employee that is provided training must know at least the following:

(A) When PPE is necessary;

(B) What PPE is necessary;

(C) How to properly don, doff, adjust, and wear PPE;

(D) The limitations of the PPE; and,

(E) The proper care, maintenance, useful life and disposal of the PPE.

(b) Each affected employee must demonstrate an understanding of the training specified in paragraph (3)(a) of this section, and the ability to use

PPE properly, before being allowed to perform work requiring the use of PPE.

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (3)(b) of this section, the employer must retrain each such employee. Circumstances where retraining is required include, but are not limited to situations where:

(A) Changes in the workplace render previous training obsolete; or

(B) Changes in the types of PPE to be used render previous training obsolete; or

(C) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.

(4) Payment for protective equipment.

(a) Except as provided by paragraphs (4)(b) through (4)(f) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, must be provided by the employer at no cost to employees.

(b) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.

(c) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(d) The employer is not required to pay for:

(A) The logging boots required by OAR 437-007-0330 in division 7.

(B) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(C) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(e) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(f) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (2)(a) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer must not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (4)(b) through (4)(e) of this section.

(6) Work Clothing.

(a) Clothing must be worn which is appropriate to the work performed and conditions encountered.

(b) Appropriate high temperature protective clothing must be worn by workers who are exposed to possible contact with molten metals or other substances that can cause burns.

(c) Loose sleeves, ties, lapels, cuffs, or other loose clothing must not be worn near moving machinery.

(d) Clothing saturated or impregnated with flammable liquids, corrosive or toxic substances, irritants, or oxidizing agents must be removed immediately and not worn again until properly cleaned.

(e) Rings, wristwatches, earrings, bracelets, and other jewelry which might contact power driven machinery or electric circuitry, must not be worn.

(7) High Visibility Garments. Employees exposed to hazards caused by on highway type moving vehicles in construction zones and street/highway traffic must wear highly visible upper body garments. The colors must contrast with other colors in the area sufficiently to make the worker stand-out. Colors equivalent to strong red, strong orange, strong yellow, strong yellow-green or fluorescent versions of these colors are acceptable. During hours of darkness, the garments must also have reflective material visible from all sides for 1000 feet.

(8) Eye And Face Protection.

(a) The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(b) The employer must ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

(c) The employer must ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(d) Eye and face PPE must be distinctly marked to facilitate identification of the manufacturer.

(e) The employer must ensure that each affected employee uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. The following is a listing of appropriate shade numbers for various operations. Tables and Notes

(f) Protective eye and face protection devices must comply with any of the following consensus Standards.

(A) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6;

(B) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6; or

(C) ANSI Z87.1-1989, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6.

(g) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be incompliance with the requirements of this section.

(h) Employees whose occupation or assignment requires exposure to laser beams shall be furnished laser safety goggles as required by Occupational Health Regulations which will protect for the specific wavelength of the laser and be of optical density adequate for the energy involved.

(9) Head Protection.

(a) The employer must ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling or flying objects.

(b) The employer must ensure that a protective helmet designed to reduce electrical shock hazard is worn by each such affected employee when near exposed electrical conductors which could contact the head.

(c) Head protection must comply with any of the following consensus standards:

(A) ANSI Z89.1-2009, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6;

(B) ANSI Z89.1-2003, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6;

(C) ANSI Z89.1-1997, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6; or

(d) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(e) Employees who are exposed to power-driven machinery or to sources of ignition shall wear caps or other head covering which completely covers the hair.

(10) Foot Protection.

(a) The employer must ensure that each affected employee use protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards.

(b) Protective footwear must comply with any of the following consensus standards:

(A) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear, which are incorporated by reference in 1910.6;

(B) ANSI Z41-1999, American National Standard for Personal Protection — Protective Footwear, which is incorporated by reference in 1910.6; or

(C) ANSI Z41-1991, American National Standard for Personal Protection — Protective Footwear, which is incorporated by reference in §1910.6.

(c) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(d) Special types or designs of shoes or foot guards are required where conditions exist that make their use necessary for the safety of workers.

(11) Leg protection

(a) Leggings or high boots of leather, rubber, or other suitable material must be worn by persons exposed to hot substances or dangerous chemical spills.

(b) Employees using chain saws must wear chaps or leg protectors that cover the leg from the upper thigh to mid-calf. The protector must be material designed to resist cuts from the chain saw. Employers must provide this protection at no cost to the employee.

(12) Hand Protection.

(a) Employers must select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.

(b) Employers must base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards and potential hazards identified.

(c) Gloves must not be worn by persons whose hands are exposed to moving parts in which they could be caught.

(13) Skin protection. Where the need for their use is necessary, protective covering, ointments, gloves, or other effective protection must be provided for and used by persons exposed to materials which are hazardous to the skin.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13

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

Rule Caption: OAR Chapter 438 provisions regarding Own Motion, Board review, and miscellaneous concepts.
Adm. Order No.: WCB 1-2013
Filed with Sec. of State: 2-11-2013
Certified to be Effective: 4-1-13
Notice Publication Date: 2-1-2013
Rules Amended: 438-005-0015, 438-009-0005, 438-009-0020, 438-011-0010, 438-011-0045, 438-012-0001, 438-012-0020, 438-012-0031, 438-012-0035, 438-012-0036, 438-012-0050, 438-012-0060, 438-012-0062, 438-016-0005, 438-019-0010, 438-020-0010, 438-022-0005
Subject: After considering comments to its Notice of Rulemaking Hearing regarding proposed amendments to its Own Motion, Board review, and miscellaneous rules, the Board proposed to: (1) amend OAR 438-005-0015 to change the title to "Unacceptable Conduct"; (2) amend OAR 438-009-0005(3) to identify permanent disability benefits in stipulations that award permanent disability regarding dates of injury occurring before January 1, 2005 (permanent partial disability) and those occurring on and after January 1, 2005 (whole person impairment and work disability); (3) amend OAR 438-009-0020(3) to update the year reference to "20__"; (4) amend OAR 438-011-0010 and OAR 438-011-0045(1), (4) to identify third party law as extending from "ORS 656.576 through 656.596"; (5) amend OAR 438-012-0001(2) to specify that "post-aggravation rights" "worsened condition" claims and new/omitted medical condition claims include such claims related to pre-1966 injuries; (6) amend OAR 438-012-0020(5) to delete the separate "notice" reference to pre-1966 injuries regarding "post-aggravation rights" "worsened condition" claims and new/omitted medical condition claims; (7) amend OAR 438-012-0031 to include contested cases under "ORS 656.283 through 656.298" and "a managed care disputed resolution review process" among the pending proceedings about which parties to an Own Motion proceeding are required to notify the Board; (8) amend OAR 438-012-0035(4) to add provisions for timely payment of temporary disability compensation awarded in an Own Motion Notice of Closure and in a litigation order; (9) amend OAR 438-012-0036(3) to add provisions for timely payment of permanent disability compensation; (10) amend OAR 438-012-0050(1) to identify contested cases under "ORS 656.283 through 656.298"; (11) amend OAR 438-012-0060(1), (3), and (6), respectively, to change in section (1) the directive from "shall" to "should" regarding the list of information to be provided when requesting Board review of an Own Motion Notice of Closure, to change in section (3) the reference to a claimant's attorney to "or, if represented, to the claimant's attorney," to add new section (6) to list all the circumstances where a medical arbiter evaluation may be available for a "post-aggravation rights" new/omitted medical condition claim, and to change the title of the rule to include "Referral for Medical Arbiter Evaluation," and to renumber the remaining sections of the rule; (12) amend OAR 438-012-0062 to delete section (2), which authorized the Board to refer requests for suspension of temporary disability compensation to the Hearings Division for an evidentiary hearing; (13) amend OAR 438-016-0005(1) to change the citation in that rule to "OAR 438-005-0046(1)," in order to include all filing methods; (14) amend OAR 438-019-0010(2) to delete an obsolete reference to "OAR 718-040-0040(3)"; (15) amend OAR 438-020-0010(1) to change the directive from "shall" to "should" regarding the list of information to be provided in the notification of the need for appointment of an interpreter; and (16) amend OAR 438-022-0005 to reflect the most current Attorney General's Model Rules for Rulemaking, which were adopted effective January 1, 2008.
Rules Coordinator: Karen Burton—(503) 934-0123

438-005-0015
Unacceptable Conduct

The Board hereby adopts OAR 137-004-0010, as adopted by the Department of Justice effective January 27, 1986.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 183.341(4)
Hist.: WCB 1-1984, f. 4-5-84, ef. 5-1-84; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-009-0005
Settlement Stipulations

(1) Contested matters arising out of a claim closure may be resolved by the parties at any time after the conclusion of the reconsideration proceeding under ORS 656.268, whether or not a hearing has been requested by a party.

(2) Any contested matters not arising out of a claim closure may be resolved by the parties at any time, whether or not a hearing has been requested by a party.

(3) All settlement stipulations that provide for an award of compensation for permanent partial disability for dates of injury occurring before January 1, 2005 shall recite the body part(s) for which the award(s) is (are) made and shall recite all awards in both degrees and percent of loss. In the event there is any inconsistency between the stated degrees and percent of loss awarded in a settlement stipulation, the stated percent of loss shall be controlling. For dates of injury occurring on or after January 1, 2005, all settlement stipulations that provide for an award of compensation for permanent disability shall recite the whole person impairment and work disability.

(4) For purposes of ORS 656.289(1)–(3), an Administrative Law Judge's order approving a settlement stipulation is a determination of all matters included within the terms of the settlement stipulation.

(5) All settlement stipulations shall recite whether a claim disposition agreement in the claim has been filed.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.268 & 656.289(1)-(3)
Hist.: WCB 1-1984, f. 4-5-84, ef. 5-1-84; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 7-1990(Temp), f. 6-14-90, cert. ef. 7-1-90; WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90; WCB 3-2001, f. 11-14-01, cert. ef. 1-1-02; WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-009-0020
Claim Disposition Agreements; Form

Any document filed with the Board for approval by the Administrative Law Judge who mediated the agreement or the Board Members as a claim disposition agreement shall:

(1) Contain the terms, conditions, and information as prescribed by the Board pursuant to OAR 438-009-0022;

(2) Be in a separate document from a disputed claim settlement; and

(3) Include, in prominent or bold-face type, the following paragraph, which shall be located at the conclusion of the document after the signature lines for the parties:

"THIS AGREEMENT IS IN ACCORDANCE WITH THE TERMS AND CONDITIONS PRESCRIBED BY THE BOARD. SEE ORS 656.236(1). ACCORDINGLY, THIS CLAIM DISPOSITION AGREEMENT IS APPROVED. AN ATTORNEY FEE PAYABLE TO CLAIMANT'S ATTORNEY ACCORDING TO THE TERMS OF THIS AGREEMENT IS ALSO APPROVED.
IT IS SO ORDERED.
DATED THIS ___ DAY OF _____, 20__ .
Board Member
Board Member
NOTICE TO ALL PARTIES: THIS ORDER IS FINAL AND IS NOT SUBJECT TO REVIEW. ORS 656.236(2)."

(4) If the document filed for approval lacks any of the information required by section (1) of this rule, the Administrative Law Judge who mediated the agreement or the Board may:

(a) Mail a letter notifying the parties that the deficiency must be corrected and that an addendum signed by one or more of the parties or their representatives must be filed in the manner described in the letter within 21 days from the date of the letter; and

(b) In the event that the deficiency is not corrected in the manner and within the time described in subsection (a) of this section, disapprove the proposed agreement as unreasonable as a matter of law under ORS 656.236(1)(a).

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.236
Hist.: WCB 7-1990(Temp), f. 6-14-90, cert. ef. 7-1-90; WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90; WCB 1-1991(Temp), f. & cert. ef. 3-8-91; WCB 5-1991, f. 8-22-91, cert. ef. 9-2-91; WCB 2-1995, f. 11-13-96, cert. ef. 1-1-96; WCB 1-1999, f. 8-24-99, cert. ef. 11-1-99; WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-011-0010
Applicability

These rules apply to all cases in which a party or parties request Board review of an order of an Administrative Law Judge pursuant to ORS 656.289, 656.291, 656.295 and 656.307 and to cases in which a party requests a decision of the Board under the third party law, ORS 656.576 through 656.596. These rules do not apply to proceedings before the Board on its own motion pursuant to ORS 656.278 and proceedings before the Board after remand from an appellate court.

Stat. Auth.: ORS 656.307, 656.388, 656.593 & 656.726(4)
Stats. Implemented: ORS 656.295, 656.307, 656.587 & 656.594
Hist.: WCB 4-1986, f. 10-8-86, ef. 11-1-86; WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-011-0045
Third Party Orders

(1) Any party requesting the Board's resolution of a controversy arising under the third party law, ORS 656.576 through 656.596, shall petition the Board for relief. The party requesting relief is the petitioner and all other parties are respondents.

(2) The petition shall clearly identify the party seeking relief, shall clearly state the relevant facts and the nature of the dispute and shall specify the relief sought. All relevant evidence shall be attached to the petition. Testimonial evidence shall be by deposition, affidavit or written interrogatories. True copies of the petition and all attachments shall be served on all other parties to the dispute.

(3) The Board shall acknowledge receipt of the petition to all named parties. The respondent(s) shall be allowed 21 days to file evidence and argument in response to the petition. The petitioner shall be allowed 14 days to file a reply argument. The time for filing may be extended by the Board upon motion of a party. The Board will issue its order within a reasonable time after all argument and evidence has been filed.

(4) Settlement documents in civil actions under ORS 656.576 through 656.596 shall not be submitted to the Board unless there is a dispute requiring resolution by the Board.

Stat. Auth.: ORS 656.307, 656.388, 656.593 & 656.726(5)
Stats. Implemented: ORS 656.587 & 656.593
Hist.: WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 2-1989, f. 3-3-89, ef. 4-1-89; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-012-0001
Definitions

(1) "Own Motion Board" and "Board" mean the Workers' Compensation Board acting under its authority pursuant to ORS 656.278 and these rules.

(2) "Own Motion Claim" means:

(a) A written request, including such a request related to an injury occurring before January 1, 1966, by or on behalf of a claimant for temporary disability compensation or claim reopening regarding a worsened condition that has been determined to be compensable and that was initiated after the rights under ORS 656.273 expired (i.e., a "post-aggravation rights" "worsened condition" claim);

(b) A new medical condition or an omitted medical condition, including such a condition related to an injury occurring before January 1, 1966, that is related to an initially accepted claim that has been determined to be compensable and that was initiated after the rights under ORS 656.273 expired (i.e., a "post-aggravation rights" new medical condition or omitted medical condition claim); or

(c) A written request by or on behalf of a claimant for medical benefits for a compensable injury that occurred before January 1, 1966, unless the injury occurred from August 5, 1959 through December 31, 1965 and resulted in an award of permanent total disability.

(3) For a "post-aggravation rights" "worsened condition" claim, "determined to be compensable" means:

(a) The insurer does not dispute compensability of or responsibility for the claim or condition; i.e., the insurer has not issued a denial within the time period prescribed under ORS 656.262 or 656.308(2); or

(b) An order from an Administrative Law Judge, the Board, or the court has found the claim or condition compensable and the responsibility of the insurer.

(4) For a "post-aggravation rights" new medical condition or omitted medical condition claim, "determined to be compensable" means:

(a) The insurer has issued a notice of acceptance under ORS 656.262(7)(a); or

(b) The insurer's denial under ORS 656.262(7) or 656.308(2) or de facto denial has been set aside by an order from an Administrative Law Judge, the Board, or the court.

(5) "Own Motion Insurer," "Insurer" and "Paying Agent" mean a guaranty contract insurer or self-insured employer that is or may be responsible for payment of compensation under the provisions of ORS 656.278.

(6) "Own Motion Order" means an order of the Own Motion Board.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.267(1)(3), 656.278(1) & 656.726(5)
Hist.: WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 2-1989, f. 3-3-89, ef. 4-1-89; WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 2-2001, f. 11-14-01, cert. ef. 1-1-02; WCB 2-2003, f. 7-10-03, cert. ef. 9-1-03; WCB 3-2005, f. 11-15-05, cert. ef. 1-1-06; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-012-0020
Insurer to Process Own Motion Claim: Notice and Contents of Claim; Worsened Condition Claim; "Post-aggravation Rights" New Medical Condition or Omitted Medical Condition Claim; Pre-1966 Injury Claim

(1) All Own Motion claims, including "post-aggravation rights" new medical condition or omitted medical condition claims, shall first be directed to and processed by the insurer. An Own Motion claim shall be legibly date-stamped on the date it is received by the insurer.

(2) An Own Motion claim shall contain sufficient information to identify the claimant and the claim.

(3) An insurer is deemed to have notice of an Own Motion claim for a "post-aggravation rights" worsened condition when one of the following documents is submitted to the insurer by or on behalf of the claimant:

(a) A written request for temporary disability compensation or claim reopening regarding a worsened condition that has been determined to be compensable as defined under OAR 438-012-0001(3) and that was initiated after the rights under ORS 656.273 expired; or

(b) Any document submitted to the insurer after the expiration of aggravation rights regarding a worsened condition that has been determined to be compensable as defined under OAR 438-012-0001(3) that reasonably notifies the insurer that the compensable injury results in the claimant's inability to work and requires hospitalization or inpatient or outpatient surgery, or other curative treatment prescribed in lieu of hospitalization that is necessary to enable the claimant to return to work.

(4) An insurer is deemed to have notice of a "post-aggravation rights" new medical condition or omitted medical condition claim when the insurer receives from the claimant any document that clearly requests formal written acceptance of a new medical condition or an omitted medical condition initiated after expiration of aggravation rights under ORS 656.273 as required by ORS 656.267 and that claim has been determined to be compensable as defined under OAR 438-012-0001(4).

(5) Except as provided in section (7) of this rule, an insurer is deemed to have notice of an Own Motion claim for medical benefits relating to a compensable injury that occurred before January 1, 1966, when one of the following documents is submitted to the insurer by or on behalf of the claimant:

(a) A written request for medical benefits relating to the compensable injury; or

(b) Any document that reasonably notifies the insurer that the claimant is seeking medical benefits for the compensable injury.

(6) An insurer is deemed to have notice of a "post-aggravation rights" new medical condition or omitted medical condition claim related to a compensable injury that occurred before January 1, 1966, when the insurer receives from the claimant any document that clearly requests formal written acceptance of a new medical condition or an omitted medical condition initiated after expiration of aggravation rights under ORS 656.273 as required by ORS 656.267 and that claim has been determined to be compensable as defined under OAR 438-012-0001(4).

(7) An Own Motion claim for medical benefits does not include a claim for medical benefits relating to a compensable injury that occurred from August 5, 1959 through December 31, 1965 and resulted in an award of permanent total disability. Such claims shall be processed as a claim for medical services under ORS 656.245.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented.: ORS 656.278(2) & 656.726(5)
Hist.: WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95, cert. ef. 1-1-95; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 2-2001, f. 11-14-01, cert. ef. 1-1-02; WCB 2-2003, f. 7-10-03, cert. ef. 9-1-03; WCB 1-2004, f. 6-23-04 cert. ef. 9-1-04; WCB 3-2005, f. 11-15-05, cert. ef. 1-1-06; WCB 3-2005, f. 11-15-05, cert. ef. 1-1-06; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-012-0031
Notification of Pending Proceedings

Parties to an Own Motion proceeding shall notify the Board of any pending proceeding involving a contested case under ORS 656.283 through 656.298, 656.307, or 656.308, an arbitration or mediation proceeding under ORS 656.307, a managed care dispute resolution review process, or a Director's medical review under ORS 656.245, 656.260, or 656.327. The parties shall also specify the issues raised in that proceeding.

Stat. Auth.: ORS 654.025(2) & 656.726(5)
Stats. Implemented: ORS 656.278(1) & 656.726(5)
Hist.: WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95, cert. ef. 1-1-95; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-012-0035
Temporary Disability Compensation

(1) The insurer may pay temporary disability compensation in accordance with the provisions of ORS 656.210, 656.212(2) and 656.262(4) from the time the attending physician authorizes temporary disability compensation for the hospitalization, surgery, or other curative treatment until the claimant's condition becomes medically stationary in those cases where:

(a) The Own Motion claim for temporary disability compensation is filed after the aggravation rights under ORS 656.273 expired;

(b) There is a worsened condition that has been determined to be compensable as defined under OAR 438-012-0001(3) and that results in the inability of the worker to work and requires hospitalization or inpatient or outpatient surgery, or other curative treatment prescribed in lieu of hospitalization that is necessary to enable the claimant to return to work; and

(c) The claimant qualifies as a "worker" pursuant to ORS 656.005(30). "Worker" does not include a person who has withdrawn from the work force during the period for which such benefits are sought.

(2) The insurer may pay temporary disability compensation in accordance with the provisions of ORS 656.210, 656.212(2) and 656.262(4) from the time the attending physician authorizes temporary disability compensation for the hospitalization, surgery, or other curative treatment until the claimant's condition becomes medically stationary in those cases where:

(a) A new medical condition or an omitted medical condition claim has been determined to be compensable as defined under OAR 438-012-0001(4) and was initiated after the aggravation rights under ORS 656.273 expired; and

(b) The claimant qualifies as a "worker" pursuant to ORS 656.005(30). "Worker" does not include a person who has withdrawn from the work force during the period for which such benefits are sought.

(3) The claimant is deemed to be in the work force if:

(a) The claimant is engaged in regular employment;

(b) The claimant, although not employed, is willing to work and is making reasonable efforts to obtain employment; or

(c) The claimant is willing to work, but the claimant is not employed, and the claimant is not making reasonable efforts to obtain employment because such efforts would be futile as a result of the effects of the compensable injury.

(4) The insurer shall make the first payment of temporary disability compensation in accordance with ORS 656.210, 656.212(2) and 656.262(4) within 14 days from:

(a) The date of an order of the Board reopening the claim;

(b) The date the insurer voluntarily reopened the claim;

(c) The date of an Own Motion Notice of Closure that finds the worker entitled to temporary disability; or

(d) The date any litigation order authorizing retroactive temporary disability becomes final. Temporary disability accruing from the date of the order must begin no later than the 14th day after the date of the order.

(5) Temporary disability compensation shall be paid until one of the following events first occurs:

(a) The claimant is medically stationary pursuant to ORS 656.005(17);

(b) The claim is closed pursuant to OAR 438-012-0055;

(c) A claim disposition agreement is submitted to the Board pursuant to ORS 656.236(1), unless the claim disposition agreement provides for the continued payment of temporary disability compensation; or

(d) Termination of such benefits is authorized by the terms of ORS 656.268(4)(a) through (d).

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.005(30), 656.262(4), 656.268(4), 656.278(1) & (2) & 656.726(5)
Hist.: WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 8-1990(Temp), f. 8-23-90, cert. ef. 9-15-90; WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90; WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95, cert. ef. 1-1-95; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 1-1997, f. 3-20-97, cert. ef. 7-1-97; WCB 2-2001, f. 11-14-01, cert. ef. 1-1-02; WCB 2-2003, f. 7-10-03, cert. ef. 9-1-03; WCB 1-2004, f. 6-23-04 cert. ef. 9-1-04; WCB 3-2005, f. 11-15-05, cert. ef. 1-1-06; WCB 2-2007, f. 12-11-07, cert. ef. 1-1-08; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-012-0036
Permanent Disability Compensation

(1) Where a new medical condition or an omitted medical condition claim has been determined to be compensable as defined under OAR 438-012-0001(4) and the claim was initiated after the aggravation rights under ORS 656.273 expired, the insurer may provide any permanent disability benefits to which the claimant is entitled under application of the Standards adopted by the Director under 656.726 when the insurer closes the claim pursuant to OAR 438-012-0055.

(2) Pursuant to ORS 656.278(2)(d), an insurer may include permanent disability benefits for additional impairment to an injured body part that has previously been the basis of a permanent partial disability award, but only to the extent that the permanent partial disability rating exceeds the permanent partial disability rated by the prior award or awards.

(3) Permanent disability pursuant to section (1) of this rule must be paid no later than the 30th day after:

(a) The date of an Own Motion notice of claim closure;

(b) The date of any litigation order which orders payment of permanent total disability. Permanent total benefits accruing from the date of the order must begin no later than the 30th day after the date of the order;

(c) The date any litigation order authorizing permanent disability becomes final; or

(d) The date a claim disposition is disapproved by the Board or Administrative Law Judge, if permanent disability benefits are otherwise due.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.278(1), 656.278(2) & 656.726(5)
Hist.: WCB 2-2001, f. 11-14-01, cert. ef. 1-1-02; WCB 3-2005, f. 11-15-05, cert. ef. 1-1-06; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-012-0050
Board Will Act Unless Claimant Has Not Exhausted Other Available Remedies

(1) The Board will act promptly upon a request for relief under the provisions of ORS 656.278 and these rules unless:

(a) The claimant has available administrative remedies under the provisions of ORS 656.273;

(b) The claimant's condition is the subject of a contested case under ORS 656.283 through 656.298, 656.307 or 656.308, or an arbitration or mediation proceeding under 656.307; or

(c) The claimant's request for payment of temporary disability compensation is based on surgery or hospitalization or other curative treatment prescribed in lieu of hospitalization that is necessary to enable the claimant to return to work that is the subject of either a managed care dispute resolution review process or a Director's medical review under ORS 656.245, 656.260 or 656.327.

(2) The Board may postpone its review of the merits of the claimant's request for relief if the available remedies set forth in section (1) of this rule

could affect the Board's authority to award compensation under the provisions of ORS 656.278.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.278(1) & 656.726(5)
Hist.: WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95, cert. ef. 1-1-95; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 2-2001, f. 11-14-01, cert. ef. 1-1-02; WCB 2-2003, f. 7-10-03, cert. ef. 9-1-03; WCB 3-2005, f. 11-15-05, cert. ef. 1-1-06; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-012-0060
Board Review of Insurer Closure; Referral for Medical Arbiter Evaluation

(1) The request for Board review of the insurer's claim closure pursuant to OAR 438-012-0055 shall be in writing, signed by the claimant or the claimant's attorney, and should include, but is not limited to, the following information:

(a) The claimant's name and mailing address;

(b) A statement that Board review is requested, and the reason(s) for the request for review; reasons for requesting review may include, but are not limited to:

(A) Disagreement with the medically stationary determination;

(B) Disagreement with the temporary disability compensation awarded, including rate of payment and/or dates awarded; and/or

(C) Disagreement with permanent disability compensation awarded, if the claim was reopened for a "post-aggravation rights" new medical condition claim and/or omitted medical condition claim. If the claimant disagrees with the impairment used in rating of the claimant's permanent disability for such a claim, the claimant may request appointment of a medical arbiter;

(c) The name of the insurer; and

(d) A copy of the Notice of Closure (Form 2066).

(2) To be considered, the request must be filed with the Board within 60 days after the mailing date of the notice of closure, or within 180 days after the mailing date if the claimant establishes good cause for the failure to file the request within 60 days after the mailing date. The Board shall notify all parties that review has been requested.

(3) Within 14 days after notification from the Board that a review has been requested, the insurer shall submit to the Board and to the claimant or, if represented, to the claimant's attorney legible copies of all evidence that pertains to the claimant's compensable condition at the time of closure, including any evidence relating to permanent disability. Such evidence should be marked as exhibits, arranged in chronological order, and accompanied by an exhibit list. The insurer may also submit written arguments at this time, with copies to the claimant or the claimant's attorney, if any.

(4) The claimant may submit additional evidence and written argument to the Board, with copies to the insurer or its attorney, if any. To be considered, such evidence and argument must be submitted within 21 days from the date the insurer mails the evidence pursuant to section (3) of this rule.

(5) No additional written argument may be submitted unless authorized by the Board.

(6) After the claimant requests Board review of a Notice of Closure of a "post-aggravation rights" new medical condition(s) or omitted medical condition(s) claim issued under OAR 438-012-0055, the Board may refer the claim to the Director for appointment of a medical arbiter to evaluate permanent disability attributable to the claimant's "post-aggravation rights" new medical condition(s) or omitted medical condition(s) if:

(a) The claimant objects to the impairment findings used to rate impairment regarding the "post-aggravation rights" new medical condition(s) or omitted medical condition(s) and requests appointment of a medical arbiter;

(b) The issue of permanent disability rating regarding the "post-aggravation rights" new medical condition(s) or omitted medical condition(s) is raised and the Board determines that insufficient medical information is available to determine disability; or

(c) The insurer objects to the impairment findings used to rate impairment regarding the "post-aggravation rights" new medical condition(s) or omitted medical condition(s) and requests appointment of a medical arbiter.

(7) The Board may refer a matter to the Hearings Division for an evidentiary hearing and recommended findings of fact and conclusions.

(8) The Board may refer a disagreement regarding the rating of the claimant's permanent disability for a "post-aggravation rights" new or omitted medical condition to the Workers' Compensation Division for an evaluation and recommendation based on the record presented to the Board.

(9) The Board shall issue its order within a reasonable time after receipt of all evidence and argument from the parties and any recommendations from the Hearings Division or the Workers' Compensation Division.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.278(1) & (6) & 656.726(5)
Hist.: WCB 5-1987, f. 12-18-87, ef. 1-1-88; WCB 2-1989, f. 3-3-89, ef. 4-1-89; WCB 2-1990, f. 1-24-90, cert. ef. 2-28-90; WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95, cert. ef. 1-1-95; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 1-1997, f. 3-20-97, cert. ef. 7-1-97; WCB 2-2001, f. 11-14-01, cert. ef. 1-1-02; WCB 2-2003, f. 7-10-03, cert. ef. 9-1-03; WCB 1-2004, f. 6-23-04 cert. ef. 9-1-04; WCB 3-2005, f. 11-15-05, cert. ef. 1-1-06; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-012-0062
Referral of Request for Enforcement of Board's Own Motion Order to Hearings Division

(1) The Board may refer a request to enforce an Own Motion order to the Hearings Division for an evidentiary hearing and recommended findings of fact and conclusions.

(2) The Board shall issue its order within a reasonable time after receipt of all evidence and argument from the parties and any recommendations from the Hearings Division.

Stat. Auth.: ORS 654.025(2) & 656.726(5)
Stats. Implemented:ORS 656.278(1) & 656.726(5)
Hist.: WCB 2-1989, f. 3-3-89, ef. 4-1-89; WCB 1-1994, f. 11-1-94, cert. ef. 1-1-95, cert. ef. 1-1-95; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 2-2003, f. 7-10-03, cert. ef. 9-1-03; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-016-0005
Request for Board Review

(1) A request for Board review of a Director's order finding no bona fide medical services dispute shall be filed in accordance with OAR 438-005-0046(1).

(2) Copies of a request for Board review of the Director's order should be simultaneously mailed to the Director, all parties to the Director's order, and to their attorneys, if represented by an attorney. The request should recite the name of the claimant, the identity of the party requesting review and contain a brief statement of the reason review is requested. However, the failure to comply with this section shall not be cause for dismissal of the request for review.

Stat. Auth.: ORS 656.726(5)
Stats. Implemented: ORS 656.327(1)(b) & 656.726(5)
Hist.: WCB 7-1990(Temp), f. 6-14-90, cert. ef. 7-1-90; WCB 11-1990, f. 12-13-90, cert. ef. 12-31-90; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-019-0010
Mediator Qualifications

(1) A mediator shall have completed at least 30 hours of basic mediation training and hold a certificate demonstrating such training.

(2) Such training described in section (1) of this rule shall address the following areas:

(a) Active listening, empathy and validation;

(b) Sensitivity to and awareness of cross-cultural issues;

(c) Maintaining neutrality;

(d) Identifying and reframing interests and issues;

(e) Establishing trust and respect;

(f) Using techniques to achieve agreement and settlement, including creating a climate conducive to resolution, identifying options, working toward agreement, and reaching consensus;

(g) Shaping and writing agreements; and

(h) Ethical standards for mediator conduct adopted by state and national organizations.

Stat. Auth: ORS 656.726(5)
Stats. Implemented: ORS 656.012(2)(b), 656.283(1) & (9) & 656.289(4)
Hist.: WCB 1-1997, f. 3-20-97, cert. ef. 7-1-97; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-020-0010
Notice of Need for and Appointment of Interpreter

(1) When a party or a party's attorney determines that an interpreter is needed, the attorney, or an unrepresented claimant, shall immediately notify the Hearings Division's ISC. Notification is preferred by means of the Board's website portal (https://portal.wcb.oregon.gov), website Online Services page (www.wcb.oregon.gov), mail, or FAX, although telephonic notification will be accepted. Notification should contain:

(a) The claimant's name;

(b) The WCB case number;

(c) The insurer claim number;

(d) The date, time and location of the hearing;

(e) The assigned ALJ; and

(f) The specific interpretation needs, such as the language and dialect, the need for multiple interpreters and the anticipated length of the proceeding if it is reasonably expected to last more than two hours;

(2) The ISC, another designee of the assigned ALJ, or the assigned ALJ will appoint a certified or qualified interpreter and promptly notify the parties, or their representatives, of the name of the appointed interpreter.

(3) If there is an objection to the appointed interpreter, the objecting party shall communicate the objection to the assigned ALJ within a reasonable time.

(4) If, after the appointment of an interpreter, a proceeding is postponed or continued for reasons other than, and not including, an objection to or dissatisfaction with an appointed interpreter, it shall be presumed that the parties have no objection to the use of an interpreter previously appointed for the case and to whom no objection was made within a reasonable time after such appointment.

Stat. Auth.: ORS 656.726(5) & 183.310–183.400
Stats. Implemented: ORS 656.726(5), 45.273, 45.275, 45.285 & 45.288
Hist.: WCB 1-2001, f. 4-12-01, cert. ef. 7-1-01; WCB 2-1995, f. 11-13-95, cert. ef. 1-1-96; WCB 1-2012, f. 8-22-12, cert. ef. 11-1-12; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

438-022-0005
Adoption of Attorney General's Model Rules

To the extent that the following rules are applicable to the Workers' Compensation Law (Chapter 656), the Board hereby adopts by reference OAR 137-001-0005 through 137-001-0100 (Attorney General's Model Rules for Rulemaking), as adopted by the Department of Justice effective January 1, 2008.

Stat. Auth.: ORS 656.726(5) & 654.025(2)
Stats. Implemented: ORS 183.341(4)
Hist.: WCB 1-2003, f. 2-21-03, cert. ef. 5-1-03; WCB 1-2004, f. 6-23-04 cert. ef. 9-1-04; WCB 1-2007, f. 1-19-07, cert. ef. 3-1-07; WCB 1-2013, f. 2-11-13, cert. ef. 4-1-13

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Department of Consumer and Business Services, Workers' Compensation Division
Chapter 436

Rule Caption: Self-insured employer groups, common claims fund balance
Adm. Order No.: WCD 1-2013(Temp)
Filed with Sec. of State: 1-23-2013
Certified to be Effective: 1-23-13 thru 7-21-13
Notice Publication Date:
Rules Amended: 436-050-0003, 436-050-0300
Subject: OAR 436-050-0300 requires a self-insured employer group to establish a common claims fund to ensure money is available to cover obligations that may become due under the workers' compensation law. Effective Jan. 1, 2013, the funding requirement for the common claims fund, for groups that are not made up of governmental subdivisions, was increased from 30 percent to 100 percent of the average of the group's paid losses for the previous four years. Because this increase may present a significant financial hardship for affected self-insured employer groups, the director is adopting temporary rules to restore the funding requirement to 30 percent of the average of the group's paid losses for the previous four years.
Rules Coordinator: Fred Bruyns—(503) 947-7717

436-050-0003
Applicability of Rules

(1) These rules are effective January 23, 2013, to carry out the provisions of:

(a) ORS 656.017 — Employer required to pay compensation and perform other duties.

(b) ORS 656.029 — Independent contractor status.

(c) ORS 656.126 — Coverage while temporarily in or out of state.

(d) ORS 656.407 — Qualifications of insured employers.

(e) ORS 656.419 — Workers' compensation insurance policies.

(f) ORS 656.423 — Cancellation of coverage by employer.

(g) ORS 656.427 — Cancellation of workers' compensation insurance policy or surety bond liability by insurer.

(h) ORS 656.430 — Certification of self-insured employer.

(i) ORS 656.434 — Certification effective until canceled or revoked; revocation of certificate.

(j) ORS 656.443 — Procedure upon default by employer.

(k) ORS 656.447 — Sanctions against insurer for failure to comply with orders, rules, or obligations under workers' compensation insurance policies.

(l) ORS 656.455 — Records location and inspection.

(m) ORS 656.745 — Civil penalties.

(n) ORS 656.850 and 656.855 — Worker leasing companies.

(o) ORS 731.475 — Insurer's in-state location.

(2) The director may waive procedural rules as justice requires, unless otherwise obligated by statute.

Stat. Auth: ORS 656.704 & 656.726(4)
Stats. Implemented: ORS 656.017, 656.029, 656.126, 656.407, 656.419, 656.423, 656.427, 656.430, 656.434, 656.443, 656.447, 656.455, 656.745, 656.850, 656.855 & 731.475
Hist.: WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 10-1982(Admin), f. 9-30-82, ef. 10-1-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; Renumbered from 436-051-0003, 1-1-86; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 25-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 3-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96; WCD 1-1998, f. 1-9-98, cert. ef. 1-23-98; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 5-2005, f. 5-26-05, cert. ef. 6-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09; WCD 6-2012, f. 10-4-12, cert. ef. 1-1-13; WCD 1-2013(Temp), f. & cert. ef. 1-23-13 thru 7-21-13

436-050-0300
Self-Insured Employer Group, Common Claims Fund

(1) A self-insured employer group must establish, under the direction and control of the board of trustees and administrator, a common claims fund for the sole purpose of ensuring the availability of funds to make certain the prompt payment of all compensation and all other payments that may become due from such self-insured employer group under the workers' compensation law.

(2) Except as provided in section (5) of this rule, the balance of the common claims fund must be maintained in an amount at least equal to 30 percent of the average of the group's paid losses for the previous four years.

(3) The director may require the self-insured group to increase the amount maintained in the common claims fund.

(4) By March 1 of each year, a self-insured employer group must provide the director with adequate documentation to validate the balance in the common claims fund or notice that the amount calculated in section (2) or (5) of this rule must be included in the determination of the self-insured employer group's security deposit under OAR 436-050-0180.

(5) For governmental subdivisions certified as a self-insured employer group, the balance of the common claims fund must be maintained in an amount at least equal to 60 percent of the average of the group's yearly paid losses for the previous four years.

Stat. Auth.: ORS 656.704 & 656.726(4)
Stats. Implemented: ORS 656.430
Hist.: WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0420; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 6-2012, f. 10-4-12, cert. ef. 1-1-13; WCD 1-2013(Temp), f. & cert. ef. 1-23-13 thru 7-21-13

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Department of Corrections
Chapter 291

Rule Caption: Emergency Preparedness
Adm. Order No.: DOC 1-2013
Filed with Sec. of State: 1-17-2013
Certified to be Effective: 1-17-13
Notice Publication Date: 10-1-2012
Rules Amended: 291-053-0010, 291-053-0075, 291-053-0085, 291-053-0095, 291-053-0105, 291-053-0115, 291-053-0125, 291-053-0135
Subject: Modifications to these rules are necessary to update the rules to current operational practices. These rules have not been revised since 1996. Correctional institution are required to develop plans for emergency situations. These rules have been expanded to include staff offices.
Rules Coordinator: Janet R. Worley—(503) 945-0933

291-053-0010
Definitions for OAR 291-053-0005 through OAR 291-053-0135

(1) Department of Corrections (DOC) Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(2) Department Emergency Coordinator: A management employee that has the responsibility to coordinate and monitor emergency preparedness activities throughout the department.

(3) Director: The Director of the Department of Corrections. The highest command employee in the Department of Corrections who assists the facility commander in assessing the emergency, identifying, and providing needed resources for the resolution to an emergency.

(4) Emergency: Any incident which disrupts or substantially impairs the capacity of a DOC facility to conduct routine business, including natural and man made disasters.

(5) Emergency Preparedness: A comprehensive system that requires a continuous department commitment to personnel and resources to ensure a systematic approach to emergencies that will include planning, prevention, prediction, preparation, and practice.

(6) Facility Emergency Coordinator: A management employee that has the responsibility to coordinate and monitor emergency preparedness activities at a DOC facility.

(7) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director, or an administrator and has the responsibility for the delivery or program services or coordination of program operations.

(8) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post prison supervision, or probation status.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 17-1980, f. 5-6-80, ef. 5-7-80; CD 30-1981(Temp), f. & ef. 6-30-81; CD 45-1981, f. & ef. 10-30-81; CD 49-1985, f. & ef. 8-16-85; CD 20-1986(Temp), f. 6-30-86, ef. 8-15-86; CD 44-1986, f. & ef. 10-17-86; CD 19-1988, f. & cert. ef. 11-18-88; CD 2-1992, f. 2-21-92, cert. ef. 3-2-92; CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0075
General Information

(1) Emergency preparedness is a comprehensive system that requires a continuous department commitment to personnel and resources to ensure a systematic and standardized approach to emergencies that includes planning, prevention, prediction, preparation, and practice.

(a) Emergency preparedness is the primary goal for the Department of Corrections in an emergency to effectively regulate and maintain a safe and humane environment for the public, its employees and inmates.

(b) Emergency preparedness is essential in assuring the protection of the public, facility and life.

(c) Emergency preparedness enables employees to maintain and restore humane and professional conditions of incarceration as quickly and safely as possible.

(d) Emergency preparedness requires an emergency response with its primary mission to expediently resolve the situation with the least amount of force, and achieve the correctional objective.

(2) Each DOC facility shall develop emergency plans to respond to emergency situations.

(3) The department shall assign a management employee to perform the duties of the department emergency coordinator.

(4) The functional unit manager shall assign a management employee to perform the duties of the facility emergency coordinator.

(5) Each DOC facility shall network to maintain sufficient resources and preparedness to adequately respond to emergencies.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0085
Planning

(1) Planning develops the mechanism and resources to carry out the prevention and prediction of an emergency and the preparation and practice for an emergency.

(2) The department emergency coordinator is responsible for oversight of all elements of emergency preparedness within the department.

(3) The facility emergency coordinator is responsible for planning all elements of emergency preparedness within a DOC facility.

(4) The department emergency coordinator, facility emergency coordinator, and selected employees and outside agency personnel are responsible for the planning phase. This includes:

(a) The development, distribution, and maintenance of emergency preparedness plans that will resolve emergencies.

(b) The acquisition and maintenance of the essential resources to implement emergency preparedness plans.

(c) The development and maintenance of training standards to satisfactorily execute emergency preparedness plans.

(d) A continual assessment (evaluation) of the five phases (planning, prevention, prediction, preparation, and practice) of emergency preparedness to ensure current information, technology, and techniques have been incorporated into the emergency plans. Emergency plans shall be revised, updated, and distributed to each user.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0095
Prevention

(1) Prevention enables employees to maintain and restore safe, humane, and professional conditions of incarceration.

(2) Prevention requires consistent enforcement of directives to provide effective communications, appropriate inmate programs and services, and adequate safety, security, and sanitation.

(3) Prevention of emergencies is enhanced by requiring the reporting and mitigating disturbance factors (unusual changes/occurrences in the prison environment).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0105
Prediction

(1) Prediction develops the methods to identify the possibility of an emergency, identify the types of emergency, and identify the proper response to an emergency.

(2) Prediction of emergencies requires the identification, reporting and authentication of disturbance factors.

(3) Emergencies can often be predicted if disturbance factors can be properly evaluated. Each DOC facility will utilize a "Risk Assessment" designed to predict the degree of possibility for an emergency.

(4) Each DOC facility shall perform a risk assessment annually to identify the potential for an emergency based on the geographic location, inmate population, facility structure and facility resources. The internal and external factors that would threaten the facility will be listed on a form titled "Risk Assessment by Type of Emergency." This form will be kept current and maintained in the Emergency Preparedness Manual. A copy will be sent to the department emergency coordinator.

(5) Each DOC facility shall develop emergency plans to respond to each predicted emergency identified on the "Risk Assessment by Type of Emergency."

[Publications: Publications & Forms referenced are available from the agency.]
Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0115
Preparation

(1) Preparation develops the emergency plans along with the equipment and resources used in an emergency and provides for an audit procedure to ensure plans have been properly developed, maintained, and distributed.

(2) Each DOC facility shall develop and maintain Emergency Preparedness Manuals — Volumes I, II and III as required by the Director.

(3) Each DOC facility shall implement the appropriate components of the command structure to meet emergency situations.

(4) Each DOC facility will maintain a perpetual equipment list for use in an emergency. The department emergency coordinator will maintain a department-wide list of equipment by consolidating facility lists.

(5) Each DOC facility will perform audits on Emergency Preparedness Manuals annually..

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0125
Practice

(1) Practice develops training standards and curriculum, initiates training for all levels of employees, designs exercises to determine the effectiveness of emergency plans and training, and uses evaluations to provide revised training standards, curriculum, training, and exercises.

(2) Training for emergency preparedness will be provided by certified emergency coordinators to new employees and annually thereafter for all levels of employees.

(3) Emergency Exercises:

(a) Emergency exercises (two major and two minor drills) will be conducted annually at each institution to determine the effectiveness of the emergency preparedness plans. The fundamental purpose of an exercise program is to improve operational readiness. Full scale exercises, (involving non-ODOC agencies) must be pre-approved by the department emergency coordinator. Tabletop exercises may be considered drills.

(b) Non-Institution facilities will conduct a minimum of one tabletop exercise annually.

(4) A thorough evaluation of any application of the emergency preparedness plans will be made to determine effectiveness and deficiencies, recommend the correction of deficiencies, and mediate efficiencies as appropriate.

(5) The emergency coordinators shall review all evaluations and recommendations for emergency preparedness and revise training standards as necessary.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

291-053-0135
Confidential Procedures

(1) The following confidential procedures will be maintained in the Emergency Preparedness Manual with current information:

(a) Emergency Preparedness;

(b) Tactical Emergency Response Team (TERT); and Crisis Negotiation Team (CNT)

(c) Escape Response.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 20-1996, f. 11-20-96, cert. ef. 12-1-96; DOC 1-2013, f. & cert. ef. 1-17-13

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Department of Energy, Energy Facility Siting Council Chapter 345

Rule Caption: Establish rules for reporting requirements for shipments containing radioactive materials and clarify civil penalties.
Adm. Order No.: EFSC 1-2013
Filed with Sec. of State: 1-28-2013
Certified to be Effective: 1-28-13
Notice Publication Date: 12-1-2012
Rules Amended: 345-029-0060, 345-060-0004, 345-060-0007, 345-060-0025
Subject: The proposed rules for the transport of radioactive materials describe the "Oregon Radioactive Materials Shipment Report" form requirements for carriers, and clarify civil penalties for failure to comply with Oregon rules. The reporting requirements described in the proposed rule are consistent with a long-standing process for carriers to report their shipping activity in Oregon. The rules also include housekeeping amendments to correct grammar.

A public hearing was held on January 10, 2013 at 9:00 a.m. and an opportunity to provide oral comment was provided at the Energy Facility Siting Council's January 25, 2013 meeting.
Rules Coordinator: Kathy Stuttaford—(503) 373-2127

345-029-0060
Civil Penalties

(1) Following the responsible party's response to the notice of violation described under OAR 345-029-0040, and any enforcement conference, the Department of Energy may assess a civil penalty for a Class II violation. The Department shall determine the amount of the civil penalty, if any, as follows:

(a) Base amount:

(A) $1000 per day from the date of discovery for a violation of site certificate terms or conditions or violation of a Department of Energy order as described in OAR 345-027-0230, or $2000 per day from the date of discovery for such violation if the Department finds that substantially the same violation occurred within the preceding 36 months; or

(B) $100 per day from the date of discovery of a violation of the rules of division 50 of this Chapter; or

(C) $250 for the first violation, and $500 for each violation afterwards during a calendar year for failure to provide specific shipment information for a shipment traveling under an Oregon Radioactive Material Transport Permit as outlined in division 60 of this Chapter. This information must be provided either by filling out a form at an Oregon Port-of-Entry or electronically within 48 hours after entering the state by using a form provided on the ODOT website; or

(D) $2000 per day from the date of discovery for a violation of an enforcement order of the Council, or $5000 per day from the date of discovery for such violation if the Department finds that substantially the same violation occurred within the preceding 36 months;

(b) The Department may multiply the base amount by a factor of:

(A) 3.0 if the Department finds the violation was intentional or reckless; or

(B) 5.0 if the Department finds the violation was intentional or reckless and the violation involved a requirement relating to public health, safety or the environment;

(c) The Department may multiply the base amount by either or both of the following factors:

(A) 0.75 if the responsible party corrected the violation within the time required to respond to the notice of violation and the responsible party has submitted a plan adequate to minimize the possibility of recurrence; and

(B) 0.8 if the responsible party reported the conditions or circumstances of the violation as a result of a routine audit conducted as part of an ongoing comprehensive compliance audit program; and

(d) The Department shall not reduce the base amount under subsection (c) above if the Department determines an increase in the base amount is warranted under subsection (b).

(2) In a notice of assessment of the civil penalty, the Department shall include:

(a) An analysis of the violation(s) in light of the criteria described in section (1);

(b) The amount of the assessment;

(c) A proposed order assessing the civil penalty; and

(d) A statement of the responsible party's right to a contested case proceeding as provided for in OAR 345-029-0070.

(3) The Department shall serve the notice of assessment of civil penalty by personal service and by certified or registered mail.

Stat. Auth.: ORS 469.470
Stats. Implemented: ORS 469.085 & 469.992
Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 1-1995, f. & cert. ef. 5-15-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2013, f. & cert. ef. 1-28-13

345-060-0004
Permits

(1) Persons must obtain an "Oregon Radioactive Material Transport" (RAM) permit from the Oregon Department of Transportation (ODOT) Motor Carrier Transportation Division (MCTD) prior to transport in the State of Oregon of radioactive material that requires a placard on the vehicle according to 49 CFR 172(f) in effect as of the date of this rule.

(2) A carrier shall submit a permit application annually to ODOT MCTD, 550 Capitol Street NE, Salem, Oregon 97301. A carrier applying for the first time shall submit the application at least 30 days prior to transporting any materials specified in section (1).

(3) ODOT may issue a permit on an emergency basis by telephone when the carrier cannot comply with the 30 day requirement of section (2) as a result of conditions beyond the carrier's control. A carrier acquiring a permit under this section shall provide the information contained in subsections (4)(a) through (d) and (f) of this rule and the name of its insurance company, policy number, minimum levels of coverage and date of policy expiration or verification of self insurance.

(4) In the permit application, the carrier shall include:

(a) The name and address of the carrier;

(b) The telephone numbers of the carrier that will be answered at any time for emergencies and a statement that the carrier has a 24-hour telephone number for contacting all shippers;

(c) A description of the material to be transported, number of shipments and estimated radioactivity per shipment. Precise information is not necessary if unavailable;

(d) A description of the route or routes to be taken and approximate schedule. Precise information is not necessary if unavailable;

(e) A description of any violations by the applicant of any local, state or federal regulations within the past two years related to radioactive material transportation. The carrier may satisfy this requirement by submitting copies of the most recent federal or state motor carrier safety or hazardous material audit and inspection reports that include descriptions of those violations, if any;

(f) ODOT Operating Authority Identification Number, U.S. Department of Transportation Number, and U.S. Environmental Protection Agency Identification Number, when appropriate; and

(g) Proof of insurance including minimum levels of coverage and policy expiration date or verification of self insurance.

(5) ODOT shall issue a regular permit if the applicant's record of violations of federal and state motor carrier safety and hazardous material

requirements indicate that its practices have not and will not create an undue risk to public health, safety, or the environment.

(6) ODOT shall issue a conditional permit, which requires pre trip notification to arrange for inspection, to any carrier who has a "conditional" safety fitness rating pursuant to the authority of Title 49 CFR 385.1 in effect as of the date of this rule.

(7) ODOT shall not issue an Oregon Radioactive Material Transport permit if the carrier has an "unsatisfactory" safety fitness rating pursuant to the authority of Title 49 CFR 385.1 in effect as of the date of this rule.

(8) For all shipments requiring an Oregon Radioactive Material Transport Permit, the carrier shall have a copy of the permit in the vehicle during shipment.

(9) Any person who has been denied a permit under this rule may submit to the Department of Energy a written request for a contested case proceeding. In the request, the person shall describe the issues to be contested, state the facts believed to be at issue, and include the person's mailing address. The Council shall conduct the proceeding under the provisions of OAR 345-015-0012 to 345-015-0085. After the hearing in the contested case proceeding, the Council, in its final order, shall grant or deny the permit.

(10) Once issued, permits remain valid for one year from the date of issuance unless revoked or suspended under section (11).

(11) ODOT or the Department of Energy may revoke or suspend permits for failure to comply with the conditions named on the permit or violations of the motor carrier safety requirements or hazardous or radioactive materials requirements.

(12) For reinstatement of a permit revoked or suspended under section (11) of this rule, the carrier shall submit a new application and evidence that the carrier has taken remedial actions to prevent recurrence of the violation(s).

(13) Upon entering the State of Oregon with a shipment made under this permit, the driver must either stop at the nearest Oregon Port of Entry and provide specific shipment information in writing by filling out an "Oregon Radioactive Materials Shipment Report" form or provide the same information in electronic format as described below. The Shipment Report is available at all Oregon Ports-of-Entry at all times, open or closed. Information to be provided includes name of carrier; name of shipper; vehicle license plate number; driver's name; RAM permit number; commodity description and UN identification number; whether the shipment is Highway Route Control; shipment origin; and shipment destination. Carriers who elect to submit the information electronically in lieu of stopping at an Oregon Port-of-Entry, must submit the form provided on the ODOT website within 48 hours of entering the state.

(14) Failure to fill out an "Oregon Radioactive Materials Shipment Report" or omitting required information may subject the carrier to civil penalties as described in Division 29 of this chapter.

(15) With prior approval of the Department, carriers that do not pass through an Oregon Port of Entry must self-report each individual shipment on a monthly basis, directly to the Department.

Stat. Auth.: ORS 469.470 & 469.607
Stats. Implemented: ORS 469.603, 469.605, 469.607 & 469.615
Hist.: EFSC 3-1982, f. & ef. 3-8-82; EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83; EFSC 3-1983, f. & ef. 11-4-83; EFSC 5-1986, f. & ef. 9-5-86; EFSC 1-1991, f. & cert. ef. 3-12-91, Prior sections (5)-(10) renumbered to 345-060-0006(1)-(5); EFSC 1-1995, f. & cert. ef. 5-15-95; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2013, f. & cert. ef. 1-28-13

345-060-0007
Inspections

The State of Oregon or its agents may inspect shipments under these rules for compliance with applicable rules and regulations. The State shall inspect all irradiated reactor fuel (defined in 10 CFR 73.37 in effect as of the date of this rule) and Highway Route Controlled Quantity shipments (defined in 49 CFR 173.403 in effect as of the date of this rule). The state may choose to waive inspection if the shipment is carrying a current Commercial Vehicle Safety Alliance inspection sticker. The state may inspect samplings of other shipments. The State may inspect highway shipments made under conditional permits described in OAR 345 060 0004(6). The State shall make arrangements for inspection when the carrier gives notice for inspection, as described in 345 060 0005.

Stat. Auth.: ORS 469.470, 469.605 & 469.607
Stats. Implemented: ORS 469.603 - 469.615
Hist.: NTEC 7, f. 2-20-74, ef. 3-11-74; EFSC 3-1982, f. & ef. 3-8-82; EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83; EFSC 5-1986, f. & ef. 9-5-86; EFSC 1-1991, f. & cert. ef. 3-12-91; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2013, f. & cert. ef. 1-28-13

345-060-0025
Packaging, Placarding, Labeling and Documentation

The shipper shall maintain all packaging, placarding, labeling, shipment documentation and all other aspects of transporting any radioactive material in accordance with 10 CFR 71 and 73, and 49 CFR 171 through 179 in effect as of the date of this rule.

Stat. Auth.: ORS 469.470 & 469.607
Stats. Implemented: ORS 469.607
Hist.: EFSC 3-1982, f. & ef. 3-8-82; EFSC 2-1983(Temp), f. 6-22-83, ef. 7-1-83; EFSC 5-1986, f. & ef. 9-5-86; EFSC 1-1991, f. & cert. ef. 3-12-91; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2013, f. & cert. ef. 1-28-13

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Department of Environmental Quality
Chapter 340

Rule Caption: 401 Water Quality Certification fee increase
Adm. Order No.: DEQ 1-2013
Filed with Sec. of State: 1-16-2013
Certified to be Effective: 1-16-13
Notice Publication Date: 8-1-2012
Rules Amended: 340-048-0055
Subject: The EQC adopted a new fee schedule to certify activities requiring federal licenses and permits to comply with water quality standards. Most projects involve the removal of material from, or placement into, state waters such as sand and gravel operations, wetland fills for development and navigation dredging but do not apply to hydroelectric projects.

The fees, as directed by the 2009 Oregon Legislature through House Bill 2185, are based on projected program costs rather than on volume of material removed or filled. The fees apply to previously exempt activities such as sand and gravel operations, projects that fill two acres of wetlands or more, or remove more than 500 cubic yards of material.
Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-048-0055
Fee Schedule for Certifications

(1) Applicability. The fees established in this rule apply to any person, including a federal agency, submitting an application for certification to DEQ.

(2) Fee Determinations. To determine the appropriate fee to process and review an application for certification, DEQ will do the following:

(a) Perform an initial review of the application and other materials submitted;

(b) Determine the estimated program costs incurred by DEQ in reviewing the proposed project based on the types of tasks expected, the amount of staff time and other expenses, and assign a tier using the criteria in Section (3);

(c) Submit an invoice or, if necessary, multiple invoices, to the applicant based on the appropriate fee schedule provided in Section (4); and

(d) As necessary, revise an assigned tier based on documentation of the expected types of tasks or program costs incurred, if appropriate, and notify the applicant of such revisions.

(3) Project Tiers. The following tier schedule describes the types of tasks expected to appropriately process and review proposed projects for certification:

(a) Tier 1- This tier applies to those projects that incur minimal program costs and impacts to water quality. To qualify under this tier, the project must meet the following:

(A) Potential for minimal impacts to water quality;

(B) Low level of public participation;

(C) No more than standard coordination with federal state or local agencies required;

(D) Stormwater management plan review not required or will be addressed through the National Pollutant Discharge Elimination System permitting process;

(E) Limited technical assistance needed; or,

(F) Within the scope of a United States Army Corps of Engineers Nationwide 404 category requiring a DEQ 401 certification and involving only a stormwater management plan or sediment evaluation review component;

(G) Within the scope of the proposed application, the project has been modified or altered that the DEQ 401 review and certification requires reissuance, including DEQ public notice.

(b) Tier 2A -This tier applies to those projects that incur a higher than minimal amount of program costs and impacts to water quality. To qualify under this tier, the project must meet some of the following:

(A) Potential for greater than minimal impacts to water quality;

(B) Basic level of public participation required, including but not limited to response to comment;

(C) No more than standard coordination with federal state or local agencies required;

(D) Limited stormwater management plan review or technical assistance to a reviewing permitted entity or agent required;

(E) Limited technical assistance needed; or

(F) Sediment characterization, if required, finds sediment and new surface suitable for in-water exposure.

(c) Tier 2B - This tier applies to those projects that incur higher program costs due to greater potential impacts on water quality. To qualify for this tier, the project must meet a majority of the following:

(A) Potential for greater water quality impacts if the waterway is identified on DEQ's 303(d) list or is covered by a total maximum daily load, or multiple waters of the state are affected;

(B) High level of public participation required with potential for one or more public meetings or hearings;

(C) More than standard coordination with multiple federal, state or local agencies required, including but not limited to one or more meetings or pre-application site visit;

(D) Complex stormwater management plan review and coordination required;

(E) Moderate and on-going level of technical assistance needed;

(F) Large or complex compensatory mitigation review required;

(G) Sediment characterization, if required, finds sediment or new surface unsuitable for in-water exposure, so that coordination with the DEQ Solid Waste or Environmental Cleanup programs is necessary; or

(H) Preparation of a full evaluation and findings report needed.

(d) Tier 3 — This tier applies to those projects that incur very high program costs because a large area is affected, a high degree of complexity is involved or greater potential water quality impacts may result. To qualify for this tier, the project must meet a majority of the following:

(A) Potential for greater water quality impacts if the waterway is identified on DEQ's 303(d) list or covered by a total maximum daily load, or multiple waters of the state are affected;

(B) High level of public participation required with extensive public comments and the potential for one or more public meetings or hearings;

(C) Substantially more than standard coordination with multiple federal, state or local agencies required, including but not limited to one or more meetings;

(D) Complex stormwater management plan review and coordination required;

(E) High level or iterative technical assistance required or substantive project revisions received;

(F) Large or complex compensatory mitigation review required;

(G) Site visit(s) needed to understand impacts and advise on potential alternatives;

(H) Sediment characterization finds sediment or new surface unsuitable for in-water exposure or contaminated soil is likely to be present, so that coordination with the DEQ Solid Waste or Environmental Cleanup Programs is necessary; or

(I) Preparation of a full evaluation and findings report needed.

(e) Tier 4 — This tier applies to those projects that incur the highest program costs because a very large area is affected, an extremely high degree of complexity is involved, or a very high level of public participation is expected. To qualify for this tier, the project must meet all of the following:

(A) All of the applicable factors identified in Tier 3; and

(B) Coordination with the Governor's Office in conjunction with other state agencies, tribal nations and the federal government;

(C) Review of additional documents such as National Environmental Policy Act Resource Reports, Environmental Assessments and Environmental Impact Statements.

(4) Fee Schedules. The following fees apply to tiers assigned under Sections (2) and (3):

(a) As of July 31, 2013, the following fees apply:

(A) Tier 1 — $985

(B) Tier 2A — $4,390

(C) Tier 2B — $12,105

(D) Tier 3 — $17,780

(E) Tier 4 — $14,020 per month or average monthly cost of a senior level technical staff position.

(b) In lieu of fees established by this section, DEQ may at its discretion enter into an intergovernmental agreement with another state or federal agency that provides for the payment of the estimated or actual costs of processing an application for certification.

(5) Review of Fee Determinations. An applicant may seek review of DEQ's determination of the appropriate fee as follows:

(a) An applicant may seek review of the fee determination by submitting a written request to the DEQ regional administrator within 30 days of receipt of an invoice. The request must state the specific reasons and provide documentation that the applicant believes supports a different fee amount. Upon receiving such a request, the DEQ regional administrator must respond within 60 days of receipt and render a decision.

(b) That decision may include:

(A) Determination that a different fee tier will apply subject to making specifically identified modifications to the proposed project;

(B) Denial of a request for a different fee amount; or;

(C) The determination that the proposed project meets the criteria for a different tier.

(c) If an applicant is not satisfied by the decision of the DEQ regional administrator, the applicant is entitled to request review by the DEQ director in the same manner as described in subsections (a) and (b) above.

(d) An applicant who is dissatisfied with the review of the director retains the right to a contested case hearing as provided in ORS chapter 183, provided the applicant has sought relief through subsections (a) through (c).

(6) Certification of Hydroelectric Projects. Fees for certification of a hydroelectric project as proposed to be licensed by the Federal Energy Regulatory Commission must be paid in accordance with ORS 468.065(3). Fees for a certification related to a hydroelectric project but for a license or approval not issued by the Federal Energy Regulatory Commission are based on the actual expenses incurred by the department, including expenses of the Environmental Quality Commission, related to the certification review and decision. In consultation with the applicant, DEQ will establish a periodic basis for billing the applicant.

(7) DEQ may approve a payment schedule for fees, including the submission of multiple invoices, for multi-year projects or projects assigned as a Tier 4.

(8) DEQ must receive the payment of the full invoiced fee before issuing a certification, and a review made pursuant to subsection (5) does not suspend the requirement to pay the appropriate fee. An application for certification is considered withdrawn if the applicant fails to pay the appropriate fee within 90 days of the invoice date. An applicant may request that DEQ grant an extension of time to pay the appropriate fee to an applicant upon a showing of good cause, and DEQ will continue processing the application for certification. DEQ may refund the fee or some portion if it determines that no certification is required, that minimal program costs were not incurred, a revised tier assignment is provided or the wrong application has been filed.

Stat. Auth.: ORS 468.068 & 468B.047
Stats. Implemented: ORS 468.068
Hist.: DEQ 28-1998, f. & cert. ef. 12-22-98; Renumbered from 340-048-0200, DEQ 2-2004, f. & cert. ef. 4-15-04; DEQ 1-2013, f. & cert. ef. 1-16-13

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Rule Caption: Amend Rules to Revise Fees and Requirements for Wastewater System Operator Certification
Adm. Order No.: DEQ 2-2013
Filed with Sec. of State: 1-28-2013
Certified to be Effective: 3-1-13
Notice Publication Date: 9-1-2012
Rules Amended: 340-049-0010, 340-049-0015, 340-049-0020, 340-049-0025, 340-049-0030, 340-049-0035, 340-049-0040, 340-049-0055, 340-049-0060, 340-049-0065, 340-049-0085
Subject: The Wastewater System Operator Certification rules:
Increase operator certification and program support fees.
Establish small wastewater system certification.
Revise requirement for system supervisor compliance.
Clarify "acceptable operating experience" language.
Revise exam scheduling language and re-exam time frame.
Revise standing advisory committee language.
Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-049-0010
Definitions

As used in these regulations unless otherwise required by context:

(1) "Average Dry Weather Flow" (ADWF) means the design average dry weather flow capacity of the wastewater treatment system in gallons per day or Million Gallons per Day (MGD), as approved by the Department.

(2) "Certified" means an individual holds a valid operator certificate for wastewater treatment system or wastewater collection system operation issued by the State of Oregon, Department of Environmental Quality.

(3) "Commission" means the Environmental Quality Commission.

(4) "Continuing Education Unit (CEU)" means a nationally recognized unit of measurement for assigning credit for accredited education or training that provides the participant with advanced or post high school learning. One CEU equals 10 contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction and qualified instruction.

(5) "Contract Operations" means the wastewater system owner has a written contract with another wastewater system owner, an operations services company, or a certified operator for supervising the operation of its wastewater treatment system or wastewater collection system.

(6) "Department" means the Department of Environmental Quality.

(7) "Director" means the Director of the Department of Environmental Quality or any official designee of the Director.

(8) "Industrial Waste" means liquid wastes from an industrial or commercial process discharged into a wastewater system for conveyance and treatment.

(9) "NPDES Permit" means a waste discharge permit issued in accordance with requirements and procedures of the National Pollutant Discharge Elimination System authorized by Section 402 of the Federal Clean Water Act and OAR 340, division 45.

(10) "Operating Experience" means the routine performance of duties, tasks and responsibilities at a wastewater treatment system or wastewater collection system, or in a related field as allowed under OAR 340-049-0030(5), that affect wastewater system performance or effluent quality.

(11) "Operator" or "Wastewater System Operator" means any person engaged in the routine on site performance of duties, tasks and responsibilities in the operation of a wastewater treatment system or a wastewater collection system. This term does not include officials, managers, and engineers, directors of public works or equivalent whose duties do not include the actual "hands-on" operation or supervision on site of wastewater system facilities or operators.

(12) "Oral Examination" means an examination administered by the Department where the applicant provides verbal answers to the written examination for the type and grade of certification the applicant is seeking.

(13) "Population" means the design population of the wastewater system represented as the number of people or the population equivalent the system is designed to serve. Equivalent population ordinarily is determined based on 70 gallons per person per day average dry weather flow (ADWF) or 0.17 lbs. BOD5 per person per day, whichever is greater.

(14) "Provisional Certificate" means a temporary and conditional certificate issued by the Department to a person meeting the requirements in OAR 340-049-0030(2)(a) or (3)(a).

(15) "Post High School Education" means relevant continuing professional, technical or academic education acquired through accredited programs such as short schools, correspondence or distance learning courses, armed services training, trade schools, community colleges, colleges, universities, formalized workshops, or seminars for which a CEU, community college or college credit, or the equivalent is earned and acceptable to the Department. Each year of relevant post high school education is equal to 45 CEUs, or 30 semester or 45 quarter hours of community college, college or university credit.

(16) "Shift Supervisor" means the operator delegated authority by the system owner for executing the specific practice and procedures for operating the wastewater treatment system or wastewater collection system when the system is operated on more than one daily shift.

(17) "Supervise" means to have full and active responsibility for the daily on site technical operation of a wastewater treatment system or wastewater collection system.

(18) "Supervisor" means the operator delegated authority by the system owner for establishing and executing the specific practice and procedures for operating the wastewater treatment system or wastewater collection system in accordance with the policies of the owner of the system and any permit requirements.

(19) "Wastewater" or "sewage" means the water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present. The admixture of domestic and industrial waste or other by-products, such as sludge, is also considered wastewater or sewage.

(20) "Wastewater Treatment System" or "Sewage Treatment System" means any structure, equipment or process for treating and disposing of, or recycling or reusing wastewater and sludge (including industrial waste) that is discharged to the wastewater system.

(21) "Wastewater Collection System" or "Sewage Collection System" means the trunks, arterials, pumps, pump/lift stations, piping and other appurtenances necessary to collect and carry away wastewater or other liquid waste treatable in a community or private wastewater treatment facility.

(22) "Wastewater System" means "Sewage Treatment Works" defined in ORS 448.405 as any structure, equipment or process required to collect, carry away and treat domestic waste and dispose of sewage as defined in ORS 454.010. Typically, components of a wastewater system include a wastewater collection system and a wastewater treatment system.

(23) "WPCF Permit" means a Water Pollution Control Facilities permit to construct and operate a collection, treatment and/or disposal system with no discharge to navigable waters. A WPCF permit is issued by the Department in accordance with the procedures of OAR 340, divisions 45 and 71.

Stat. Auth.: ORS 448.410, 468.020 & 468B.030
Stats. Implemented: ORS 448.405 - 448.430, 448.992, 468B.010 - 468B.020 & 468B.030
Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0015
General Requirements

(1) Each owner of a wastewater system with an Average Dry Weather Flow (ADWF) of 0.075 MGD (75,000 gallons per day) or greater design capacity must have its system supervised full-time by one or more operators who hold a valid certificate for the type of system, wastewater treatment or wastewater collection, and at a grade equal to or greater than the wastewater system classification as defined in OAR-340-049-0020 and 340-049-0025.

(2) Any wastewater treatment system or wastewater collection system owner with a system having more than one daily shift must have its shift supervisor, if any, certified at no more than one grade lower than the wastewater system classification. The system owner is not required to have a shift supervisor if another properly certified operator is available to supervise operation of the system.

(3) Each owner of a wastewater system with an ADWF less than 0.075 MGD (75,000 gallons per day) design capacity must have its system supervised on a part-time or full-time basis by one or more operators who hold a valid certificate for the type of system, wastewater treatment or wastewater collection, and at a grade equal to or greater than the wastewater system classification.

(4) These rules shall not apply to owners of subsurface sewage disposal systems as defined under ORS 454.605 and installed or constructed under a permit in accordance with 454.655. Based on complexity of the wastewater system, the Department may require an owner of a NPDES or WPCF permitted wastewater system using subsurface sewage disposal with a ADWF greater 0.0025 MGD (2,500 gallons per day) to have its system supervised by one or more operators certified in accordance with these rules.

(5) Each wastewater treatment and wastewater collection system owner must notify the Department in writing of the name of all operators, including shift supervisors, if any, delegated authority by the owner to supervise the operation of its system in accordance with these rules. The written notice must be filed with the Department's Water Quality Division, Operator Certification Program, and include the operator's certificate type, grade, and expiration date.

(6) The system supervisor or shift supervisor is not required to be on site at all times. The system supervisor must be available to the wastewater system owner and to any other operator, and able to immediately respond on site. A shift supervisor must be available and able to immediately respond on site during an assigned shift.

(7) An operator holding a valid Grade I Provisional wastewater treatment or wastewater collection certificate may be designated by a system owner to supervise the operation of a Class I wastewater treatment or wastewater collection system respectively.

(8) The wastewater system owner may re-designate or replace designated operators responsible for supervising system operation with other

properly certified operators at any time and must notify the Department in writing within 30 days of replacement or re-designation of operators.

(9) A wastewater treatment or wastewater collection system may not be without an operator as required in Sections (1) or (3) of this rule for more than 30 days. During this period, the system owner must ensure an operator is certified for the type of system at no more than one grade lower than the system classification, and is available to the system owner and to any other operator. This operator must also be delegated authority by the system owner to supervise the operation of the system.

(10) When compliance with requirements in Sections (1) or (3) of this rule is not possible or practicable because the system supervisor is not available or the position is vacated unexpectedly, and another certified operator is not qualified to assume supervisory responsibility, the Director may grant a time extension for compliance with the requirements in response to a written request from the system owner. The Director will not grant an extension longer than 120 days unless the system owner documents the existence of extraordinary circumstances.

(a) The request must justify the need for the time extension and include at least the following:

(A) The date the system supervisor position or availability was or will be vacated;

(B) A time schedule to recruit, hire, or otherwise make available and designate another qualified operator; and

(C) The name of an interim supervisor and the supervisor's certificate type, grade and expiration date.

(b) Any time extension granted will be conditioned on a time schedule for the system owner to obtain the services of a qualified operator to supervise the wastewater system in accordance with these rules, and may be revoked if the system is operated in violation of a NPDES or WPCF permit limit or ORS 468B.025.

(11) For contract operations as defined in OAR 340-049-0010(5), the system owner must have and maintain a written contract on file and, upon request by the Department, must provide a copy of contract provisions for supervising the operation of its system for Department review. Contracts for part-time system supervision allowed under Section 3 of this rule must meet all requirements in 340-049-0070.

Stat. Auth.: ORS 448.410, 468.020 & 468B.030
Stats. Implemented: ORS 448.405 - 448.430, 448.992, 468B.010 - 468B.020, 468B.030 & 468B.050
Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0020
Classification of Wastewater Systems

(1) All wastewater systems will be classified by the Department as wastewater treatment systems and/or wastewater collection systems, as appropriate, in accordance with the following classification system:

(a) Small Wastewater Systems — 30 total points or less; less than 500 design population or less than 150 connections.

(b) Wastewater Treatment Systems

(A) Class I — 30 total points or less;

(B) Class II — 31-55 total points;

(C) Class III — 56-75 total points;

(D) Class IV — 76 or more points.

(c) Wastewater Collection Systems:

(A) Class I — 1,500 or less design population;

(B) Class II — 1,501 to 15,000 design population;

(C) Class III — 15,001 to 50,000 design population;

(D) Class IV — 50,001 or more design population.

(2) Wastewater treatment system classifications will be derived from the total points assigned based on criteria shown in OAR 340-049-0025.

(3) The Director will advise wastewater system owners of the classification of their systems.

(4) If the complexity of a wastewater treatment system is not reflected in OAR 340-049-0025, the Director may classify a wastewater treatment system higher than the classification based on accumulated points upon written notice to the wastewater treatment system owner.. The designation must be consistent with the intent of the classification system.

(5) If deemed appropriate, the Director may classify a wastewater collection system higher than the classification based on population upon written notice to the wastewater collection system owner. The designation must be consistent with the intent of the classification system.

(6) The Director may change the classification of a wastewater system upon written notice to the system owner and will give the owner a reasonable time to comply with the requirements of the new classification.

(7) A wastewater system owner may appeal the classification of its system in accordance with applicable variance requirements in OAR 340-049-0075.

Stat. Auth.: ORS 448.410, 468.020 & 468B.030
Stats. Implemented: ORS 448.405 - 448.430 & 448.992
Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0025
Criteria for Classifying Wastewater Treatment Systems

(1) Design Population or Population Equivalent Points:

(a) Less than 750 — 0.5 points;

(b) 751 to 2000 — 1 point;

(c) 2001 to 5000 — 1.5 points;

(d) 5001 to 10,000 — 2 points;

(e) Greater than 10,000 — 3 points plus 1 point per 10,000.

(2) ADWF Points:

(a) Less than 0.075 MGD — 0.5 point;

(b) Greater than 0.075 to 0.1 MGD — 1 point;

(c) Greater than 0.1 to 0.5 MGD — 1.5 points;

(d) Greater than 0.5 to 1.0 MGD — 2 points;

(e) Greater than 1.0 MGD — 3 points plus 1 point per 1 MGD.

(3) Unit Process Points:

(a) Preliminary Treatment and Plant Hydraulics:

(A) Comminution — 1 point;

(B) Grit Removal, gravity — 1 point;

(C) Grit Removal, mechanical — 2 points;

(D) Screen(s), in-situ or mechanical — 1 point;

(E) Pump/Lift Station(s) — 2 points;

(F) Flow Equalization — 1 point.

(b) Primary Treatment:

(A) Community Septic Tank(s) — 2 points;

(B) Clarifier(s) — 5 points;

(C) Flotation Clarifier(s) — 7 points;

(D) Chemical Addition System — 2 points;

(E) Imhoff Tank — 3 points.

(c) Secondary, Advanced, and Tertiary Treatment:

(A) Low Rate Trickling Filter(s) — 7 points;

(B) High Rate Trickling Filter(s) — 10 points;

(C) Trickling Filter — Solids Contact System — 12 points;

(D) Activated Sludge — 15 points;

(E) Pure Oxygen Activated Sludge — 20 points;

(F) Activated Bio Filter Tower less than 0.1 MGD — 6 points;

(G) Activated Bio Filter Tower greater than 0.1 MGD — 12 points;

(H) Rotating Biological Contactors 1 to 4 shafts — 7 points;

(I) Rotating Biological Contactors, 5 or more shafts — 12 points;

(J) Stabilization Lagoons, 1 to 3 cells without aeration — 5 points;

(K) Stabilization Lagoons, 2 or more cells with primary aeration — 7 points;

(L) Stabilization Lagoons, 2 or more with full aeration — 9 points;

(M) Recirculating Gravel Filter — 7 points;

(N) Chemical Precipitation Unit(s) — 3 points;

(O) Gravity Filtration Unit(s) — 2 points;

(P) Pressure Filtration Unit(s) — 4 points;

(Q) Nitrogen Removal, Biological or Chemical/Biological System — 4 points;

(R) Nitrogen Removal, Designed Extended Aeration Only — 2 points;

(S) Phosphorus Removal Units — 4 points;

(T) Effluent Microscreen(s) — 2 points;

(U) Chemical Flocculation Units — 3 points;

(V) Chemical Addition System — 2 points;

(W) Ultrafiltration Membrane(s) — 15 points.

(d) Solids Handling:

(A) Anaerobic Primary Sludge Digester(s) without Mixing and Heating — 5 points;

(B) Anaerobic Primary Sludge Digester(s) with Mixing and Heating — 7 points;

(C) Anaerobic Primary and Secondary Sludge Digesters — 10 points;

(D) Sludge Digester Gas reuse — 3 points;

(E) Aerobic Sludge Digester(s) — 8 points;

(F) Sludge Storage Lagoon(s) — 2 points;

(G) Sludge Lagoon(s) with aeration — 3 points;

(H) Sludge Drying Bed(s) — 1 point;

(I) Sludge Air or Gravity Thickening — 3 points;

(J) Sludge Composting, In Vessel — 12 points;

(K) Sludge Belt(s) or Vacuum Press/Dewatering — 5 points;
(L) Sludge Centrifuge(s) — 5 points;
(M) Sludge Incineration — 12 points;
(N) Sludge Chemical Addition Unit(s) — 2 points;
(O) Non-Beneficial Sludge Disposal — 1 point;
(P) Beneficial Sludge Utilization — 3 points;
(Q) Solids Reduction Processing — 4 points.
(e) Disinfection:
(A) Liquid Chlorine Disinfection — 2 points;
(B) Gas Chlorine Disinfection — 5 points;
(C) On-Site Chlorine Generation of Disinfectants — 5 points;
(D) Dechlorination System — 4 points;
(E) Other disinfection systems including ultraviolet and ozonation — 5 points.
(4) Effluent Permit Requirements Points:
(a) Minimum of secondary effluent limitations for BOD and/or Total Suspended solids — 2 points;
(b) Minimum of 20 mg/L BOD and/or Total Suspended Solids — 3 points;
(c) Minimum of 10 mg/L BOD and/or Total Suspended Solids — 4 points;
(d) Minimum of 5 mg/L BOD and/or Total Suspended Solids — 5 points;
(e) Effluent limitations for effluent oxygen — 1 point.
(5) Variation in Raw Waste Points. Points in this category will be awarded only when conditions are extreme to the extent that operation and handling procedure changes are needed to adequately treat the waste due to variation of raw waste:
(a) Recurring deviations or excessive variations of 100% to 200% in strength or flow — 2 points;
(b) Recurring deviations or excessive variations of more than 200% in strength or flow, or conveyance and treatment of industrial wastes covered by a pretreatment program — 4 points.
(c) Septage or truck hauled waste — 2 points.
(6) Sampling and Laboratory Testing Points:
(a) Sample for BOD, Total Suspended Solids performed by outside laboratory — 2 points;
(b) BOD or Total Suspended Solids analysis performed at treatment plant — 4 points;
(c) Bacteriological analysis performed by outside laboratory — 1 point;
(d) Bacteriological analysis performed at treatment plant — 2 points;
(e) Nutrient, Heavy Metals, or Organics analysis by outside laboratory — 3 points;
(f) Nutrient, Heavy Metals or Organics analysis performed at treatment plant — 5 points.

Stat. Auth.: ORS 448.410, 468.020 & 468B.030
Stats. Implemented: ORS 448.405 - 448.430 & 448.992
Hist.: DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0030
Minimum Qualifications for Wastewater Treatment System and Wastewater Collection System Operator Certification

(1) Minimum qualifications for Small Wastewater Systems Operator Certification are as follows:
(a) Education: High school diploma, GED certificate, or equivalent; and
(b) Experience:
(A) Twelve months acceptable operating experience at a Small Wastewater System; or
(B) Six months operating experience, not to include credit for any related experience, and an Associate of Science degree in water or wastewater technology, or Department approved Associate of Science degree, or combination of community college, college or university education accepted as equivalent to an Associate of Science degree in water or wastewater technology, or a combination of department approved education and training, and
(c) Examination: Satisfactorily pass the Small Wastewater System examination.
(2) Minimum qualifications for Wastewater Treatment System Operator Certification are as follows:
(a) Grade I Provisional Wastewater Treatment System Operator Certification:
(A) Persons may qualify for a Grade I Provisional Certificate to obtain on the job training and experience to meet standard Grade I Wastewater Treatment System Operator Certificate qualifications if they:
(i) Are gaining acceptable operating experience at a wastewater treatment system at the time of making application; and
(ii) Have a high school diploma, GED certificate, or equivalent; and
(iii) Are participating in or have completed a Department approved training program; and
(iv) Are supervised on a full-time or part-time basis by a certified wastewater treatment system operator.
(B) The Grade I Provisional Certificate is not renewable. This conditional certificate will be issued for a period of 12 months during which time the individual may apply to take the Grade I wastewater treatment examination.
(C) Upon passing the Grade I wastewater treatment examination and obtaining a total of 12 months acceptable operating experience at a wastewater treatment system, the individual may submit a post-examination application and fee for evaluation of qualification for standard Grade I certification.
(b) Grade I Wastewater Treatment System Operator Certification:
(A) Persons may qualify for this certificate type and grade if they meet the following qualifications:
(i) Education: High school diploma, GED certificate, or equivalent; and
(ii) Experience:
(I) Twelve months acceptable operating experience at a Class I or higher Wastewater Treatment System; or
(II) Six months operating experience, not to include credit for any related experience, and an Associate of Science degree in water or wastewater technology, or Department approved Associate of Science degree, or combination of community college, college or university education accepted as equivalent to an Associate of Science degree in water or wastewater technology, and
(iii) Examination: Satisfactorily pass the Wastewater Treatment Grade I examination.
(c)(A) Grade II Wastewater Treatment System Operator Certification.
(B) Persons may qualify for this certificate type and grade if they meet the following qualifications:
(i) Education: High school diploma, GED certificate, or equivalent; and
(ii) Experience: Three years acceptable operating experience at a Class I or higher Wastewater Treatment System, or two years at a Class I or higher Wastewater Treatment System and one year of post high school education; and
(iii) Examination: Satisfactorily pass the Wastewater Treatment Grade II examination.
(d)(A) Grade III Wastewater Treatment System Operator Certification.
(B) Persons may qualify for this certificate type and grade if they meet the following qualifications:
(i) Education: High school diploma, GED certificate, or equivalent; and
(ii) Experience:
(I) Eight years acceptable operating experience, of which half must have been at a Class II or higher Wastewater Treatment System; or
(II) Five years experience, of which half must have been at a Class II or higher Wastewater Treatment System, and one year of post high school education; or
(III) Four years experience, of which half must have been at a Class II or higher Wastewater Treatment System, and two years post high school education; or
(IV) Three years experience, of which half must have been at a Class II or higher Wastewater Treatment System, and three years of post high school education; and
(iii) Examination: Satisfactorily pass the Wastewater Treatment Grade III examination.
(e)(A) Grade IV Wastewater Treatment System Operator Certification.
(B) Persons may qualify for this certificate type and grade if they meet the following qualifications:
(i) Education: High school diploma, GED certificate, or equivalent and a minimum of one year post high school education; and
(ii) Experience:
(I) Ten years acceptable operating experience, of which half must have been at a Class III or higher Wastewater Treatment System; or

(II) Six year experience, of which half must have been at a Class III or higher Wastewater Treatment System, and two years of post high school education; or

(III) Five year experience, of which half must have been at a Class III or higher Wastewater Treatment System, and three years of post high school education; or

(IV) Four years experience, of which half must have been at a Class III or higher Wastewater Treatment System, and four years post high school education; and

(iii) Examination: Satisfactorily pass the Wastewater Treatment Grade IV examination.

(3) Minimum qualifications for Wastewater Collection System Operator Certification are as follows:

(a) Grade I Provisional Wastewater Collection System Operator Certification:

(A) Persons may qualify for a Grade I Provisional Certificate to obtain on the job training and experience to meet standard Grade I Wastewater Collection System Operator Certificate qualifications if they:

(i) Are gaining acceptable operating experience at a wastewater collection system at the time of making application; and

(ii) Have a high school diploma, GED certificate, or equivalent; and

(iii) Are participating in or have completed a Department approved training program; and

(iv) Are supervised on a full-time or part-time basis by a certified wastewater collection system operator.

(B) The Grade I Provisional Certificate is not renewable. This conditional certificate will be issued for a period of 12 months during which time the individual may apply to take the Grade I wastewater collection examination.

(C) Upon passing the Grade I wastewater collection examination and obtaining a total of 12 months acceptable operating experience at a wastewater collection system, the individual may submit a post-examination application and fee for evaluation of qualification for standard Grade I certification.

(b) Grade I Wastewater Collection System Operator Certification. Persons may qualify for this certificate type and grade if they meet the following qualifications:

(A) Education: High school diploma, GED certificate, or equivalent; and

(B) Experience:

(i) Twelve months acceptable operating experience at a Class I or higher Wastewater Collection System; or

(ii) Six months operating experience, not to include credit for any related experience, and an Associate of Science degree in water or wastewater technology, or Department approved Associate of Science degree, or combination of community college, college or university education accepted as equivalent to an Associate of Science degree in water or wastewater technology; and

(C) Examination: Satisfactorily pass the Wastewater Collection Grade I examination.

(c)(A) Grade II Wastewater Collection System Operator Certification.

(B) Persons may qualify for this certificate type and grade if they meet the following qualifications:

(i) Education: High school diploma, GED certificate, or equivalent; and

(ii) Experience: Three years acceptable operating experience at a Class I or higher Wastewater Collection System, or two years experience at a Class I or higher Wastewater Collection System, and one year of post high school education; and

(iii) Examination: Satisfactorily pass the Wastewater Collection Grade II examination.

(d)(A) Grade III Wastewater Collection System Operator Certification.

(B) Persons may qualify for this certificate type and grade if they meet the following qualifications:

(i) Education: High school diploma, GED certificate, or equivalent; and

(ii) Experience:

(I) Eight years acceptable operating experience, of which half must have been at a Class II or higher Wastewater Collection System; or

(II) Five years experience, of which half must have been at a Class II or higher Wastewater Collection System, and one year of post high school education; or

(III) Four years experience, of which half must have been at a Class II or higher Wastewater Collection System, and two years post high school education; or

(IV) Three years experience, of which half must have been at a Class II or higher Wastewater Collection System, and three years of post high school education; and

(iii) Examination: Satisfactorily pass the Wastewater Collection Grade III examination.

(e)(A) Grade IV Wastewater Collection System Operator Certification.

(B) Persons may qualify for this certificate type and grade if they meet the following qualifications:

(i) Education: High school diploma, GED certificate, or equivalent; and

(ii) Experience:

(I) Ten years acceptable operating experience, of which half must have been at a Class III or higher Wastewater Collection System; or

(II) Eight years experience, of which half must have been at a Class III or higher Wastewater Collection System, and one year of post high school education; or

(III) Six years experience, of which half must have been at a Class III or higher Wastewater Collection System, and two years post high school education; or

(IV) Five years experience, of which half must have been at a Class III or higher Wastewater Collection System, and three years of post high school education; or

(V) Four years experience, of which half must have been at a Class III or higher Wastewater Collection System, and four years post high school education; and

(iii) Examination: Satisfactorily pass the Wastewater Collection Grade IV examination.

(4) The Department will consider the direct relevance of post high school education to wastewater treatment or wastewater collection system operator job tasks and required knowledge, e.g. science, mathematics, engineering, operation, maintenance and management, when determining the number of CEUs or equivalent, or hours of community college or college credit allowed for qualifying for certification under these rules:

(a) CEUs to be acceptable must have direct application to the operation or management of wastewater systems and be acquired through an accredited continuing education experience where the trainer, training sponsor, or educational institution awards a CEU. CEUs or equivalent may be accepted from other states or accredited programs having standards equal to or higher than the rules in this Division;

(b) Degrees or any accumulation of credit hours must be in the fields of engineering, chemistry, water/wastewater technology or physical or biological science from an educational institution accredited through an agency recognized by the U.S. Department of Education to be acceptable;

(c) CEUs or equivalent and credit hours may be combined to satisfy post high school educational requirements; and

(d) Education for qualifying for certification must be documented by copies of diplomas or certificates, degrees, transcripts, grade reports, letters of participation or other official records.

(5) Experience credit is based on acceptable operating experience. Acceptable operating experience includes:

(a) Experience in performance of operator or system supervisor duties, tasks and responsibilities may satisfy up to 100 percent of the experience credit;

(b) Experience as an operator trainee or student intern may satisfy up to 100 percent of the experience credit. The Department will consider experience or education, but not both, in qualifying an applicant where education credit is earned for on-the-job training;

(c) Related experience as an industrial wastewater operator where the relevant work may be substituted based on the type of treatment process, type of process equipment, size of the facility, and complexity of the operation. Criteria applied will be OAR 340-049-0025. The applicant is responsible to verify the 6 points requested in OAR 340-049-0025 and submit this information on the application for testing. The Department will evaluate the submittal and respond to the applicant with results.

(d) Related experience in any of the following areas may satisfy up to 50 percent of the experience credit subject to limitations in OAR 340-049-030(5)(e) and (f):

(A) Wastewater treatment systems operation;

(B) Wastewater collection system operation and maintenance;

(C) Water treatment system operation;

(D) Water distribution system operation;

(E) Water treatment laboratory;

(F) Wastewater treatment laboratory;

(G) Water or Wastewater treatment system maintenance;

(H) Other substantially equivalent related field.

(e) The total of related experience credit must not exceed more than one-half of the acceptable operating experience requirement for certification under OAR 340-049-0030(2) or (3).

(f) Related experience credit must not reduce Grade III or Grade IV minimum requirements for wastewater system class level operating experience under OAR 340-049-0030(2) or (3).

(6) The applicant for certification must provide education and experience records to the Department with the application for screening and evaluating the applicant's qualifications.

(7) The Department may waive the experience or education requirements for admission to an examination under provisions outlined in OAR 340-049-0055(7) — Examinations.

Stat. Auth.: ORS 448.410, 468.020 & 468B.030
Stats. Implemented: ORS 448.405 - 448.430 & 448.992
Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0035
Certification of Wastewater Treatment System and Wastewater Collection System Operators

(1) To be considered for operator certification a person must file a complete application with the Department using approved forms or technology by the filing deadline, if any, established under these rules. The Department will consider only those applications that are complete for processing and include all required qualification information and documentation not already on file with the Department and the appropriate fees. Applications that are incomplete, unsigned or improperly signed, or that do not contain the required documentation will not be accepted by the Department for filing.

(2) The Director will issue certificates to persons meeting the education, experience and examination qualifications set forth in OAR 340-049-0030 for the certificate type and grade sought. Grade I Provisional certificate qualifications do not include an examination. The Director may refuse to issue a certificate as provided in 340-049-0080.

(3) The Director may issue new certificates with up to a two-year expiration date and subject to renewal requirements in OAR 340-049-0040. Exceptions include Provisional certificates, which expire after 12 months, and new standard certificates issued to persons already certified under these rules, which expire on the same date as the pre-existing certificates.

(4) The Director will issue a Grade I Provisional certificate valid for 12 months to persons meeting the education and experience qualifications set forth in OAR 340-049-0030(2)(a) and (3)(a). Upon qualification, including passing a Grade I examination, the Director may issue a standard (renewable) Grade I certificate. The Director may refuse to issue a certificate as provided in 340-049-0080.

(5) Certificates in Wastewater Collection System Operation issued by the Department on or before May 1, 1989, will continue to be valid as long as certificate renewal and reinstatement requirements are satisfied and certificates are not revoked.

(6) Each certificate issued will designate the certificate type and grade of the person certified, and will have an expiration date stated on the certificate or on an accompanying certificate renewal card.

(7) The Department will not consider an application for a new certificate, including a certificate at a higher grade, if the certificate requested is for the same type, treatment or collection, as an expired certificate that is still under the one-year reinstatement period in OAR 340-049-0045. Once the expired certificate is reinstated, an application for a new certificate may be processed.

Stat. Auth.: ORS 448.410, 468.020 & 468B.030
Stats. Implemented: ORS 448.410, 448.415 & 448.420
Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0040
Certification and Renewal

(1) Subject to these requirements and OAR 340-049-0080, a certificate holder may renew a certificate for up to a two-year period if the certificate holder files a complete renewal application with the Department by the certificate expiration date, includes payment of the renewal fee in 340-049-0065(1), and provides satisfactory evidence to the Department of continuing education.

(a) The accumulation of a minimum of two CEUs or two hours of community college, college or university credit every two years in relevant subject matter as described in OAR 340-049-0030(4) is considered satisfactory.

(b) The Department will determine whether the CEUs or hours of credit are directly relevant to a wastewater system operator's job tasks and required knowledge and satisfy the continuing education requirement.

(c) A person holding both wastewater treatment system and wastewater collection system operator certificates issued under these rules must complete only a minimum of two CEUs or two hours of community college, college or university credit to renew both certificates.

(2) Grade I Provisional certificates are not renewable. Persons may apply for a new Provisional certificate if they meet all the qualifications under OAR 340-049-0030(2)(a) or (3)(b).

(3) The Department will send each person holding a valid certificate a renewal notice and application at least 60 days before the certificate expires. The notice will be mailed to the last address of record with the Department's Water Quality Division, Operator Certification Program, and will show the certificate expiration date, renewal period, fee, and date the fee is due. Operators are not relieved of responsibility to renew their certificates if they do not receive renewal notices.

(4) The Department may extend the certificate expiration date for up to 30 days, after which time the certificate will be invalid. A certificate holder may reinstate an expired certificate according to procedures and requirements in OAR 340-049-0045.

(5) The Department will establish the continuing education reporting date for each certificate holder. Generally, this will be at two-year intervals and at the time of certificate renewal.

(6) The Department may vary the expiration date of a certificate and prorate the renewal fee and continuing education requirement to cover renewal periods of less than two years. The Department will give each person written notice of the certificate expiration date assigned, the prorated fee and continuing education requirement and dates due.

(7) Certificate holders must maintain their own records of course/program information and attendance, and must submit documentation to the Department upon request as a condition of renewal.

Stat. Auth.: ORS 448.410, 468.020 & 468B.030
Stats. Implemented: ORS 448.410, 448.415 & 448.420
Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0055
Examinations

(1) Persons applying for new certificates requiring examinations, including certificates at higher grades, must be approved for examination by the Department.

(2) To be admitted to an examination, a person must file a complete application with payment of the fee(s) required by OAR 340-049-0065(1), and meet the education and experience qualifications for the certificate type and grade sought, unless the person has obtained a conditional waiver under section (7) of this rule.

(3) Examinations will be administered by the Department or its designee at places and times set by the Department.

(4) To be considered for admittance to examinations, applications for certification must be submitted or postmarked to the Department by no later than the first day of the month preceding the month of the examination.

(5) The Department, at its discretion, may administer written or oral examinations at times other than those scheduled, without public notice.

(6) The Department will notify applicants whether they are eligible for examinations and the conditions of eligibility.

(7) The Department may waive the education or experience requirements for admission to an examination under the following conditions:

(a) The applicant provides evidence to the satisfaction of the Department of current enrollment in a course of study that will meet education qualifications in OAR 340-049-0030 for the type and grade of certificate the applicant is seeking not later than the end of the fourth calendar month following the month in which the examination is given, or

(b) The applicant is currently gaining acceptable operating experience that will meet certificate qualifications in OAR 340-049-0030 for the type and grade of certificate the applicant is seeking not later than the end of the fourth calendar month following the month in which the examination is given, or

(c) The applicant does not meet the experience or supervision requirements for a Provisional or standard Grade I wastewater treatment or collection certificate under this Division, but is otherwise qualified by education and has completed or is participating in a Department approved training program. This applicant may take a Grade I treatment or Grade I collection examination and upon passing the examination will be recognized

by the Department as an operator in training (OIT) for a period not to exceed 36 calendar months, unless approved by the Department in writing, during which time the applicant must meet experience requirements for a standard or Provisional certificate in OAR 340-049-0030, and

(d) Any applicant receiving an experience or education waiver for admission to an examination must pay the post-examination application fee for evaluation of certificate qualification as shown in OAR 340-049-0065(1) at the time of submitting proof of meeting education or experience qualifications, and

(e) The Department will withhold certification from any applicant passing an examination until evidence of education or experience qualification is furnished. If any applicant fails to complete all requirements for certification within the allowed time period in this section, the Department will not consider the examination results for any purpose.

(8) Examinations must consist of material in content and level appropriate to each certificate type and grade.

(9) The Department or its designee will score all examinations and notify applicants of the results. Examinations will not be returned to the applicant.

(10) A minimum score of 70 percent is required to pass an examination.

(11) Any person who fails an examination may retake the examination at a later date by submitting an application for re-examination along with the proper examination fee listed in OAR 340-049-0065(1) and by the deadline established in 340-049-0055(4).

(12) Any person who does not apply for re-examination within one year of the date from which the initial exam was taken must submit a new application for examination along with the proper fee listed in OAR 340-049-0065(1).

(13) An applicant may not take the same certificate type and grade examination more than twice in a twelve-month period unless the applicant can demonstrate to the satisfaction of the Department specific education completed in the subject area of the examination.

(14) Persons with disabilities may request special accommodation for testing. No additional fee will be required for disability accommodation under the federal Americans with Disabilities Act.

Stat. Auth.: ORS 448.410, 468.020 & 468B.030
Stats. Implemented: ORS 448.405 - 448.430 & 448.992
Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 29-1994, f. & cert. ef. 12-2-94; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

of the examination.

(5) The Department, at its discretion, may administer written or oral examinations at times other than those scheduled, without public notice.

(6) The Department will notify applicants whether they are eligible for examinations and the conditions of eligibility.

(7) The Department may waive the education or experience requirements for admission to an examination under the following conditions:

(a) The applicant provides evidence to the satisfaction of the Department of current enrollment in a course of study that will meet education qualifications in OAR 340-049-0030 for the type and grade of certificate the applicant is seeking not later than the end of the fourth calendar month following the month in which the examination is given, or

(b) The applicant is currently gaining acceptable operating experience that will meet certificate qualifications in OAR 340-049-0030 for the type and grade of certificate the applicant is seeking not later than the end of the fourth calendar month following the month in which the examination is given, or

(c) The applicant does not meet the experience or supervision requirements for a Provisional or standard Grade I wastewater treatment or collection certificate under this Division, but is otherwise qualified by education and has completed or is participating in a Department approved training program. This applicant may take a Grade I treatment or Grade I collection examination and upon passing the examination will be recognized by the Department as an operator in training (OIT) for a period not to exceed 36 calendar months, unless approved by the Department in writing, during which time the applicant must meet experience requirements for a standard or Provisional certificate in OAR 340-049-0030, and

(d) Any applicant receiving an experience or education waiver for admission to an examination must pay the post-examination application fee for evaluation of certificate qualification as shown in OAR 340-049-0065(1) at the time of submitting proof of meeting education or experience qualifications, and

(e) The Department will withhold certification from any applicant passing an examination until evidence of education or experience qualification is furnished. If any applicant fails to complete all requirements for certification within the allowed time period in this section, the Department will not consider the examination results for any purpose.

(8) Examinations must consist of material in content and level appropriate to each certificate type and grade.

(9) The Department or its designee will score all examinations and notify applicants of the results. Examinations will not be returned to the applicant.

(10) A minimum score of 70 percent is required to pass an examination.

(11) Any person who fails an examination may retake the examination at a later date by submitting an application for re-examination along with the proper examination fee listed in OAR 340-049-0065(1) and by the deadline established in 340-049-0055(4).

(12) Any person who does not apply for re-examination within one year of the date from which the initial exam was taken must submit a new application for examination along with the proper fee listed in OAR 340-049-0065(1).

(13) An applicant may not take the same certificate type and grade examination more than twice in a twelve-month period unless the applicant can demonstrate to the satisfaction of the Department specific education completed in the subject area of the examination.

(14) Persons with disabilities may request special accommodation for testing. No additional fee will be required for disability accommodation under the federal Americans with Disabilities Act.

Stat. Auth.: ORS 448.410, 468.020 & 468B.030
Stats. Implemented: ORS 448.405 - 448.430 & 448.992
Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 29-1994, f. & cert. ef. 12-2-94; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0060
Operator Certification and Operator Certification Program Support Fees

(1) Operator Certification Fees:

(a) All persons applying for wastewater system operator certification must pay the applicable fee(s) listed in OAR 340-049-0065(1);

(b) All applications for a new certificate or certificate at a higher grade, but excluding applications for reciprocity, require an examination and must be accompanied by a fee payment equal to the sum of the appropriate application fee and examination fee as shown in OAR 340-049-0065(1)(a) and (b);

(c) A reciprocity applicant found to be ineligible for a certificate by reciprocity, who otherwise meets the education and experience qualifications listed in OAR 340-049-0030, may be scheduled for an initial certification examination in accordance with 340-049-0055 without payment of an examination fee;

(d) An applicant found to be ineligible for admission to a certification examination at the requested grade , who otherwise meets the education and experience qualifications for certification at a lower grade as listed in OAR 340-049-0030, may be scheduled for an examination at the lower grade without payment of an additional fee;

(e) The Department will not process incomplete applications or applications not accompanied by appropriate fee(s) and attachments, including documentation for all claims of education.

(2) Operator Certification Program Support Fees:

(a) All owners of NPDES or WPCF permitted wastewater systems required to be supervised by operators certified in accordance with requirements in this Division must pay an annual Operator Certification Program Support Fee according to the fee schedule in OAR 340-049-0065(2). The fee will be based on the most current design ADWF for the wastewater treatment system as approved by the Department:

(b) The annual certification program support fee must be paid for each year a wastewater system is in operation. The operating year is defined as July 1 through June 30. A fee for any year during which the wastewater system is in operation is retroactive to July 1 of that operating year, and will be due only if the wastewater system is placed into operation on or before May 1 of that operating year.

(c) The Department will notify wastewater system owners of the fee amount owed and the date the fee must be paid. The notification will generally be given 60 days prior to the due date.

(d) The Director may alter the due date for the annual certification program fee upon receipt of a written request from a wastewater system owner demonstrating need. The Commission may reduce or suspend the annual operator certification program support fee based on hardship.

(e) Any wastewater system owner who fails to pay the annual operator certification program support fee within 30 days of the due date will be

assessed a late fee by the Department according to OAR 340-049-0065(2)(b), which will be due and payable immediately with the annual fee.

(3) All fees are payable to the Oregon Department of Environmental Quality or Oregon DEQ.

(4) Fees will not be refundable unless:

(a) The Department has taken no action on a certification application;

(b) The Department determines the wrong application has been filed;

(c) The Department determines that no fee is required;

(d) An overpayment has been made.

Stat. Auth.: ORS 448.410(1)(d) & 468.020

Stats. Implemented: ORS 448.405 - 448.430 & 448.992

Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 29-1994, f. & cert. ef. 12-2-94; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0065

Fee Schedules for Wastewater System Operator Certification and Operator Certification Program Support

(1) Operator Certification Fee Schedule

(a) Application Fee:

(A) Small Wastewater Systems: $140

(B) Grade I or Grade I Provisional Treatment or Collection: $140;

(C) Grade I or Grade I Provisional Treatment and Collection: $200;

(D) Grade II Treatment or Collection: $170;

(E) Grade III Treatment or Collection: $200; and

(F) Grade IV Treatment or Collection: $240.

(b) Examination Fee: $100

(c) Re-examination or Reschedule Examination Fee: $240

(d) Post-examination Application Fee: $50

(e) Reciprocity Application Fee

(A) Grade I — Treatment or Collection: $160;

(B) Grade I — Treatment and Collection: $240;

(C) Grade II Treatment or Collection: $190;

(D) Grade III Treatment or Collection: $220; and

(E) Grade IV Treatment or Collection: $260.

(f) Two-year Certificate Renewal Fee — One certificate or two: $160

(g) Certificate Reinstatement and Renewal Fee — One certificate or two: $280

(h) Certificate and Renewal Document Replacement: $50

(2) Operator Certification Program Support Fee Schedule:

(a) Annual Operator Certification Program Support Fee - Wastewater Systems:

(A) ADWF less than 0.075 MGD: $80;

(B) ADWF 0.075 — 0.499 MGD: $100;

(C) ADWF 0.500 — 0.999 MGD: $190;

(D) ADWF 1.0 — 1.999 MGD: $360;

(E) ADWF 2.0 — 4.999 MGD: $840;

(F) ADWF 5.0 — 9.999 MGD: $1,840;

(G) ADWF 10.0 — 19.999 MGD: $3,600;

(H) ADWF 20.0 — 29.999 MGD: $6,000;

(I) ADWF 30.0 — 39.999 MGD: $8,400;

(J) ADWF 40.0 — 59.999 MGD: $12,000;

(K) ADWF 60.0 — 79.999 MGD: $16,800;

(L) ADWF 80.0 — 119.999 MGD: $24,000; and

(M) ADWF 120.0 MGD or greater: $33,600.

(b) Late Fee: $50 or 10 percent of the appropriate annual operator certification program support fee in subsection (a) above, whichever is greater.

Stat. Auth.: ORS 448.410(1)(d) & 468.020

Stats. Implemented: ORS 448.405 - 448.430 & 448.992

Hist.: DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 29-1994, f. & cert. ef. 12-2-94; DEQ 30-1994(Temp), f. & cert. ef. 12-2-94; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

340-049-0085

Advisory Committee

(1) The Department will maintain an Advisory Committee to:

(a) Evaluate the effectiveness of the program; and

(b) Recommend needs of the program.

(2) The Advisory Committee will convene at least twice a year at time and place set by the Department.

(3) The composition of the Committee will include, representatives of system owners, operators of small and large wastewater systems, industry associations, and the educational community.

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

Stats. Implemented: ORS 448.405 - 448.430 & 448.992

Hist.: DEQ 4-1988(Temp), f. & cert. ef. 1-29-88; DEQ 23-1988, f. & cert. ef. 9-15-88; DEQ 15-2002, f. & cert. ef. 10-16-02; DEQ 2-2013, f. 1-28-13, cert. ef. 3-1-13

Department of Fish and Wildlife
Chapter 635

Rule Caption: Amend rule to the shot size requirement for hunting wild turkey
Adm. Order No.: DFW 5-2013(Temp)
Filed with Sec. of State: 1-23-2013
Certified to be Effective: 1-23-13 thru 7-21-13
Notice Publication Date:
Rules Amended: 635-053-0035
Subject: Amends shot size requirement for hunting wild turkey.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-053-0035

Wild Turkey

Notwithstanding the provisions of the 2012–13 Oregon Game Bird Regulations:

(1) The Firearms/Shot Restrictions listed on page 10: With any shot larger than BB except for steel shot no larger than F. Exception: No shot larger than No. 2 may be used for wild turkey. Tracer shells may not be used to hunt game birds.

(2) The Legal Hunting Methods listed on page 12: It is unlawful to hunt wild turkeys with shotguns larger than 10 gauge or smaller than 20 gauge or with shot size larger than No. 2.

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

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

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 32-1981, f. & ef. 8-28-81; FWC 43-1981, f. & ef. 11-30-81; FWC 59-1982, f. & ef. 8-30-82; FWC 46-1983, f. & ef. 9-19-83; FWC 51-1984, f. & ef. 9-5-84; FWC 64-1985, f. & ef. 10-2-85; FWC 58-1986, f. & ef. 9-17-86; FWC 83-1987, f. & ef. 9-22-87; FWC 81-1988, f. & cert. ef. 9-2-88; FWC 26-1989(Temp), f. & cert. ef. 4-11-89; FWC 106-1989, f. & cert. ef. 9-29-89; FWC 93-1990, f. & cert. ef. 9-4-90; FWC 99-1991, f. & cert. ef. 9-9-91; FWC 81-1992, f. & cert. ef. 8-26-92; FWC 44-1993, f. & cert. ef. 8-4-93; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 58-1994, f. & cert. ef. 9-1-94; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 161-2011(Temp), f. & cert. ef. 12-21-11 thru 6-1-12; Administrative correction, 6-27-12; DFW 5-2013(Temp), f. & cert. ef. 1-23-13 thru 7-21-13

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Rule Caption: Amend Division 060 Rule to Add Agency Fee for Game Bird Application
Adm. Order No.: DFW 6-2013
Filed with Sec. of State: 1-23-2013
Certified to be Effective: 1-23-13
Notice Publication Date: 12-1-2012
Rules Amended: 635-060-0005
Subject: Amend rule so language is consistent with how other application fees are implemented.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-060-0005

Application Eligibility and Procedures

(1)(a) An applicant for game mammal controlled hunts shall have a current adult hunting license or juvenile hunting license. A current and complete hunting license number shall be entered on the application for the controlled hunt.

(b) Licenses are nonrefundable, whether or not an applicant is successful in the drawing.

(2)(a) A valid controlled hunt application shall be purchased from a license agent authorized to sell controlled hunt applications. The purchase price of the application shall be a nonrefundable fee of $6.00 per game mammal application, and a nonrefundable $2.00 license agent processing fee.

(b) Department license agents authorized to sell applications for controlled hunts shall be connected to the Department's computerized licensing system.

(3) Each controlled hunt is assigned a hunt number. The hunt number shall be entered on the application indicating area of choice and shall match the type of application purchased. All hunt numbers listed on an application shall have the same first digit, which indicates a species or group of hunts as listed below:

(a) 100 series for controlled buck deer.

(b) 200 series for controlled elk.

(c) 400 series for pronghorn antelope.

(d) 500 series for bighorn sheep.

(e) 600 series for controlled antlerless deer.

(f) 700 series for controlled black bear.

(g) 900 series for controlled Rocky Mountain goat.

(4) If successful in the drawing, party members shall receive the same hunt choice as the party leader. If a party application exceeds the allowed party size, all applicants in the party shall be considered as individual applicants in the drawing. Party size limits are as follows:

(a) 100 series hunts up to 18 persons.

(b) 200 series hunts up to 18 persons

(c) 400 series hunts up to two persons.

(d) 500 series hunts, no parties allowed.

(e) 600 series hunts up to 18 persons.

(f) 700 series hunts up to six persons.

(g) 900 series hunts no parties allowed.

(5) Controlled Hunt applications may be submitted to the Department headquarters office via telephone fax machine, US Postal Service, or hand-delivery (3406 Cherry Ave, NE, Salem, OR, 97303). Applications along with the proper fees must be submitted by telephone, fax machine, or hand-delivered received at the Department headquarters office (3406 Cherry Ave, NE, Salem, OR, 97303; Fax: (503) 947-6117 no later than midnight of the deadline date described in OAR 635-060-0008(1)–(5). Applications along with proper fees submitted by U.S. Postal Service must be postmarked by the application deadline. Applications received after the specified deadline dates may be considered disqualified as described in OAR 635-060-0018(4).

(6) To apply for a controlled youth hunt for spring bear, pronghorn, deer or elk a youth must be 12–17 years old at the time they hunt.

(7) The purchase price of applications for controlled game bird hunts shall be a nonrefundable fee of $2.00 per application, and a nonrefundable $2.00 license agent processing fee. Game bird controlled hunt application procedures are listed in the current Oregon Game Bird Regulations.

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

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

Hist.: FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 14-1980, f. & ef. 4-8-80; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; Renumbered from 635-60-017; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 54-1990, f. & cert. ef. 6-21-90; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 6-1994, f. & cert. ef. 1-26-94; 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 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 32-2002(Temp), f. & cert. ef. 4-17-02 thru 10-13-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 6-2013, f. & cert. ef. 1-23-13

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Rule Caption: Columbia River Commercial Sturgeon Seasons Below Bonneville Dam Set for January and February 2013
Adm. Order No.: DFW 7-2013(Temp)
Filed with Sec. of State: 1-31-2013
Certified to be Effective: 1-31-13 thru 2-28-13
Notice Publication Date:
Rules Amended: 635-042-0135
Subject: This amended rule implements winter commercial white sturgeon seasons in the Columbia River below Bonneville Dam using drift gill nets. The fishing periods authorized are: 6:00 p.m. Thursday, January 31 thru 6:00 p.m. Friday, February 1 (24 hours); 6:00 p.m. Monday, February 4 thru 6:00 p.m. Tuesday, February 5 (24 hours); and 6:00 p.m. Wednesday, February 6 thru 6:00 p.m. Thursday, February 7, 2013 (24 hours).
Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0135
Sturgeon Season

(1) White sturgeon may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial salmon fishing seasons with the same fishing gear authorized for the taking of salmon.

(2) Retention of green sturgeon in all mainstem Columbia River and Select Area commercial fisheries is prohibited.

(3) White sturgeon and adipose fin-clipped salmon may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial sturgeon/salmon fishing seasons using drift gill nets with a minimum mesh size of nine inches and a maximum mesh size of 9 3/4 inches. Only white sturgeon and adipose fin-clipped salmon may be sold from this fishery. The open fishing periods are:

(a) 6:00 p.m. Thursday, January 31 to 6:00 p.m. Friday, February 1, 2013 (24 hours);

(b) 6:00 p.m. Monday, February 4 to 6:00 p.m. Tuesday, February 5, 2013 (24 hours); and

(c) 6:00 p.m. Wednesday, February 6 to 6:00 p.m. Thursday, February 7, 2013 (24 hours).

(4) A maximum of ten (10) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open.

(5) White sturgeon and salmon must be delivered to wholesale fish dealers, canners, or fish buyers undressed (in the round).

(6) It is *unlawful* to:

(a) Take sturgeon and salmon by angling from any vessel that is engaged in commercial fishing (including the period of time the gear is fished) or has been engaged in commercial fishing on that same day or has commercially caught sturgeon or salmon aboard;

(b) Steal or otherwise molest or disturb any lawful fishing gear;

(c) Keep any fish taken under a commercial license for personal use;

(d) Remove the head or tail of any white sturgeon taken for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;

(e) Sell or attempt to sell unprocessed or processed sturgeon eggs that have been taken from the Columbia River below Bonneville Dam;

(f) Purchase from commercial fishermen sturgeon eggs which have been removed from the body cavity prior to sale;

(g) Have in possession any white sturgeon smaller than 43 inches or larger than 54 inches in fork length;

(h) Gaff or penetrate sturgeon in any way while landing or releasing it.

(7) The Sandy River closed sanctuary, described in OAR 625-042-0005, is in effect during the fishing periods described in subsection (3) of this rule.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; Renumbered from 635-035-0320; 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 20-1982(Temp), f. & ef. 3-25-82; FWC 3-1983, f. & ef. 1-21-83; FWC 4-1984, f. & ef. 1-31-84; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 8-1992, f. & cert. ef. 2-11-92; FWC 11-1993, f. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 16-1994(Temp), f. & cert. ef. 3-3-94; FWC 3-1997, f. & cert. ef. 1-27-97; FWC 8-1997(Temp), f. & cert. ef. 2-14-97; FWC 42-1997, f. & cert. ef. 8-4-97; DFW 2-1998(Temp), f. 1-9-98, cert. ef. 1-12-98 thru 1-23-98; DFW 58-1998(Temp.), f. & cert. ef. 8-4-98 thru 8-21-98; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 84-1998(Temp), f. & cert. ef. 10-22-98 thru 10-23-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 87-1998(Temp), f. & cert. ef 11-5-98 thru 11-6-98; DFW 101-1998, f. & cert. ef. 12-24-98; DFW 7-1999(Temp), f. 2-12-99 & cert. ef. 2-15-99 thru 2-19-99; DFW 11-1999(Temp), f. 2-24-99, cert. ef. 2-25-99 thru 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; Administrative correction 11-17-99; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 80-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 8-2003(Temp), f. 1-27-03, cert. ef. 1-28-03 thru 4-1-03; DFW 10-2003(Temp), f. & cert. ef. 2-3-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 7-2004(Temp), f. & cert. ef. 2-2-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 7-2005(Temp), f. & cert. ef. 2-22-05 thru 4-1-05; Administrative correction 4-20-05; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 8-2007(Temp), f. 2-12-07, cert. ef. 2-13-07 thru 8-11-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 10-2008, f. & cert. ef. 2-11-08; DFW 14-2008(Temp), f. & cert. ef. 2-21-08 thru 8-18-08; Administrative correction 9-29-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; Administrative correction 8-21-09; DFW 151-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 3-31-10; Administrative correction 4-21-10; DFW 166-2010(Temp), f. 12-28-10, cert. ef. 1-15-11 thru 7-13-11; Administrative correction 7-22-11; DFW 4-2012(Temp), f. & cert. ef. 1-30-12 thru 2-29-12; Administrative correction 3-20-12; DFW 7-2013(Temp), f. & cert. ef. 1-31-13 thru 2-28-13

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Rule Caption: Treaty Indian Platform Sales Allowed In Columbia River.
Adm. Order No.: DFW 8-2013(Temp)
Filed with Sec. of State: 1-31-2013
Certified to be Effective: 2-1-13 thru 3-31-13
Notice Publication Date:
Rules Amended: 635-041-0045
Subject: Amended rules allow sales of fish, except white sturgeon, landed in Treaty platform and hook and line fisheries downstream of Bonneville Dam whenever sales are allowed in Zone 6 platform and hook-and-line fisheries beginning Friday, February 1, 2013.

Modifications are needed to maintain consistency with Treaty Indian and Washington State rules which currently allow platform sales. Modifications are consistent with action taken January 31, 2013 by the State of Oregon in cooperation with the State of Washington and the Columbia River Treaty Tribes.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0045
Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

(1) All Oregon tributaries of the Columbia River.

(2) The Columbia River westerly and downstream of the Bridge of the Gods except:

(a) Fisheries conducted by the Yakama, Warm Springs, Nez Perce and Umatilla tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington are open until further notice.

(A) Effective 6:00 a.m. Friday, February 1, 2013 commercial sales of salmon, steelhead, walleye, shad, yellow perch, catfish, bass and carp are allowed whenever sales are authorized for platform and hook-and-line fisheries in the remainder of Zone 6. 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 hoopnets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line.

(b) Platform and hook-and-line fisheries from the Bridge of the Gods downstream to the subsistence fishing deadline as described in OAR 635-041-0020(1) are open to commercial sales whenever sales are authorized for platform and hook-and-line fisheries in the remainder of Bonneville Pool.

(3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.

(4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below The Dalles Dam, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam east fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25–September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1 1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1-1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 149(Temp), f. & ef. 9-21-77 thru 1-18-78; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & ef. 1-28-80; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 4-1984, f. & ef. 1-31-84; FWC 55-1985(Temp), f. & ef. 9-6-85; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 25-1986(Temp), f. & ef. 6-25-86; FWC 42-1986, f. & ef. 8-15-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 54-1989 (Temp), f. & cert. ef. 8-7-89; FWC 90-1989, f. & cert. ef. 9-6-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-31-11; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 60-2011(Temp), f. 6-2-11, cert. ef. 6-6-11 thru 10-31-11; DFW 63-2011(Temp), f. 6-8-11, cert. ef. 6-9-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 5-2012(Temp), f. 1-30-12, cert. ef. 2-1-12 thru 3-31-12; DFW 18-2012(Temp), f. 2-28-12, cert. ef. 2-29-12 thru 6-15-12; DFW 46-2012(Temp), f. 5-14-12, cert. ef. 5-15-12 thru 6-30-12; DFW 74-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 10-31-12; DFW 87-2012(Temp), f. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 119-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 143-2012(Temp), f. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; DFW 8-2013(Temp), f. 1-31-13, cert. ef. 2-1-13 thru 3-31-13

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Rule Caption: Treaty Indian Winter Commercial Fisheries In the Columbia River Above Bonneville Dam
Adm. Order No.: DFW 9-2013(Temp)
Filed with Sec. of State: 1-31-2013
Certified to be Effective: 2-1-13 thru 3-31-13
Notice Publication Date:
Rules Amended: 635-041-0065
Subject: This amended rule clarifies allowable sales of fish caught in Treaty winter commercial fisheries in the Columbia River above Bonneville Dam. Allowable sales include: salmon, steelhead, shad, carp, catfish, walleye, bass and yellow perch. White sturgeon between 38 and 54 inches in fork length caught in the Bonneville Pool and white sturgeon between 43 and 54 inches in fork length caught in The Dalles and John Day pools may be sold or kept for subsistence use.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0065
Winter Season

(1) Salmon, steelhead, shad, white sturgeon, walleye, catfish, yellow perch, and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 6:00 a.m. February 1 to 6:00 p.m. March 21.

(2) There are no mesh size restrictions.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) White sturgeon between 43–54 inches fork length in The Dalles and John Day pools and white sturgeon between 38–54 inches fork length in the Bonneville Pool may be sold or kept for subsistence use.

(5) Sale of platform and hook-and-line caught fish, as described in section (1) above, is allowed during open commercial fishing seasons.

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 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. l-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 through 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 thru 3-31-12; DFW 18-2012(Temp), f. 2-28-12, cert. ef. 2-29-12 thru 6-15-12; DFW 19-2012(Temp), f. 3-2-12, cert. ef. 3-5-12 thru 6-15-12; DFW 20-2012(Temp), f. & cert. ef. 3-5-12 thru 6-15-12; DFW 46-2012(Temp), f. 5-14-12, cert. ef. 5-15-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 9-2013(Temp), f. 1-31-13, cert. ef. 2-1-13 thru 3-31-13

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Rule Caption: Amendments to 2013 Big Game Regulations
Adm. Order No.: DFW 10-2013
Filed with Sec. of State: 2-7-2013
Certified to be Effective: 2-7-13
Notice Publication Date: 12-1-2012
Rules Amended: 635-065-0011, 635-065-0765, 635-070-0020
Rules Repealed: 635-065-0765(T)
Subject: Three edits to the 2013 Big Game Regulations are proposed:

1) Clarify wording for Division 65, Section 0010, Mandatory Reporting Penalty

2) Add Pennsylvania to the list of states from which Chronic Wasting Disease has been found, and

3) Delete Elk Hunt 225C (Coffee Butte).

Rules Coordinator: Therese Kucera—(503) 947-6033

635-065-0011
Mandatory Reporting Penalty

All big game tag holders, except for bighorn sheep and Rocky Mountain goat, and all turkey tag holders are required to report hunting effort and harvest.

(1) Reporting deadlines for 2012–13 seasons are as follows:

(a) January 31, 2013: For hunts ending between April 1 and December 31, 2012.

(b) April 15, 2013: For hunts ending between January 1 and March 31, 2013.

(2) Any person with any deer or elk tag for hunts and seasons listed in the 2012 Oregon Big Game Regulations pamphlet, issued through the Point of Sale (POS) system, that fails to report by deadlines established in OAR 635-065-0011(1) will not be able to obtain a license to hunt game mammals or game birds in Oregon without paying a penalty .

(a) The penalty will be assessed beginning December 1, 2013 with purchase of a 2014 license.

(b) The penalty fee amount will be $25.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: DFW 147-2012, f. 12-18-12, cert. ef. 1-1-13; DFW 10-2013, f. & cert. ef. 2-7-13

635-065-0765
Tagging, Possession, Transportation and Evidence of Sex

(1) When the owner of any game mammal tag kills a game mammal for which a tag is issued, the owner shall immediately remove in its entirety only the month and day of kill and attach the tag in plain sight securely to the game mammal. The tag shall be kept attached to such carcass or remain with any parts thereof so long as the same are preserved.

(2) It is unlawful to have in possession any game mammal tag from which all or part of any date has been removed or mutilated except when the tag is legally validated and attached to a game mammal.

(3) It is unlawful to possess the meat or carcass of any pronghorn antelope, bighorn sheep, or Rocky Mountain goat without the animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, horns, and eyes if the animal is male.

(4) It is unlawful to posses the meat or carcass of any deer or elk without evidence of sex while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. Evidence of sex for deer and elk is:

(a) Evidence of sex for deer and elk which will be taken out of Oregon is:

(A) For Bucks and Bulls: Either the head with antlers naturally attached to at least one quarter of the carcass or testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat. For hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(B) For Does and Cows: Either the head naturally attached to at least one quarter of the carcass or vulva or udder (mammary) naturally attached to one quarter of the carcass or to another major portion of meat.

(C) For Either Sex Hunts: Either the head naturally attached to at least one quarter of the carcass or reproductive organs (testicles, scrotum, penis, vulva, udder, mammary) naturally attached to one quarter of the carcass or to another major portion of meat. For bucks or bulls killed in either sex hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(D) For hunts where only white-tailed deer and for hunts where only mule deer are legal: in addition to evidence of sex, either the head or tail shall remain naturally attached to one quarter of the carcass or to another major portion of meat as evidence of the species taken while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(b) Evidence of sex for deer and elk which will not be taken out of Oregon is either:

(A) The animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, antlers, and eyes if the animal is male, or;

(B) The head naturally attached to at least one quarter of the carcass or reproductive organs naturally attached to one quarter of the carcass or to another major portion of meat as described in (4)(a)(A)–(D) above.

(5) When any game mammal or part thereof is transferred to the possession of another person, a written record describing the game mammal or part being transferred indicating the name and address of the person whose tag was originally attached to the carcass and the number of that tag shall accompany such transfer and shall remain with such game mammal or part so long as the same is preserved or until replaced by a tag or seal of the Department.

(6) All game mammals in possession in the field or forest or in transit more than 48 hours after the close of the open season for such mammal must be tagged with a tag or metal seal by the Department or by the Oregon State Police.

(7) All game mammals or portions thereof shipped by commercial carrier shall be tagged with a tag or metal seal provided by the Department or by the Oregon State Police.

(8) It is unlawful to receive or have in possession any game mammal or part thereof which:

(a) Is not properly tagged;

(b) Was taken in violation of any wildlife laws or regulations; or

(c) Was taken by any person who is or may be exempt from the jurisdiction of such laws or regulations.

(9) No person shall possess any game mammal or part thereof which has been illegally killed, found or killed for humane reasons, except shed antlers, unless he has notified and received permission from the Department or personnel of the Oregon State Police prior to transporting.

(10) No person shall possess the horns of bighorn sheep or Rocky Mountain goat that were not taken legally during an authorized season. Any horns of bighorn sheep or Rocky Mountain goat obtained by the Department may be made available to scientific and educational institutions and for ceremonial purposes.

(11) Except for the following parts, importation of a cervid carcass or parts of a cervid carcass is prohibited if the cervid was killed in a state or province with a documented case of Chronic Wasting Disease:

(a) Meat that is cut and wrapped commercially or privately;

(b) Meat that has been boned out;

(c) Quarters or other portions of meat with no part of the spinal column or head attached;

(d) Hides and/or capes with no head attached;

(e) Skull plates with antlers attached that have been cleaned of all meat and brain tissue;

(f) Antlers with no tissue attached;

(g) Upper canine teeth (buglers, whistlers, ivories);

(h) Finished taxidermy heads.

(12) For the purposes of the parts and carcass import ban in subsection (11), the states or provinces with a documented case of Chronic Wasting Disease (CWD) are Alberta, Colorado, Illinois, Maryland, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Oklahoma, Pennsylvania, South Dakota, Texas, Wisconsin, Wyoming, Utah, Virginia, West Virginia, and Saskatchewan. The Department shall add by temporary rule any additional states or provinces when any new cases of CWD arise.

(13) The parts and carcass import ban in subsection (11) does not apply to parts or carcasses shipped to the National Fish and Wildlife Forensics Laboratory (Ashland, Oregon) for the purpose of law enforcement investigations and also does not apply to parts or carcasses of reindeer/caribou.

(14) Cervid carcasses or parts of cervid carcasses found in Oregon in violation of the parts and carcass ban in subsection (11) shall be disposed of in a manner as follows:

(a) Brain tissue, spinal columns, and whole heads or heads minus the cleaned skull plate and attached antlers, shall be disposed of either by incineration at temperatures exceeding 800° F or at lined landfills registered by Oregon Department of Environmental Quality capable of accepting animal carcasses without environmental contamination; rendering is not an allowed means of disposal.

(b) The person(s) who imported parts in violation of the parts and carcass ban in subsection (11) shall pay for appropriate disposal of cervid carcasses or parts of cervid carcasses.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1988, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 90-2002(Temp), f. & cert. ef. 8-16-02 thru 2-11-03; DFW 114-2002(Temp), f. & cert. ef. 10-18-02 thru 2-11-03; DFW 126-2002, f. & cert. ef. 11-12-02; DFW 127-2002(Temp), f. & cert. ef. 11-14-02 thru 2-11-03; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 61-2003, f. & cert. ef. 7-16-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 111-2005(Temp), f. & cert. ef. 9-23-05 thru 10-31-05; Administrative correction 11-18-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 135-2008, f. & cert. ef. 10-17-08; DFW 2-2009, f. & cert. ef. 1-9-09; DFW 8-2010(Temp), f. & cert. ef. 1-25-10 thru 7-24-10; DFW 21-2010(Temp), f. & cert. ef. 2-26-10 thru 8-24-10; DFW 36-2010(Temp), f. & cert. ef. 3-30-10 thru 9-25-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 92-2012(Temp), f. & cert. ef. 7-23-12 thru 1-19-13; DFW 136-2012, f. & cert. ef. 10-24-12; DFW 137-2012(Temp), f. & cert. ef. 10-24-12 thru 4-22-13; DFW 4-2013, f. 1-15-13, cert. ef. 2-1-13; DFW 10-2013, f. & cert. ef. 2-7-13

635-070-0020
Controlled Western Oregon Elk Rifle Hunts

(1) Tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. A person successful in drawing a tag for a controlled elk season shall not hunt in any other elk season, except as provided in OAR chapter 635, division 090, or they may hunt in any controlled elk season for which they possess a "left over" tag obtained through the first-come, first-serve process.

(2) Notwithstanding the provisions of the 2012 Oregon Big Game Regulations: The hunt listed on page 65 for the Coffee Butte (225C) Master Hunter Anterless Elk Hunt is deleted. The Department may increase tag numbers in another hunt that overlays the area to compensate for the loss of this small hunt (5.5 square miles, 11 tags.)

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 10-2013, f. & cert. ef. 2-7-13

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Rule Caption: 2013 Commercial Winter-Summer Fisheries for Columbia River Select Areas.
Adm. Order No.: DFW 11-2013(Temp)
Filed with Sec. of State: 2-8-2013
Certified to be Effective: 2-11-13 thru 7-31-13
Notice Publication Date:
Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180
Subject: Amended rules set seasons, area boundaries, gear regulations and allowable sales for winter, spring and summer commercial fisheries in the Columbia River Select Areas. Modifications are consistent with the action taken January 30, 2013 by the Columbia River Compact agencies of the states of Oregon and Washington.
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 waters of Youngs Bay as described below.

(a) The 2013 open fishing periods are established in three segments categorized as the winter fishery, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season: Entire Youngs Bay from February 11 through March 25 (18 days) during the following periods:

Monday	February 11	6:00 a.m.-midnight (18 hrs.);
Wednesday	February 13	6:00 a.m.-6:00 p.m. (12 hrs.);
Thursday	February 14	6:00 a.m.-midnight (18 hours);
Monday	February 18	6:00 a.m.-midnight (18 hours);
Wednesday	February 20	6:00 a.m.-6:00 p.m. (12 hours);
Thursday	February 21	6:00 a.m.-midnight (18 hours);
Monday	February 25	6:00 a.m.-midnight (18 hours);
Wednesday	February 27	6:00 a.m.-6:00 p.m. (12 hours);
Thursday	February 28	6:00 a.m.-midnight (18 hours);
Monday	March 4	6:00 a.m.-midnight (6 hrs.);
Wednesday	March 6	6:00 a.m.-6:00 p.m. (12 hrs.);
Thursday	March 7	6:00 a.m.-midnight (18 hours);
Monday	March 11	3:30 p.m.-9:30 p.m. (6 hours);
Wednesday	March 13	4:30 p.m.-10:30 p.m. (6 hours);
Thursday	March 14	5:00 p.m.-11:00 p.m. (6 hours);
Monday	March 18	10:00 a.m.-2:00 p.m. (4 hours);
Thursday	March 21	1:30 p.m.-5:30 p.m. (4 hours);
Monday	March 25	4:00 p.m.-8:00 p.m. (4 hours).

(B) Spring Season: Entire Youngs Bay from April 18 through Friday, June 14 (14 days total) during the following periods:

Thursday	April 18	10:30 a.m.-4:30 p.m. (6 hrs.);
Tuesday	April 23	6:00 a.m.-6:00 p.m. (12 hrs.);
Thursday	April 25-26	7:00 p.m.-7:00 a.m. (12 hours);
Monday	April 29	6:00 a.m.-midnight (18 hours);
Wednesday	May 1	6:00 a.m.-6:00 p.m. (12 hours);
Thursday	May 2	6:00 a.m.-midnight (18 hours);
Monday	May 6	6:00 a.m.-midnight (18 hours);
Wednesday	May 8	6:00 a.m.-6:00 p.m. (12 hrs.);
Thursday	May 9	6:00 a.m. -midnight (18 hours);
Monday	May 13 noon - Friday May 17 noon (4 days);	
Monday	May 20 noon - Friday May 24 noon (4 days);	
Monday	May 27 noon - Friday May 31 noon (4 days);	
Monday	June 3 noon - Friday June 7 noon (4 days);	
Monday	June 10 noon - Friday June 14 noon (4 days).	

(C) Summer Season: Entire Youngs Bay 6:00 a.m. Wednesdays to 6:00 a.m. Fridays (48 hours) beginning Wednesday June 19 through Friday July 26 (12 fishing days).

(b) For the winter, spring and summer fisheries the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries. 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) 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 four (4) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) during the winter season described in section (1)(a)(A) above and a maximum of two (2) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) during the spring and summer seasons described in sections (1)(a)(B) and (1)(a)(C) above. During the fishing periods identified in subsections (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DFW 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DFW 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; DFW 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; DFW 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; DFW 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes during open 2013 fishing periods described as the winter fishery and the spring fishery in subsections (1)(a)(A) and (1)(a)(B) respectfully, of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough and Knappa Slough in subsection (1)(a)(A), the winter fishery in Blind Slough only in subsection (1)(a)(B), and the spring fishery in Blind Slough and Knappa Slough in subsection (1)(a)(C). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough and Knappa Slough: Monday and Thursday nights beginning Monday, February 11 through Monday, March 11 (9 nights);

(B) Blind Slough Only: Thursday night March 14 and Monday nights on March 18, March 25, and April 1;

(C) Blind Slough and Knappa Slough during the following periods: Thursday, April 18; Tuesday, April 23; and Thursday and Monday nights from April 25 through June 13 (17 nights).

(b) The fishing areas for the winter and spring seasons are:

(A) Blind Slough are those waters from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the period from May 2 through June 14, the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the winter and spring fisheries, outlined above in subsections (1)(a)(A), (1)(a)(B), and (1)(a)(C), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and/or anchors directly to the lead line is permitted.

(B) It is *unlawful* to use a gill net having a mesh size that is less than 7-inches during the winter fishery or greater than 9.75-inches during the spring fishery.

(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.

(2) A maximum of four (4) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) during the winter season described in sections (1)(a)(A) and (1)(a)(B) above; and a maximum of two (2) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) during the spring season described in section (1)(a)(C) above. 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.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert . ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13

635-042-0170

Tongue Point Basin and South Channel

(1) Tongue Point includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facility through navigation marker #6 to Mott Island (spring lower deadline), a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

(3) Salmon, shad and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. The 2013 open fishing periods are:

(a) Winter Season: Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Monday, February 11 through Monday, March 11 (9 nights).

(b) Spring Season: Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Thursday, April 25 through Thursday, June 13 (15 nights).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is *unlawful* to use a gill net having a mesh size that is less than 7 inches during the winter season or more than 9.75-inches during the spring season.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and/or anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is less than 7 inches during the winter season or more than 9.75 inches during the spring season.

(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.

(5) A maximum of four (4) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) during the winter season described in section (3(a) above and a maximum of two (2) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) during the spring season described in section (3)(b) above. During the fishing periods identified in section (3)(a) and (3)(b) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(6) During the period from February 11 through June 14, fishers are required to call (971) 230-8247 and leave a message including: name, catch, and where and when the fish will be sold.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. 3-9-10, cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; DFW 122-2011(Temp), f. 8-29-11, cert. ef. 9-19-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 41-2012(Temp), f. 4-24-12, cert. ef. 4-26-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12;

Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13

635-042-0180
Deep River Select Area Salmon Season

(1) Salmon, shad, and white sturgeon may be taken for commercial purposes from the US Coast Guard navigation marker #16 upstream to the Highway 4 Bridge.

(2) The 2013 fishing seasons are open:

(a) Winter season: Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning February 11 through March 14 (10 nights); and Monday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) on March 18, March 25, and April 1 (3 nights).

(b) Spring season: Thursday, April 18; Tuesday, April 23; and Thursday and Monday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning April 25 through June 13 (17 nights in all).

(3) Gear restrictions are as follows:

(a) Gill nets may not exceed 100 fathoms in length and there is no weight restriction on the lead line. The attachment of additional weight and/or anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(b) It is unlawful to operate in any river, stream or channel any gill net longer than three-fourths the width of the stream. It is *unlawful* in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area. 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.

(c) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(d) During the winter season, outlined above in subsection (2)(a), it is *unlawful* to use a gill net having a mesh size that is less than 7-inches.

(e) During the spring season, outlined above in subsection (2)(b) it is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches.

(4) A maximum of four (4) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) during the winter season described in section (2)(a) above and a maximum of two (2) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) during the spring season described in section (2)(b) above. During the fishing periods identified in subsections (2)(a) and (2)(b) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(5) Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until WDFW staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by WDFW staff. During the winter season, described in subsection (2)(a) above, fishers are required to call (360) 795-0319 for the location and time of sampling. During the spring season, described in subsection (2)(b) above, a sampling station will be established at WDFW's Oneida Road boat ramp, about 0.5 miles upstream of the lower Deep River area boundary (USCG navigation marker #16).

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; DFW 112-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 10-30-09; DFW 121-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; Administrative correction 11-19-09; DFW 16-2010(Temp), f. 2-19-10, cert. ef. 2-22-10 thru 6-10-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 53-2011(Temp), f. & cert. ef. 5-18-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13

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Rule Caption: Columbia River Recreational Sturgeon and Spring Chinook Seasons Modified.
Adm. Order No.: DFW 12-2013(Temp)
Filed with Sec. of State: 2-12-2013
Certified to be Effective: 2-28-13 thru 7-31-13
Notice Publication Date:
Rules Amended: 635-023-0095, 635-023-0125
Rules Suspended: 635-023-0095(T)
Subject: These amended rules set 2013 Columbia River recreational spring Chinook season regulations with descriptions of areas, dates, and bag limits for recreational harvest of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead. Additional modifications establish 2013 retention fisheries for white sturgeon. Revisions are consistent with action taken January 30, 2013 by Columbia River Compact agencies of the states of Oregon and Washington.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0095
Sturgeon Season

(1) The **2013 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2013 Oregon Sport Fishing Regulations**.

(2) In 2013, the mainstem Columbia River from the Wauna powerlines (River Mile 40) upstream to Bonneville Dam, excluding the lower Willamette River upstream to Willamette Falls, Multnomah Channel, and the Gilbert River, is open to the retention of white sturgeon with a fork length of 38–54 inches, three days per week, Thursdays through Saturdays, during the following periods:

(a) January 1 through June 15; and

(b) October 19 through December 31.

(3) In 2013, the mainstem Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of white sturgeon seven days per week during the following periods:

(a) January 1 through April 30;

(b) May 11 through June 30 (or until guideline is met).

(4) During the fishing period as identified in subsection (3)(a) of this rule, only white sturgeon with a fork length of 38–54 inches may be retained.

(5) During the fishing periods as identified in subsection (3)(b) of this rule, only white sturgeon with a fork length of 41–54 inches may be retained.

(6) Effective January 1, 2013, the annual bag and possession limit for white sturgeon is one (1) fish.

(7) Angling for sturgeon is prohibited from:

(a) Bonneville Dam downstream 9 miles to a line crossing the Columbia River from Navigation Marker 82 on the Oregon shore westerly

to a boundary marker on the Washington shore upstream of Fir Point from May 1 through August 31;

(b) Highway 395 Bridge upstream to McNary Dam; and

(c) From the west end of the grain silo at Rufus upstream to John Day Dam during May 1 through July 31.

(8) Angling is prohibited for all species from the upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) from January 1 through April 30.

(9) The mainstem Columbia River from McNary Dam upstream to the Oregon-Washington border at river mile 309.5 is open to retention of white sturgeon with a fork length of 43–54 inches, seven days per week from February 1 through July 31.

(10) Retention of green sturgeon is prohibited all year in all areas.

(11) Catch-and-release angling is allowed year-round except as described above in sections (7)(a) through (7)(c) and (8).

(12) Effective January 1, 2014, the mainstem Columbia River from the mouth at Buoy 10 upstream to Bonneville Dam, including Oregon tributaries upstream to the mainline railroad bridges, is closed to the retention of white sturgeon.

(13) Effective 12:01 a.m. Monday February 11, 2013, the retention of white sturgeon is prohibited in the mainstem Columbia River from Bonneville Dam upstream to The Dalles Dam (Bonneville Pool) including adjacent tributaries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert .ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; DFW 91-2010(Temp), f. 6-29-10, cert. ef. 8-1-10 thru 12-31-10; DFW 99-2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 12-31-10; DFW 165-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 11-2011(Temp), f. 2-10-11, cert. ef. 2-11-1 thru 7-31-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 26-2011(Temp), f. 4-5-11, cert. ef. 4-10-11 thru 9-30-11; DFW 74-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-31-11; DFW 87-2011(Temp), f. 7-8-11, cert. ef. 7-9-11 thru 7-31-11; DFW 96-2011(Temp), f. 7-20-11, cert. ef. 7-30-11 thru 12-31-11; DFW 129-2011(Temp), f. 9-15-11, cert. ef. 9-30-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 1-2012(Temp), f. & cert. ef. 1-5-12 thru 7-2-12; DFW 10-2012, f. & cert. ef. 2-7-12; DFW 16-2012(Temp), f. 2-14-12, cert. ef. 2-18-12 thru 7-31-12; DFW 44-2012(Temp), f. 5-1-12, cert. ef. 5-20-12 thru 7-31-12; DFW 73-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 97-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 12-31-12; DFW 129-2012(Temp), f. 10-3-12, cert. ef. 10-20-12 thru 12-31-12; DFW 140-2012(Temp), f. 10-31-12, cert. ef. 11-4-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 154-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 2-28-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13

635-023-0125
Spring Sport Fishery

(1) The **2013 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2013 Oregon Sport Fishing Regulations**.

(2) The Columbia River is open from January 1 through February 28 from the mouth at Buoy 10 upstream to the I-5 Bridge with the following restrictions:

(a) Adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead may be retained.

(b) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead or one of each may be retained per day. Catch limits for jacks remain in effect as per the **2013 Oregon Sport Fishing Regulations**.

(3) The area from Buoy 10 upstream to Beacon Rock (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline is open from Friday, March 1 through Friday, April 5, 2013, except closed March 26 and April 2 (Tuesdays). Legal upstream boundary defined as: "A deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock." Daily bag limit is two (2) adult salmonids but only one may be a Chinook. Only adipose fin-clipped fish may be kept. All other permanent regulations apply.

(4) The area from Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to the Oregon/Washington border, plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines is open from Saturday, March 16 through Sunday, May 5 (51 retention days). Daily bag limit is two (2) adult Chinook or steelhead or one of each. Only adipose fin-clipped fish may be kept. All other permanent regulations apply.

(5) Select Area recreational fisheries.

(a) Effective Friday, March 1 through Saturday, June 15, 2013, on days when the mainstem Columbia River recreational fishery below Bonneville Dam is open to retention of Chinook, the salmonid bag limit in the Select Areas will be the same as mainstem Columbia River bag limits.

(b) Effective Friday, March 1 through Saturday, June 15, 2013, on days when the mainstem Columbia River recreational fishery below Bonneville Dam is closed to retention of Chinook, permanent salmonid bag regulations for the Select Areas apply.

(c) Effective January 1, 2013 use of barbless hooks is required when fishing for salmon, steelhead, and trout in the following areas:

(A) Youngs Bay/River from Highway 101 bridge upstream to markers at the confluence with Klaskanine River;

(B) Lewis and Clark River from confluence with Youngs Bay upstream to Alternate Highway 101 bridge;

(C) Walluski River from the confluence with Youngs Bay upstream to Highway 202 bridge;

(D) Gnat Creek from railroad bridge upstream to Aldrich Point Road;

(E) Knappa/Blind Slough select areas; and

(F) In the mainstem Columbia River from the mouth at Buoy 10 upstream to the Oregon/Washington border.

(6) Effective Friday, March 1 through Wednesday, May 15, 2013, the mainstem Columbia River is open for retention of adipose fin-clipped steelhead and shad only during days and in areas open for retention of adipose fin-clipped spring Chinook.

(7) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line to Oregon/Washington border from February 15 through June 15 it is unlawful when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10;

DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11; DFW 55-2011(Temp), f. 5-25-11, cert. ef. 5-27-11 thru 6-15-11; DFW 59-2011(Temp), f. & cert. ef. 6-2-11 thru 6-15-11; Administrative correction 6-28-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 8-2012(Temp), f. 2-6-12, cert. ef. 2-15-12 thru 6-15-12; DFW 31-2012(Temp), f. 4-5-12, cert. ef. 4-6-12 thru 6-15-12; DFW 33-2012(Temp), f. 4-12-12, cert. ef. 4-14-12 thru 6-15-12; DFW 45-2012(Temp), f. 5-1-12, cert. ef. 5-2-12 thru 7-31-12; DFW 47-2012(Temp), f. 5-15-12, cert. ef. 5-16-12 thru 7-31-12; DFW 49-2012(Temp), f. 5-18-12, cert. ef. 5-19-12 thru 7-31-12; DFW 51-2012(Temp), f. 5-23-12, cert. ef. 5-26-12 thru 7-31-12; Suspended by DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13

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Rule Caption: Willamette Zone Recreational White Sturgeon Fishery Modifications.
Adm. Order No.: DFW 13-2013(Temp)
Filed with Sec. of State: 2-13-2013
Certified to be Effective: 2-14-13 thru 7-31-13
Notice Publication Date:
Rules Amended: 635-017-0095
Subject: This amended rule delays the opening of the recreational white sturgeon fishery in the Willamette River below the Falls, including Multnomah Channel and the Gilbert River until July 11, 2013. The fishery is open to the retention of white sturgeon with a fork length of 38-54 inches on Thursday, Friday, and Saturday during the periods from July 11-13 and July 18-20, 2013 or until the harvest guideline of 1,733 fish is met. The rule also clarifies that the Sandy River is closed to sturgeon retention. Revisions are consistent with action taken January 30, 2013 by the State of Oregon.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-017-0095
Sturgeon Season

(1) The **2013 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 **2013 Oregon Sport Fishing Regulations**.

(2) Effective January 1, 2013, the annual bag limit for white sturgeon is one (1) fish. Only white sturgeon with a fork length of 38-54 inches may be retained. In 2013, the Willamette River downstream of Willamette Falls (including Multnomah Channel and the Gilbert River) is open to the retention of white sturgeon three days per week, Thursday, Friday, and Saturday during the periods from July 11–13 and July 18–20 or until the harvest guideline of 1,733 fish is met.

(3) Catch-and-release angling for white sturgeon is allowed year-round except as described below in sections (4) and (6).

(4) 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.

(5) Retention of white sturgeon in the Sandy River is prohibited. Retention of green sturgeon is prohibited all year in all areas.

(6) 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.

(7) Effective January 1, 2014, all waters within the Willamette Zone are closed to the retention of white sturgeon.

[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; Administrative correction, 5-25-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 13-2013(Temp), f. 2-13-13, cert. ef. 2-14-13 thru 7-31-13

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Rule Caption: Establishes rules regarding Western Oregon Deer Regulations for 2013
Adm. Order No.: DFW 14-2013
Filed with Sec. of State: 2-15-2013
Certified to be Effective: 3-1-13
Notice Publication Date: 9-1-2012
Rules Amended: 635-068-0000
Subject: Establish the 2013 hunting regulations for western Oregon deer including season dates, bag limits, areas, methods and other restrictions
Rules Coordinator: Therese Kucera—(503) 947-6033

635-068-0000
Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting western Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2012 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 068 by reference.

(3) OAR chapter 635, division 068 incorporates, by reference, the requirements for hunting western Oregon deer set out in the document entitled"2013 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2013 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon deer. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 39-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001. f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 121-2003, f. 12-4-03, cert. ef. 1-19-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 124-2004, f. 12-21-04, cert. ef. 3-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 131-2005, f. 12-1-05, cert. ef. 3-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 125-2006, f. 12-4-06, cert. ef. 3-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 116-2007, f. 10-31-07, cert. ef. 3-1-08; DFW 60-2008, f. & cert. 6-12-08; DFW 13-2009, f. 2-19-09, cert. ef. 3-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 14-2010, f. 2-16-10, cert. ef. 3-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 14-2011, f. 2-15-11, cert. ef. 3-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 15-2012, f. 2-10-12, cert. ef. 3-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 14-2013, f. 2-15-13, cert. ef. 3-1-13

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Department of Human Services, Administrative Services Division and Director's Office
Chapter 407

Rule Caption: Addition of Potentially Disqualifying Child Abuse in Background Checks for Certain Child Welfare Programs
Adm. Order No.: DHSD 1-2013(Temp)
Filed with Sec. of State: 2-5-2013
Certified to be Effective: 2-5-13 thru 8-2-13
Notice Publication Date:
Rules Amended: 407-007-0210, 407-007-0290
Subject: Child Welfare programs contain several contracted programs including System of Care (SOC) contractors, In-Home Safety and Reunification Services (ISRS) programs, and Strengthening, Preserving and Reunifying Families (SPRF) providers. Per contract, Child Welfare requires these programs complete background checks on staff and volunteers through the Background Check Unit (BCU). These temporary rules immediately add these employees and volunteers as being subject to the BCU background check rules to ensure contract compliance.

All subject individuals are subject to criminal records checks and abuse checks, and all have potentially disqualifying convictions and conditions which are considered. The consideration of child abuse

as potentially disqualifying is specific to certain types of subject individuals depending on federal and state laws and regulations, and the type of care the subject individuals provide. These temporary rules make valid, founded or substantiated child abuse, in which the subject individual is responsible for the abuse, potentially disqualifying for the employees and volunteers of the SOC, ISRS, and SPRF programs.

Administrative changes are also being made to update rules to reflect current division and office names.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-007-0210
Definitions

As used in OAR 407-007-0200 to 407-007-0370 the following definitions apply:

(1) "Abuse" has the meaning given in the administrative rules promulgated by the Department or Authority corresponding to the setting in which the abuse was alleged or investigated.

(2) "Abuse check" means obtaining and reviewing abuse allegations, abuse investigation reports, and associated exhibits and documents for the purpose of determining whether an SI has a history as a perpetrator of potentially disqualifying abuse (a potentially disqualifying condition) as described in OAR 407-007-0290(11).

(3) "Abuse investigation report" means a written report completed after an investigation into suspected abuse and retained by the Department or the Authority pursuant to ORS 124.085, 419B.030, or 430.757, or a similar report filed in another state agency or by another state.

(4) "Appointing authority" means an individual designated by the qualified entity (QE) who is responsible for appointing QE designees (QEDs). Examples include but are not limited to human resources staff with the authority to offer and terminate employment, a business owner, a member of the board of directors, a director, or a program administrator.

(5) "Approved" means that an SI, following a final fitness determination, is fit to work, volunteer, be employed, or otherwise perform in the position listed in the background check request.

(6) "Approved with restrictions" means an approval in which some restriction is made including but not limited to an SI, an SI's environment, the type or number of clients for whom an SI may provide care, or the information to which an SI has access.

(7) "Authority" means the Oregon Health Authority.

(8) "Background check" means a criminal records check and an abuse check under these rules.

(9) "Background Check Unit (BCU)" means the Background Check Unit conducting background checks for the Department and the Authority.

(10) "Care" means the provision of care, treatment, education, training, instruction, supervision, placement services, recreation, or support to children, the elderly, or individuals with disabilities (see ORS 181.537).

(11) "Client" means any individual who receives services, care, or funding for care through the Department or Authority.

(12) "Closed case" means a background check request that has been closed without a final fitness determination.

(13) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal records information.

(b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information resources located in, or regarding, a state or jurisdiction outside Oregon.

(14) "Criminal Information Management System (CRIMS)" means the electronic records system used to process and maintain background check records under these rules.

(15) "Criminal offender information" means records, including fingerprints and photographs, received, compiled, and disseminated by OSP for purposes of identifying criminal offenders and alleged offenders and maintained as part of an individual's records of arrest, the nature and disposition of criminal charges, sentencing, confinement, and release, but does not include the retention by OSP of records of transfer of inmates between penal institutions or other correctional facilities.. It also includes the OSP Computerized Criminal History System (see OAR 257-010-0015).

(16) "Denied" means that an SI, following a fitness determination including a weighing test, is not fit to work, volunteer, be employed, reside, or otherwise hold the position listed on the background check request.

(17) "Department" means the Department of Human Services.

(18) "Fitness determination" means the decision in a case that is not closed and includes:

(a) The decision regarding a background check request and preliminary review (a preliminary fitness determination); or

(b) The decision regarding a background check request, completed background check, including gathering other information as necessary, and a final review by BCU (a final fitness determination).

(19) "Founded or substantiated" has the meaning given in the Department or Authority's administrative rules corresponding to the setting in which the abuse was alleged or investigated.

(20) "Good cause" means a valid and sufficient reason for not complying with established time frames during the background check process or contested case hearing process that includes but is not limited to an explanation of circumstances beyond a subject individual's reasonable control.

(21) "Hearing representative" means a Department employee representing the Department in a contested case hearing.

(22) "Hired on a preliminary basis" means a condition in which a QE allows an SI to work, volunteer, be trained, or reside in an environment following the submission of a background check request. Hired on a preliminary basis may also be called probationary status.

(23) "Ineligible Due to ORS 443.004" means BCU has determined that an SI, subject to 443.004 and either OAR 407-007-0275 or 407-007-0277, has one or more convictions that prohibits the SI from holding the position listed in the background check request.

(24) "Office of Adult Abuse Prevention and Investigations (OAAPI)" means the Office of Investigation and Training, a shared service of the Department and Authority.

(25) "Other criminal records information" means information obtained and used in the criminal records check process that is not criminal offender information from OSP. Other criminal records information includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(26) "Position" means the position listed in the background check request which determines whether the individual is a subject individual under these rules, Department program rules or Authority program rules.

(27) "Qualified entity (QE)" means a community mental health or developmental disability program, local health department, or an individual, business, or organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care, including a business or organization that licenses, certifies, or registers others to provide care (see ORS 181.537).

(28) "QE designee (QED)" means an individual appointed by the QE's appointing authority to handle background checks on behalf of the QE.

(29) "QE Initiator (QEI)" means an approved subject individual (SI) who BCU has granted access to CRIMS for one QE for the purpose of entering background check request data.

(30) "Subject individual (SI)" means an individual on whom BCU may conduct a criminal records check and an abuse check, and from whom BCU may require fingerprints for the purpose of conducting a national criminal records check.

(a) An SI includes any of the following:

(A) An individual who is licensed, certified, registered, or otherwise regulated or authorized for payment by the Department or Authority and who provides care.

(B) An employee, contractor, temporary worker, or volunteer who provides care, or has access to clients, client information, or client funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority.

(C) Any individual who is paid directly or indirectly with public funds who has or will have contact with recipients of:

(i) Services within an adult foster home (defined in ORS 443.705); or

(ii) Services within a residential facility (defined in ORS 443.400).

(D) Any direct care staff secured by any residential care facility or assisted living facility through the services of a personnel services or staffing agency who works in the facility.

(E) Any direct care staff secured by any nursing facility through the services of a personnel services or staffing agency who works in the facility

(F) Except as excluded in section (30)(b)(C) and (D) of this rule, an individual who lives in a facility that is licensed, certified, registered, or otherwise regulated by the Department to provide care. The position of this SI includes but is not limited to resident manager, household member, or boarder.

(G) An individual working or volunteering for a private licensed child caring agency; an In-Home Safety and Reunification Services (ISRS) program, a Strengthening, Preserving and Reunifying Families (SPRF) provider; or System of Care (SOC) 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 410.600, a personal care services provider, or an independent provider employed by a Department or Authority client who provides care to the client if the Department or Authority helps pay for the services.

(I) A child care provider and their employees reimbursed through the Department's child care program and other individuals in child care facilities that are exempt from certification or registration by the Child Care Division of the Oregon Employment Department (OED). This includes all individuals who reside in or who are frequent visitors to the residence or facility where the child care services are provided and who may have unsupervised access to the children (see OAR 461-165-0180).

(J) An appointing authority, QED, or QEI associated with any entity or agency licensed, certified, registered, otherwise regulated by the Department, or subject to these rules.

(K) An individual providing on the job certified nursing assistant classes to staff within a long term care facility.

(L) A student enrolled in a long term care facility nursing assistant training program for employment at the facility.

(M) Any individual serving as an owner, operator, or manager of a room and board facility pursuant to OAR chapter 411, division 68.

(N) An employee providing care to clients of the Department's Aging and People with Disabilities programs who works for an in-home care agency as defined by ORS 443.305 which has a contract with the Department's Aging and People with Disabilities programs.

(O) Any individual who is required to complete a background check pursuant to Department or Authority program rules or a contract with the Department or Authority, if the requirement is within the Department or Authority's statutory authority. Specific statutory authority or reference to these rules and the positions under the contract subject to a criminal records check must be specified in the contract. The exceptions in section (30)(b) do not apply to these SIs.

(b) An SI does not include:

(A) Any individual under 16 years of age.

(B) An individual receiving training through a Department-licensed or Department-certified QE as part of the required curriculum through any college, university, or other training program and who is not an employee for the QE in which training is provided. The individual may not be considered a volunteer under these rules. QEs must ensure that all students or interns have passed a substantially equivalent background check process through the training program or are:

(i) Actively supervised at all times as defined in OAR 407-007-0315; and

(ii) Not allowed to have unsupervised access to vulnerable individuals.

(C) Department, Authority, or QE clients. The only circumstance in which BCU shall allow a check to be performed on a client pursuant to this paragraph is if the client falls within the definition of "subject individual" as listed in sections (30)(a)(A)–(E) and (30)(a)(G)–(O) of this rule, or if the facility is dually licensed for different populations of vulnerable individuals.

(D) Individuals working in child care facilities certified or registered by the OED.

(E) Individuals employed by a private business that provides services to clients and the general public and is not regulated by the Department or Authority.

(F) Individuals employed by a business that provides appliance or structural repair for clients and the general public, and who are temporarily providing these services in a licensed or certified QE. The QE shall ensure active supervision of these individuals while on QE property and the QE may not allow unsupervised contact with QE clients or residents. This exclusion does not apply to a business that receives funds from the Department or Authority for care provided by an employee of the business.

(G) Individuals employed by a private business in which a client of the Department or Authority is working as part of a Department- or Authority-sponsored employment service program. This exclusion does not apply to an employee of a business that receives funds from the Department or Authority for care provided by the employee.

(H) Employees and volunteers working in hospitals, ambulatory surgical centers, special inpatient care facilities, outpatient renal dialysis facilities, and freestanding birthing centers as defined in ORS 442.015.

(I) Volunteers, who are not under the direction and control of a licensed, certified, registered, or otherwise regulated QE.

(J) Individuals employed or volunteering in a Medicare-certified health care business which is not subject to licensure or certification by the State of Oregon.

(K) Individuals working in restaurants or at public swimming pools.

(L) Hemodialysis technicians.

(M) Employees, contractors, temporary workers, or volunteers who provide care, or have access to clients, client information, or client funds of an alcohol and drug program that is certified, licensed, or approved by the Authority's Addictions and Mental Health Division to provide prevention, evaluation, or treatment services. This exclusion does not apply to programs specifically required by other Authority program rules to conduct criminal records checks in accordance with these rules.

(N) Individuals working for a transit service provider which conducts background checks pursuant to ORS 267.237.

(O) Individuals being certified by the Department as interpreters pursuant to ORS 409.623. This exclusion does not apply to Department-certified interpreters when being considered for a specific position.

(P) Provider group categories that were authorized for payment by the Department for care if the provider group categories were not covered by a Department criminal record check process prior to 2004.

(Q) Emergency medical technicians and first responders certified by the Authority's Emergency Medical Services and Trauma Systems program.

(R) Employees, contractors, temporary workers, or volunteers of continuing care retirement communities registered under OAR chapter 411, division 67.

(31) "Weighing test" means a process in which BCU considers available information to make a fitness determination when an SI has potentially disqualifying convictions or conditions.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0210, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 8-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 1-2013(Temp), f. & cert. ef. 2-5-13 thru 8-2-13

407-007-0290

Other Potentially Disqualifying Conditions

The following are potentially disqualifying conditions:

(1) The SI makes a false statement to the QE, Department, or Authority, including the provision of materially false information, false information regarding criminal records, or failure to disclose information regarding criminal records. Nondisclosure of violation or infraction charges may not be considered a false statement.

(2) The SI is a registered sex offender in any jurisdiction. There is a rebuttable presumption that an SI is likely to engage in conduct that would pose a significant risk to vulnerable individuals if the SI has been designated a predatory sex offender in any jurisdiction under ORS 181.585 or found to be a sexually violent dangerous offender under 144.635 (or similar statutes in other jurisdictions).

(3) The SI has an outstanding warrant for any crime in any jurisdiction.

(4) The SI has a deferred sentence, conditional discharge, or is participating in a diversion program for any crime in any jurisdiction.

(5) The SI is currently on probation, parole, or post-prison supervision for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date).

(6) The SI has been found in violation of post-prison supervision, parole, or probation for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date), within five years from the date the background check request was signed or the date the Department conducted a criminal records check due to imminent danger.

(7) The SI has an unresolved arrest, charge, or a pending indictment for any crime in any jurisdiction.

(8) The SI has been arrested in any jurisdiction as a fugitive from another state or a fugitive from justice, regardless of the date of arrest.

(9) The SI has an adjudication in a juvenile court in any jurisdiction, finding that the SI was responsible for a potentially disqualifying crime that would result in a conviction if committed by an adult. Subsequent adverse rulings from a juvenile court, such as probation violations, shall also be considered potentially disqualifying if within five years from the date the background check request was signed or the date BCU conducted a criminal records check due to imminent danger.

(10) The SI has a finding of "guilty except for insanity," "guilty except by reason of insanity," "not guilty by reason of insanity," "responsible except for insanity," "not responsible by reason of mental disease or defect," or similarly worded disposition in any jurisdiction regarding a potentially disqualifying crime, unless the local statutes indicate that such an outcome is considered an acquittal.

(11) Potentially disqualifying abuse as determined from abuse investigation reports which have an outcome of founded, substantiated, or valid and in which the SI is determined to have been responsible for the abuse.

(a) For SIs associated with child foster homes licensed for children with developmental disabilities, child foster homes licensed through a private licensed child caring agency, or adoptive families through a private licensed child caring agency, potentially disqualifying abuse includes:

(A) Child protective services history held by the Department regardless of the date of initial report or outcome;

(B) Child protective services history reviewed pursuant to the federal Adam Walsh Act requirements, determined by BCU ADs to be potentially disqualifying; and

(C) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the Office of Adult Abuse Prevention and Investigations (OAAPI) and the Aging and People with Disabilities Division (APD) based on severity.

(b) For staff, volunteers or contractors of a private licensed child caring agency, an ISRS program, a SPRF provider, or SOC contractor, providing child welfare services pursuant to ORS chapter 418:

(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 OAAPI and APD 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 OAAPI and APD 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 OAAPI and APD based on severity.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 418b.035

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0290, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 1-2013(Temp), f. & cert. ef. 2-5-13 thru 8-2-13

Department of Human Services, Self-Sufficiency Programs
Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.
Adm. Order No.: SSP 2-2013(Temp)
Filed with Sec. of State: 1-23-2013
Certified to be Effective: 1-23-13 thru 5-5-13
Notice Publication Date:
Rules Amended: 461-190-0211
Rules Suspended: 461-190-0211(T)
Subject: OAR 461-190-0211 about the case plan activities and standards for support service payments for the Department's Temporary Assistance for Needy Families Job Opportunity and Basic Skills (JOBS) program which was amended by temporary rule on January 1, 2013 is being amended to further modify policies about support services payments. This rule is being amended to indicate that support services payments are not provided for On-the-Job training. This amendment also broadens the potential purposes for which support services payments can be made while setting out additional specific restrictions when these payments are not allowed.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-190-0211
Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, TANF

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in Chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) Participation in an activity (see OAR 461-001-0025) is limited as provided in each of the following subsections:

(a) An individual who is determined to be a work-eligible individual according to federal definition (45 CFR 261.2(n)(1)). Unless section (10) of this rule applies, no other individual may participate in and access JOBS contract activities and support services (see OAR 461-001-0025).

(b) An individual who is an applicant in the Pre-TANF program or a recipient of TANF or Post-TANF program benefits.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6), and (7) of this rule, the following activities will be available, and include support services payments if needed:

(a) Job search (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and OAR 461-101-0010) is limited to six months per individual, unless circumstances unique to the employment situation are identified and warrant the Department — starting November 1, 2012 — to approve a limited number of additional months.

(c) Work experience (see OAR 461-001-0025).

(d) Sheltered or supported work (see OAR 461-001-0025).

(e) High School or GED Completion Attendance (see OAR 461-001-0025) limited to a teen parent (see OAR 461-001-0000 and 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(g) Limited family stability (see OAR 461-001-0000).

(A) Drug and alcohol services (see OAR 461-001-0025).

(B) Mental health services (see OAR 461-001-0025).

(C) Attending medical appointments or services.

(D) Rehabilitative activities (see OAR 461-001-0025).

(h) Starting November 1, 2012, vocational training (see OAR 461-001-0025).

(3) The following activities will not include support services payments:

(a) Domestic Violence Intervention.

(b) Family Stability (see OAR 461-001-0000), unless subsection (2)(g) of this rule applies.

(c) Family Support & Connection.

(d) On-the-job training (see OAR 461-001-0025).

(e) Post-TANF.

(f) Program entry (see OAR 461-001-0025).

(g) Self Initiated Training (see OAR 461-001-0025).

(h) SSI Application Process.

(i) Unsubsidized employment (work).

(4) Participation in an activity is based on whether an individual is Job Ready, Near Job Ready, Not Job Ready, or a teen parent.

(a) Job Ready means the individual has no barrier (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:

(A) Prior stable work history, either paid or unpaid.

(B) Had not voluntarily quit or been dismissed from their most recent employment (see OAR 461-135-0070), without good cause (see OAR 461-135-0070).

(C) Reliable or available transportation.

(D) No outstanding legal issues that would impact or prevent employment.

(E) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:

(A) Limited or no work history, either paid or unpaid.

(B) Reliable or available transportation.

(C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.

(D) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:

(A) Lack of stable housing that is preventing participation in an activity or employment.

(B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.

(C) Medical issues that prevent participation in an activity or employment.

(D) Outstanding legal issues that would impact or prevent employment.

(E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.

(5) In approving JOBS program support services payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

(6) Payments for support services are only provided when:

(a) Necessary to participate in activities in a signed case plan;

(b) Authorized in advance; and

(c) All other provisions of this rule are met.

(7) Payments for support services are subject to the following limitations:

(a) Job Ready and Near Job Ready individuals may be eligible for:

(A) Child care;

(B) Transportation; or

(C) Starting November 1, 2012: other payments needed to look for work, accept a job offer, or complete district-approved vocational training.

(b) Not Job Ready individuals are not eligible for support services, unless subsection (2)(g) of this rule applies.

(c) A teen parent may be eligible for child care, transportation, or other support services, for participation in a basic education (see OAR 461-001-0025) component (see OAR 461-001-0025).

(d) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable a single-parent Job Ready or Near Job Ready individual or teen parent to participate in an approved JOBS program activity specified in the individual's case plan, or a Not Job Ready individual approved by the district to complete a family stability activity. If authorized, payment for child care will be:

(A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.

(B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program activity.

(e) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or teen parent for transportation costs incurred in travel to and from an approved JOBS program activity or a Not Job Ready individual approved by the district to complete a family stability activity. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

(A) Payment for public transportation is a priority over payment for a privately owned vehicle.

(B) Payment for fuel costs for a privately-owned vehicle is only provided if the client or individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(f) Housing and Utilities. Payments for housing and utilities are not allowed.

(g) Other Payments. When the need is identified by the district and no other sources are available, the Department may provide other payments needed:

(A) To look for work.

(B) To accept a job offer.

(C) For a teen parent to attain a high school diploma or GED.

(D) For books and supplies for a participant to complete a district-approved vocational training.

(E) Other payments with manager approval that are not otherwise restricted by rule.

(h) None of the following payments are allowed:

(A) Non-essential items.

(B) Television, cable, and internet.

(C) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.

(D) Purchase of a car, recreational vehicle, or motor home.

(E) Child care for two-parent families, except for two-parent families in which both parents meet the definition of teen parent.

(F) Support services for exempt individuals.

(G) Pet-related costs.

(H) ERDC co-payments.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part an individual's request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her case plan.

(b) The purpose for the payment is not related to the individual's case plan.

(c) The individual disagrees with a support services payment offered or made by the Department as outlined in the individual's case plan.

(d) The individual is not determined to be a Job Ready or Near Job Ready individual or teen parent.

(10) An individual who has gone over-income for the TANF program due to earnings and needs to increase activity hours to meet Post-TANF federally required participation rates (see OAR 461-001-0025) may be a volunteer and participate.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL 604

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL 604

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 11-2012, f. & cert. ef. 4-6-12; SSP 12-2012(Temp), f. & cert. ef. 4-6-12 thru 9-30-12; SSP 18-2012(Temp), f. & cert. ef. 5-23-12 thru 9-30-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 34-2012(Temp), f. & cert. ef. 11-6-12 thru 5-5-13; SSP 38-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 5-5-13; SSP 2-2013(Temp), f. & cert. ef. 1-23-13 thru 5-5-13

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

Adm. Order No.: SSP 3-2013
Filed with Sec. of State: 1-30-2013
Certified to be Effective: 1-30-13
Notice Publication Date: 11-1-2012
Rules Amended: 461-155-0180, 461-155-0235
Subject: OAR 461-155-0180 about the poverty related income standards in the Department's public assistance, medical and SNAP programs is being amended to reflect the annual increase in the federal poverty guidelines. The Department converts the annual poverty guidelines published in the Federal Register to a monthly, rounded amount and uses the result to determine the new income limits.

OAR 461-155-0235 about the premium standards for the Oregon Health Plan Standard (OHP-OPU) is being amended to reflect the annual increase in the federal poverty guidelines. The Department and the Oregon Health Authority (OHA) convert the annual poverty guidelines published in the Federal Register to a monthly, rounded amount and use the result to determine the amount of premium billed for each OHP Standard client who is required to pay a monthly premium. Some OHP Standard clients are exempt from the premium requirement.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0180
Poverty Related Income Standards; Not OSIP, OSIPM, QMB

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level.

(2) A monthly income standard set at 100 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(3) A monthly income standard set at 133 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(4) A monthly income standard set at 150 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(5) A monthly income standard set at 163 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(6) A monthly income standard:

(a) In all programs except the SNAP program, set at 185 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(b) In the SNAP program, set at 185 percent of the federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(7) A monthly income standard set at 200 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(8) A monthly income standard set at 201 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816 & 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816 & 412.049
Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 1-2009, f. & cert. ef. 1-27-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 4-2010, f. & cert. ef. 3-31-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 1-2011(Temp), f. & cert. ef. 1-20-11 thru 7-19-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 2-2012, f. & cert. ef. 1-25-12; SSP 3-2013, f. & cert. ef. 1-30-13

461-155-0235
OHP Premium Standards

In the OHP program, the following steps are followed to determine the amount of the monthly premium for the filing group (see OAR 461-110-0400):

(1) The number of persons in the OHP need group is determined in accordance with OAR 461-110-0630.

(2) The countable income of the financial group (see OAR 461-110-0530) is determined in accordance with 461-150-0055 and 461-160-0700.

(3) Based on the number in the need group and the countable income, the monthly premium for each non exempt OHP-OPU client in the benefit group (see OAR 461-110-0750) is determined from the following table: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 411.404, 411.431 & 411.432
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.431 & 411.432
Hist.: AFS 35-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 22-1996, f. 5-30-96, cert. ef. 6-1-96; 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 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 6-2003(Temp), f. 2-26-03, cert. ef. 3-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 5-2004(Temp), f. & cert. ef. 3-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 2-2005, f. & cert. ef. 2-18-05; SSP 1-2006, f. & cert. ef. 1-24-06; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 1-2009, f. & cert. ef. 1-27-09; SSP 2-2011, f. & cert. ef. 1-20-11; SSP 2-2012, f. & cert. ef. 1-25-12; SSP 3-2013, f. & cert. ef. 1-30-13

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients
Adm. Order No.: SSP 4-2013(Temp)
Filed with Sec. of State: 2-1-2013
Certified to be Effective: 2-1-13 thru 7-31-13
Notice Publication Date:
Rules Amended: 461-155-0180
Subject: OAR 461-155-0180 which contains the poverty-related income standards for many DHS programs was amended on January 31, 2012. This rule is now being further amended to identify for the SNAP program the standard amounts representing 185 percent of the federal poverty level for 2013.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0180
Poverty Related Income Standards; Not OSIP, OSIPM, QMB

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level.

(2) A monthly income standard set at 100 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(3) A monthly income standard set at 133 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(4) A monthly income standard set at 150 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(5) A monthly income standard set at 163 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(6) A monthly income standard set at 185 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(7) A monthly income standard set at 200 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(8) A monthly income standard set at 201 percent of the 2013 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816 & 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816 & 412.049
Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 1-2009, f. & cert. ef. 1-27-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 4-2010, f. & cert. ef. 3-31-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 1-2011(Temp), f. & cert. ef. 1-20-11 thru 7-19-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 2-2012, f. & cert. ef. 1-25-12; SSP 3-2013, f. & cert. ef. 1-30-13; SSP 4-2013(Temp), f. & cert. ef. 2-1-13 thru 7-31-13

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Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients
Adm. Order No.: SSP 5-2013
Filed with Sec. of State: 2-6-2013
Certified to be Effective: 2-6-13
Notice Publication Date: 11-1-2012
Rules Amended: 461-165-0010
Subject: OAR 461-165-0010 about the legal status of benefit payments is being amended to comply with federal law and state that cash benefits may not be used in any electronic benefit transfer transaction in casinos, gaming establishments, adult entertainment estab-

lishments, or liquor stores. This amendment also adopts the federal definitions of these terms.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-165-0010
Legal Status of Benefit Payments

(1) Under Oregon law, cash benefits are not subject to assignment, transfer, garnishment, levy, or execution, as long as they can be identified as program payments and are separate from other money in the client's possession.

(2) A cash payment, once issued to or on behalf of the client, becomes vested in the client.

(3) Except for EBT, the Department considers a benefit issued if the check has been handed to the client in the branch office, or mailed to the client. The Department considers a benefit issued, and received by the client, when a direct check deposit is made to the client's bank account.

(4) For EBT, the Department considers benefits issued and received when an EBT card and personal identification number (PIN) have been issued in person to the client, or the EBT card and PIN have been received by the client in the mail during conversion, and the benefits have been deposited to the client's EBT account.

(5) SNAP program benefits issued by EBT remain available for client access for 12 calendar months from the date of issuance. The EBT system expunges unused benefits after 12 calendar months.

(6) Benefits, once issued, are unrestricted and do not require accountability for individual expenditures or amounts, unless limited elsewhere in rule.

(7) In the TA-DVS program, a payment issued on behalf of a client as a vendor or dual payee payment or directly to the client becomes vested in the client when issued. The Department considers the benefit to be issued if the Department has mailed the payment to the vendor or has hand delivered or mailed a dual payee check to the client. Benefits in the TA-DVS program are restricted to uses outlined in OAR 461-135-1230.

(8) In the REF, SFPSS, and TANF programs:

(a) Cash benefits may not be used in any electronic benefit transfer transaction in:

(A) Any liquor store;

(B) Any casino, gambling casino, or gaming establishment; or

(C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(b) The Department will take steps to ensure clients have adequate access to their cash benefits.

(9) For purposes of section (8) of this rule:

(a) The term "liquor store" means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (within the meaning of section 3(r) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(r))).

(b) The terms "casino", "gambling casino", and "gaming establishment" do not include:

(A) A grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or

(B) Any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

(c) The term "electronic benefit transfer transaction" means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.014, 412.049 & 414.042
Stats. Implemented: ORS 409.010, 411.060, 411.117, 411.816, 412.014, 412.049, 412.151 & 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 11-1991, f. 4-30-91, cert. ef. 5-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2013, f. & cert. ef. 2-6-13

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

Rule Caption: Modify reporting requirements for compliance with Oregon's Community Right to Know Program
Adm. Order No.: OSFM 1-2013
Filed with Sec. of State: 1-24-2013
Certified to be Effective: 2-1-13
Notice Publication Date: 1-1-2013
Rules Amended: 837-085-0040, 837-085-0070, 837-085-0080
Subject: This rule is being modified to raise the minimum reporting requirements for the majority of hazardous substances (generally and minimally hazardous), and to raise the minimum reporting requirements of gasoline and diesel at retail gas stations.
Rules Coordinator: Connie Dalke—(503) 934-8211

837-085-0040
Definitions

(1) "Act" means the Community Right-to-Know and Protection Act, ORS 453.307 to 453.414.

(2) "Appeal" means the written request for a contested case in order to contest the required submission of Hazardous Substance Information Survey information or to contest a "Notice of Noncompliance and Proposed/Final Penalty Assessment" order, or a response to a request for exemption.

(3) "Approved Form" means a form provided by or authorized by the Office of State Fire Marshal.

(4) "Audit" means the evaluation of covered employers, owners or operators to determine their level of compliance with the Oregon Community Right-to-Know and Protection Act.

(5) "Average Daily Amount" means the average amount of a hazardous substance present at a facility during the twelve-month survey period.

(6) "Chemical" means any element, chemical compound, or mixture of elements or compounds.

(7) "Chemical Name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service's (CAS) rules of nomenclature.

(8) "Common Name" means any designation or identification such as code name, code number, trade name, brand name or generic name, used to identify a chemical other than by its chemical name.

(9) "Compliance Auditor" means a designated employee of the Office of State Fire Marshal whose responsibility is to conduct audits, identify noncompliance issues, propose penalties, establish correction dates and assist employers, owners, and operators in voluntarily complying with ORS 453.307 to 453.414.

(10) "Compliance or Due Date" means the date set for submitting a Hazardous Substance Information Survey, substantive change or other information requested by the Office of State Fire Marshal.

(11) "Compressed Gas" means:

(a) A gas or mixture of gases, in a container, having an absolute pressure exceeding 40 psi at 70° F (21.1° C); or

(b) A gas or mixture of gases, in a container, having an absolute pressure exceeding 104 psi at 130° F (54.4° C) regardless of the pressure at 70° F (21.1° C); or

(c) A liquid having a vapor pressure exceeding 40 psi at 100° F (37.8°C) as determined by ASTM D-323-72, Test Method of Vapor Pressure of Petroleum Products (Reid Method).

(12) "Confidential" means information submitted to a public body in confidence (ORS 192.502(3)).

(13) "Confidentiality Agreement" means a written agreement between a covered employer, owner or operator and an entity authorized under ORS 453.337 and OAR chapter 837, division 085 to request and receive trade secret information.

(14) "Correction Order" means a written order that directs an employer, owner or operator to submit Hazardous Substance Information Survey information.

(15) "Covered Employer, Owner or Operator" means:

(a) Any person operating a facility possessing reportable quantities of hazardous substances as defined by the Office of State Fire Marshal in OAR 837-085-0070.

(b) Any person operating a facility that the Office of State Fire Marshal believes has the potential to store, generate, use, or otherwise possess hazardous substances in reportable quantities.

(16) "Division" means OAR chapter 837, division 085 of the Office of State Fire Marshal.

(17) "Emergency" means any human caused or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss which includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity,

spills of oil or other substances, contamination, utility or transportation accidents, disease, blight, infestation, civil disturbance, riot, sabotage/war.

(18) "Emergency Services" means those activities provided by state or local government agencies with emergency operational responsibilities to prepare for or carry out any activity to prevent, minimize, respond to or recover from an emergency. Without limitation, these activities include coordination, preplanning, training, interagency liaison, fire fighting, hazardous substance management, law enforcement, medical, health or sanitation services, engineering or public works, search and rescue activities, public information, damage assessment, administration and fiscal management.

(19) "Emergency Service Agency" means an organization, which performs essential services for the public's benefit prior to, during, or following an emergency. This includes, but is not limited to, organizational units within local governments, such as emergency medical technicians, health, medical or sanitation services, public works or engineering, public information or communications.

(20) "Entity" means any individual trust, firm, association, corporation, partnership, joint stock company, joint venture, public or municipal corporation, commission, political subdivision, the state or any agency or commission thereof, interstate body, or the federal government or any agency thereof.

(21) "Exempted Substance" means a substance that is not required to be reported.

(22) "Exemption" means the written authority given to a person by the Office of State Fire Marshal, granting an exemption from the requirements of a rule or law.

(23) "Explosive" means a hazardous substance classified as an explosive by the U.S. Department of Transportation.

(24) "Extension" means the written authorization of the Office of State Fire Marshal to extend a compliance or due date.

(25) "Facility" means all buildings, equipment structures or other stationary items that are located on a single site or on contiguous or adjacent sites that are owned or operated by a covered employer, owner or operator.

(26) "Facility Representative" means any individual designated by an employer, owner or operator to serve as spokesperson or, in the absence of a designated spokesperson, the person in charge of a facility being audited.

(27) "Filed" means the receipt of a document by the Office of State Fire Marshal, except that an appeal will be considered filed upon receipt at any regional office of the Office of State Fire Marshal.

(28) "Fire District" means any agency having responsibility for providing fire protection services.

(29) "Fixed Facility" means a facility having permanent or nonmobile operations.

(30) "Hazard Classification" means the U.S. Department of Transportation hazard classes and divisions as defined in 49 CFR 173.2. However, when the definitions in 49 CFR 173.2 refer to transportation or hazards associated with transportation, they shall be deemed to refer to storage or other regulated activities under OAR chapter 837, division 085.

(31) "Hazardous Substance" means:

(a) Any substance designated as hazardous by the Director of the Department of Consumer and Business Services or by the Office of State Fire Marshal; or

(b) Any substance required to have a Material Safety Data Sheet (MSDS) pursuant to Oregon Occupational Safety and Health Division's OAR 437, division 2 (29 CFR 1910.1200), subdivision Z, and which appears on the list of Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment by the American Conference of Governmental Industrial Hygienist (ACGIH); or

(c) Any substance required to have an MSDS pursuant to Oregon Occupational Safety and Health Division's OAR 437, division 2 (29 CFR 1910.1200), subdivision Z, except:

(A) Substances exempted by designation of the Office of State Fire Marshal; or

(B) Substances which are solids and do not react or dissolve and are stored in unprotected areas; or

(C) Substances exempted by the rules of OAR chapter 837, division 085; or

(D) Gases intended and used for human or animal ingestion or inhalation either directly or added to a product, if the gas is present at the site where ingestion or inhalation occurs; and the gas is not being used in a manufacturing process; and the gas is not a cryogenic; and the gas is not being stored at the site in a quantity that exceeds 1,000 cubic feet.

(d) Any substance for which a manufacturer is required to develop an MSDS, that presents a physical or health hazard to emergency response personnel or the public under normal conditions of use or during an emergency situation; or

(e) Any waste substance that presents a physical or health hazard to emergency response personnel or the public under normal conditions of use or during an emergency situation; or

(f) Any radioactive waste or radioactive material as defined in ORS 469.300(19) and radioactive substance as defined in ORS 453.005.

(32) "Hazardous Substance Information Survey" means a hazardous substance report that covered employers, owners or operators are required to submit, on an approved form, to the Office of State Fire Marshal.

(33) "Health Professional" means a physician as defined in ORS 677.010, registered nurse, industrial hygienist, toxicologist, epidemiologist or emergency medical technician.

(34) "Highly Toxic Material" means a material which produces a lethal dose or lethal concentration which falls within any of the following categories:

(a) A chemical that has a median lethal dose (LD50) of 50 milligrams or less per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each;

(b) A chemical that has a median lethal dose (LD50) of 200 milligrams or less per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each;

(c) A chemical that has a median lethal concentration (LC50) in air of 200 parts per million by volume or less of gas or vapor, or two milligrams per liter or less of mist, fume or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each;

(d) Mixture of these materials with ordinary materials, such as water, may not warrant a classification of highly toxic. While this system is basically simple in application, any hazard evaluation which is required for the precise categorization of this type of material shall be performed by experienced, technically competent persons.

(35) "Identity" means any chemical or common name that is indicated:

(a) On a Material Safety Data Sheet (MSDS) as required under OAR 437, division 2 (CFR 1910.1200), subdivision Z; or

(b) On shipping documents as required under 49 CFR 171-177 under the Transportation Safety Act of 1974 (49 U.S.C. 1801 et seq.); or

(c) On hazardous waste manifests as required by OAR chapter 340, division 102 as adopted by the Department of Environmental Quality; or

(d) On packaging or container labels as required under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and labeling regulations issued under the Act by the Environmental Protection Agency; or

(e) On a radioactive material license as issued under OAR chapter 333, divisions 100 through 113 as adopted by the Radiation Control Section of the Health Division of the Oregon Department of Human Resources.

(36) "Incident" means the threatened or actual injury or damage to a human, wildlife, domestic animal or the environment, or any property loss resulting from a hazardous substance release.

(37) "Law Enforcement Agency" means county sheriffs, municipal police departments, state police, other police officers of this or other states or law enforcement agencies of the federal government.

(38) "Liquefied Gas" means a gas that is received and stored as a liquid through the use of pressure or cryogenic conditions.

(39) "Material Safety Data Sheet (MSDS)" means written, printed or electronic material concerning a hazardous chemical which is prepared in accordance OAR 437, division 2 (29 CFR 1910.1200), subdivision Z, Hazard Communication rules of the Occupational Safety and Health Division of the Department of Consumer and Business Services.

(40) "Maximum Amount" means the largest amount of a hazardous substance located at a facility at any one time during the 12-month survey period.

(41) "North American Industry Classification System" means a system developed by the Office of Management and Budget for the purpose of classifying establishments by the type of activity they engage in. The number assigned to each group classified is called the NAICS code.

(42) "No Longer Reportable" means a previously reported substance was not on site in a reportable quantity during the current survey period.

(43) "Noncompliance" means failure of a covered employer, owner or operator to comply with the Community Right-to-Know and Protection Act or its administrative rules.

(44) "Noncompliance Classification" means the category assigned to issues of noncompliance for the purposes of assessing a penalty.

(45) "Notice of Noncompliance and Proposed/Final Penalty Assessment Order" means a written document issued to covered employers, owners or operators that states they were not complying with the Community Right-to-Know and Protection Act, establishes correction dates and notifies them of penalty assessments.

(46) "Person" means any entity including, but not limited to, an individual, trust, firm, joint stock company, corporation, partnership, association, municipal corporation, political subdivision, interstate body, the state or any agency or commission thereof, or the federal government or any agency thereof.

(47) "Record" means any recorded information.

(48) "Repeat Noncompliance" means a covered employer, owner and or operator has failed to comply with the same rule of OAR 837-085 two or more times within a five year period of time.

(49) "Reportable Hazardous Substance" is a hazardous substance that is manufactured, generated, used, stored, possessed, or disposed of at a fixed site location by covered employers, owners, or operators at or above the reportable quantities at any time during the survey period.

(50) "Reportable Quantity" means the amount of hazardous substance that must be present at a facility before reporting is required.

(51) "Reporting Range" means a range of quantities assigned by the Office of State Fire Marshal for reporting hazardous substances.

(52) "Retail Gasoline Station" means a retail facility engaged in selling gasoline and/or diesel fuel principally to the public, for motor vehicle use on land.

(53) "Single Combined Survey" means a survey that has multiple substations reported on it.

(54) "Source Generation Sites" means facilities generating that which is relayed, pumped or stored by substations.

(55) "State Fire Marshal" means the State Fire Marshal or designee.

(56) "Substantive Change" means a change in hazardous substance reporting information that requires notification to the Office of State Fire Marshal.

(57) "Substation" means facilities that function only as electrical transmission relays, telephone transmission relays, pager transmission relays, cable TV transmission relays, cellular phone transmission relays, radar transmission relays, water storage reservoir, water pump or chlorinating stations, sewerage/storm water pump stations, natural gas pump stations or road sand storage.

(58) "Survey Period" means the 12 months preceding the date the Hazardous Substance Information Survey is mailed to, or completed by, the covered employer, owner or operator.

(59) "Temporary Worksite" means a single site location where activities, such as construction or logging, will occur for less than 24 months.

(60) "Trade Name" means the brand name or trademark given to a hazardous substance by a manufacturer or distributor.

(61) "Trade Secret" means, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented; which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service or to locate minerals or other substances having commercial value; and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(62) "Total Amount Transported from the facility" means the total amount of a hazardous substance that has been transported from the facility site during the 12-month survey period.

(63) "Total Amount Transported to the facility" means the total amount of a hazardous substance that has been transported on to the facility site during the 12-month survey period.

(64) "Waste Hazardous Substance" means any substance, which meets the Department of Environmental Quality's definition of "hazardous waste".

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.357

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-1999, f. 2-2-99 & cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10; OSFM 1-2013, f. 1-24-13, cert. ef. 2-1-13

837-085-0070

Hazardous Substance Information Survey — Reportable Quantities

(1) If at any time during the survey period, a covered employer, owner or operator has manufactured, generated, used, stored, possessed, or disposed of a hazardous substance in an amount at or above the reportable quantities, they must report the hazardous substance.

(2) The hazardous substance reportable quantities shall be as follows:

(a) Any quantity of radioactive substance including radioactive wastes, except: sealed source radioactive materials, as defined by OAR 333-100-0005(123) contained in smoke detectors, survey equipment and small laboratory testing equipment.

(b) Any highly toxic material or explosive in quantities equal to, or greater than, ten pounds, five gallons or 20 cubic feet;

(c) Any Extremely Hazardous Substance that meets or exceeds the Threshold Planning Quantities as defined by 40 CFR 355.

(d) For gasoline (all grades combined) at a retail gas station, in quantities equal to, or greater than, 75,000 gallons if the tank(s) was stored entirely underground and the tank(s) was in compliance at all times during the preceding reporting year with all applicable Underground Storage Tank regulations.

(e) For diesel fuel (all grades combined) at a retail gas station, in quantities equal to, or greater than, 100,000 gallons if the tank(s) was stored entirely underground and the tank(s) was in compliance at all times during the preceding reporting year with all applicable Underground Storage Tank regulations.

(f) Any other hazardous substance in quantities equal to, or greater than, 500 gallons, cubic feet, or pounds.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; FM 4-1994, f. 12-14-94, cert. ef. 12-15-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10; OSFM 1-2013, f. 1-24-13, cert. ef. 2-1-13

837-085-0080

Hazardous Substance Information Survey — Required Survey Information

(1) Covered employers, owners, and operators must calculate the following for each hazardous substance manufactured, generated, used, stored, possessed or disposed of during the survey period:

(a) Average daily amount;

(b) Maximum amount onsite at one time;

(c) Maximum amount at each storage location reported;

(d) Total amount transported to the facility;

(e) Total amount transported from the facility.

(2) The amounts of hazardous substances shall be measured in the physical state assumed at "Standard Temperature and Pressure" (STP) or when released into the environment.

NOTE: Although liquefied gases are reported in gallons, their reportability is determined by measuring them in cubic feet.

(3) The amounts of hazardous substances must be reported in the following units:

(a) Solids must be reported in units of pounds;

(b) Liquids must be reported in units of gallons;

(c) Liquefied gases must be reported in units of gallons;

(d) Compressed gases that are not liquefied must be reported in units of cubic feet;

(e) Radioactive materials must be reported in units of millicuries.

(4) For a mixture, the total amount of the substance is reported regardless of the concentration of the hazardous substance in the mixture.

(5) The amounts of a hazardous substance with the same chemical composition in separate containers at one facility shall be added together for reporting purposes.

(6) Like substances which are exempted from the Hazardous Substance Possession Fee shall be grouped and reported together. Examples of these groups include, but are not limited to: Gasoline, motor oils, asphalt emulsion, and diesels.

(7) Water-based paints with the same major components shall be grouped and reported together. Solvent-based paints with the same major components shall be grouped and reported together.

Stat. Auth.: ORS 453.367

Stats. Implemented: ORS 453.317

Hist.: FM 1-1994, f. & cert. ef. 1-14-94; OSFM 1-1999, f. 2-2-99, cert. ef. 2-3-99; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 5-2005, f. 3-31-05, cert. ef. 4-1-05; OSFM 1-2010, f. 1-27-10, cert. ef. 2-1-10; OSFM 1-2013, f. 1-24-13, cert. ef. 2-1-13

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Remove comments from mandatory disqualifier language.
Adm. Order No.: DPSST 3-2013
Filed with Sec. of State: 1-22-2013
Certified to be Effective: 1-22-13
Notice Publication Date: 1-1-2013

Rules Amended: 259-008-0070
Rules Repealed: 259-008-0070(T)
Subject: On the recommendation of legal counsel, remove comment language from mandatory disqualifier language to eliminate confusion in the legal interpretation of the rule.
Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0070
Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, to insure the highest levels of professionalism and discipline. These standards shall be upheld at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

Definitions

(2) For purposes of this rule, the following definitions apply:

(a) "Denial" or "Deny" means the refusal to grant a certification for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in (9) of this rule.

(b) "Discretionary Disqualifying Misconduct" means misconduct identified in OAR 259-008-0070(4).

(c) "Revocation" or "Revoke" means to withdraw the certification of a public safety professional or instructor for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in section (9) of this rule.

Grounds for Mandatory Denial or Revocation of Certification

(3) Mandatory Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor:

(a) The Department must deny or revoke the certification of any public safety professional or instructor after written notice and hearing, based upon a finding that:

(A) The public safety professional or instructor has been discharged for cause from employment as a public safety professional or instructor. For purposes of this rule, "discharged for cause," means an employer-initiated termination of employment for any of the following reasons after a final determination has been made. If, after service by the Department of a Notice of Intent to Deny or Revoke Certifications (NOI), the public safety professional or instructor provides notice to the Department within the time stated in the NOI that the discharge has not become final, then the Department may stay further action pending a final determination.

(i) Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(ii) Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(iii) Gross Misconduct: means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(iv) Incompetence: means a demonstrated lack of ability to perform the essential tasks of a public safety professional or instructor that remedial measures have been unable to correct; or

(v) Misuse of Authority: Includes abuse of public trust, abuse of authority to obtain a benefit, avoid a detriment, or harm another, and abuse under the color of office.

(B) The public safety professional or instructor has been convicted in this state or any other jurisdiction of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(C) The public safety professional or instructor has been convicted of violating any law of this state or any other jurisdiction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug except the Department may deny certification for a conviction of possession of less than one ounce of marijuana, which occurred prior to certification; or

(D) The public safety professional or instructor has been convicted in this state of any of the following offenses, or of their statutory counterpart(s) in any other jurisdiction, designated under the law where the conviction occurred as being punishable as a crime:

162.075 (False swearing);
162.085 (Unsworn falsification);
162.145 (Escape in the third degree);
162.175 (Unauthorized departure);
162.195 (Failure to appear in the second degree);
162.235 (Obstructing governmental or judicial administration);
162.247 (Interfering with a peace officer);
162.257 (Interfering with a firefighter or emergency medical technician);
162.295 (Tampering with physical evidence);
162.305 (Tampering with public records);
162.315 (Resisting arrest);
162.335 (Compounding);
162.365 (Criminal impersonation);
162.369 (Possession of false law enforcement identification);
162.375 (Initiating a false report);
162.385 (Giving false information to a peace officer for a citation or arrest warrant);
162.415 (Official misconduct in the first degree);
163.200 (Criminal mistreatment in the second degree);
163.454 (Custodial sexual misconduct in the second degree);
163.687 (Encouraging child sexual abuse in the third degree);
163.732 (Stalking), ;
164.045 (Theft in the second degree);
164.085 (Theft by deception);
164.095 (Theft by receiving);
164.125 (Theft of services);
164.235 (Possession of a burglary tool or theft device);
164.877 (Unlawful tree spiking; unlawful possession of substance that can damage certain wood processing equipment);
165.007 (Forgery in the second degree);
165.017 (Criminal possession of a forged instrument in the second degree);
165.037 (Criminal simulation);
165.042 (Fraudulently obtaining a signature);
165.047 (Unlawfully using slugs);
165.055 (Fraudulent use of a credit card);
165.065 (Negotiating a bad check);
165.080 (Falsifying business records);
165.095 (Misapplication of entrusted property);
165.100 (Issuing a false financial statement);
165.102 (Obtain execution of documents by deception);
165.825 (Sale of drugged horse);
166.065(1)(b) (Harassment);
166.155 (Intimidation in the second degree);
166.270 (Possession of weapons by certain felons);
166.350 (Unlawful possession of armor-piercing ammunition);
166.416 (Providing false information in connection with a transfer of a firearm);
166.418 (Improperly transferring a firearm);
166.470 (Limitations and conditions for sales of firearms);
167.007 (Prostitution);
167.075 (Exhibiting an obscene performance to a minor);
167.080 (Displaying obscene materials to minors);
167.132 (Possession of gambling records in the second degree);
167.147 (Possession of a gambling device);
167.222 (Frequenting a place where controlled substances are used);
167.262 (Adult using minor in commission of controlled substance offense);
167.320 (Animal abuse in the first degree);
167.330 (Animal neglect in the first degree);
167.332 (Prohibition against possession of domestic animal);
167.333 (Sexual assault of animal);
167.337 (Interfering with law enforcement animal);
167.355 (Involvement in animal fighting);
167.370 (Participation in dogfighting);
167.431 (Participation in cockfighting);
167.820 (Concealing the birth of an infant);
475.525 (Sale of drug paraphernalia);
475.840 (Manufacture or deliver a controlled substance);
475.860 (Unlawful delivery of marijuana);
475.864 (Unlawful possession of marijuana);
475.906 (Distribution of controlled substance to minors);
475.910 (Application of controlled substance to the body of another person);
475.912 (Unlawful delivery of imitation controlled substance);
475.914 (Unlawful acts, registrant delivering or dispensing controlled substance);
475.916 (Prohibited acts involving records and fraud);
475.918 (Falsifying drug test results);
475.920 (Providing drug test falsification equipment);
475.950 (Failure to report precursor substances transaction);
475.955 (Failure to report missing precursor substances);
475.960 (Illegally selling drug equipment);
475.965 (Providing false information on precursor substances report or record);
475.969 (Unlawful possession of phosphorus);
475.971 (Unlawful possession of anhydrous ammonia);
475.973 (Unlawful possession of ephedrine, pseudoephedrine or phenylpropanolamine; unlawful distribution);
475.975 (Unlawful possession of iodine in its elemental form);
475.976 (Unlawful possession of iodine matrix);
807.520 (False swearing to receive license);
807.620 (Giving false information to police officer);
Any offense involving any acts of domestic violence as defined in ORS 135.230.

(b) The Department must take action on a mandatory disqualifying conviction, regardless of when it occurred, unless the Department, or the Board, has previously reviewed the conviction and approved the public safety professional or instructor for certification under a prior set of standards.

Discretionary Disqualifying Misconduct as Grounds for Denying or Revoking Certification

(4) Discretionary disqualifying misconduct as Grounds for Denying or Revoking Certification(s) of a Public Safety Professional or Instructor:

(a) The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor has engaged in conduct that fails to meet the applicable minimum standards as described in subsection (b), minimum training or the terms and conditions established under ORS 181.640;

(C) The public safety professional or instructor has engaged in conduct that resulted in the conviction of an offense, punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction. Presumptive categories have been identified for the crimes listed in subsection (4), based solely on the elements of the crime. Other categories may apply based on the conduct leading to the conviction; or

(D) A public safety professional failed to attend at least one session with a mental health professional within six months after the public safety professional was involved in using deadly physical force, as required by ORS 181.789.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect or serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

(c) For discretionary disqualifying misconduct, the applicable category will be determined based on the facts of each case. Discretionary disqualifying misconduct under (a)(C) includes, but is not limited to, the following list, which identifies the applicable category for each listed discretionary offense, based on the elements of the crime:

97.931 (Registration of Salesperson for Endowment Care Cemeteries, Pre-construction Sales and Prearrangement Sales) — Category V;
97.933 (Certification of Provider of Prearrangement or Preconstruction) — Category V;
97.937 (Deposit of Trust Funds made by Endowment Care Cemeteries) — Category V;
97.941 (Prearrangement or Preconstruction Trust Fund Deposits) — Category V;
97.990(4) (Maintaining a Nuisance) — Category V;
162.405 (Official Misconduct in the Second Degree) — Category III;
162.425 (Misuse of Confidential Information) — Category III;
162.455 (Interfering with Legislative Operations) — Category V;
162.465 (Unlawful Legislative Lobbying) — Category I;
163.160 (Assault in the Fourth Degree) — Category II;
163.187 (Strangulation) — Category II;
163.190 (Menacing) — Category II;
163.195 (Recklessly Endangering Another Person) — Category IV;
163.212 (Unlawful Use of Stun Gun, Tear Gas or Mace in the Second Degree) — Category IV;
163.415 (Sexual Abuse in the Third Degree) — Category II;
163.435 (Contributing to the Sexual Delinquency of a Minor) — Category II;
163.445 (Sexual Misconduct) — Category II;
163.465 (Public Indecency) — Category II;
163.467 (Private Indecency) — Category II;
163.545 (Child Neglect in the Second Degree) — Category IV;
163.693 (Failure to Report Child Pornography) — Category IV;
163.575 (Endangering the Welfare of a Minor) — Category III;
163.700 (Invasion of Personal Privacy) — Category II;
163.709 (Unlawful Directing of Light from a Laser Pointer) — Category IV;
164.043 (Theft in the Third Degree) — Category V;
164.132 (Unlawful Distribution of Cable Equipment) — Category V;
164.140 (Criminal Possession of Rented or Leased Personal Property) — Category V;
164.162 (Mail Theft or Receipt of Stolen Mail) — Category I;
164.243 (Criminal Trespass in the Second Degree by a Guest) — Category V;
164.245 (Criminal Trespass in the Second Degree) — Category V;
164.255 (Criminal Trespass in the First Degree) — Category V;
164.265 (Criminal Trespass While in Possession of a Firearm) — Category IV;
164.272 (Unlawful Entry into a Motor Vehicle) — Category V;
164.278 (Criminal Trespass at Sports Event) — Category V;
164.335 (Reckless Burning) — Category IV,
164.345 (Criminal Mischief in the Third Degree) — Category V;
164.354 (Criminal Mischief in the Second Degree) — Category V;
164.373 (Tampering with Cable Television Equipment) — Category V;
164.377 (Computer Crime) — Category V;
164.775 (Deposit of Trash Within 100 Yards of Water) — Category V;
164.785 (Placing Offensive Substances in waters/on highways or property) — Category IV;
164.805 (Offensive Littering) — Category V;
164.813 (Unlawful Cutting and Transporting of Special Forest Products) — Category V;
164.815 (Unlawful Transport of Hay) — Category V;
164.825 (Cutting and Transport of Coniferous Trees without Permit/Bill of Sale) — Category V;
164.845 (FTA on Summons for ORS 164.813 or 164.825) — Category V;
164.863 (Unlawful Transport of Meat Animal Carcasses) — Category V;
164.865 (Unlawful Sound Recording) — Category V;
164.875 (Unlawful Video Tape Recording) — Category V;
164.887 (Interference with Agricultural Operations) — Category II;
165.107 (Failing to Maintain a Metal Purchase Record) — Category V;
165.109 (Failing to Maintain a Cedar Purchase Record) — Category V;
165.540 (Obtaining Contents of Communications) — Category V;
165.555 (Unlawful Telephone Solicitation) — Category V;
165.570 (Improper Use of Emergency Reporting System) — Category IV;
165.572 (Interference with Making a Report) — Category II;
165.577 (Cellular Counterfeiting in the Third Degree) — Category I;
165.805 (Misrepresentation of Age by a Minor) — Category I;
166.025 (Disorderly Conduct in the Second Degree) — Category IV;
166.027 (Disorderly Conduct in the First Degree) — Category IV;
166.075 (Abuse of Venerated Objects) — Category II;
166.076 (Abuse of a Memorial to the Dead) — Category II;
166.090 (Telephonic Harassment) — Category II;
166.095 (Misconduct with Emergency Telephone Calls) — Category IV;
166.155 (Intimidation in the Second Degree) — Category II,
166.180 (Negligently Wounding Another) — Category IV;
166.190 (Pointing a Firearm at Another) — Category IV;
166.240 (Carrying a Concealed Weapon) — Category V;
166.250 (Unlawful Possession of a Firearm) — Category V;
166.320 (Setting of a Springgun or Setgun) — Category IV;
166.385 (Possession of Hoax Destructive Device) — Category IV;
166.425 (Unlawful Purchase of Firearm) — Category I;
166.427 (Register of Transfers of Used Firearms) — Category V;
166.480 (Sale or Gift of Explosives to Children) — Category IV;
166.635 (Discharging Weapon or Throwing Object at Trains) — Category IV;
166.638 (Discharging Weapon Across Airport Operational Surfaces) — Category IV;
166.645 (Hunting in Cemeteries) — Category V;
166.649 (Throwing Object off Overpass in the Second Degree) — Category IV;
167.122 (Unlawful Gambling in the Second Degree) — Category V;
167.312 (Research and Animal Interference) — Category II;
167.315 (Animal Abuse in the Second Degree) — Category IV;
167.325 (Animal Neglect in the Second Degree) — Category IV;
167.340 (Animal Abandonment) –— Category IV;
167.351 (Trading in Nonambulatory Livestock) — Category V;
167.352 (Interfering with Assistance, Search and Rescue or Therapy Animal) — Category IV;
167.385 (Unauthorized Use of Livestock Animal) — Category II;
167.388 (Interference with Livestock Production) — Category II;
167.390 (Commerce in Fur of Domestic Cats and Dogs) — Category V;
167.502 (Sale of Certain Items at Unused Property Market) — Category V;
167.506 (Record Keeping Requirements) — Category V;
167.808 (Unlawful Possession of Inhalants) — Category IV;
167.810 (Creating a Hazard) — Category IV;
167.822 (Improper Repair Vehicle Inflatable Restraint System) — Category IV;
411.320 (Disclosure and Use of Public Assistance Records) — Category II;
468.922 (Unlawful disposal, storage or treatment of hazardous waste in the second degree) — Category V;
468.929 (Unlawful transport of hazardous waste in the second degree) — Category V;
468.936 (Unlawful Air Pollution in the Second Degree) — Category V;
468.943 (Unlawful Water Pollution in the Second Degree) — Category V;
468.956 (Refusal to Produce Material Subpoenaed by the Commission) — Category V;
471.410 (Providing Liquor to Person under 21 or to Intoxicated Person) — Category IV;
Chapter 496 – 498 (When treated as a misdemeanor crime) — Category based on the elements of the specific crime;
609.341 (Permit Requirement for Keeping of Exotic Animals; Breeding of Animals) — Category V;
609.405 (Requirement for Destroying Dog or Cat) — Category V;
609.505 (Unlawfully Obtaining Dog or Cat) — Category V;
609.520(c) (Animal Dealer Failing to Turn Over Dog or Cat) — Category V;
609.805 (Misrepresentation of Pedigree; Mutilation of Certificate or Proof of Pedigree) — Category I;
609.990(3)(a) (Violation of ORS 609.098 — Maintaining a Dangerous Dog) — Category IV;
717.200 to 717.320 (Any violation) — Category V;
803.225 (Failure to Designate Replica..Vehicle in Title or Registration Application) — Category I;

807.430 (Misuse of Identification Card) — Category I;
807.510 (Transfer of documents for the purpose of misrepresentation) — Category I;
807.530 (False Application for License) — Category I;
807.570 (Failure to Carry or Present License) — Category V;
807.580 (Using Invalid License) — Category I;
807.590 (Permitting Misuse of License) — Category I;
807.600 (Using Another's License) — Category I;
811.060 (Vehicular Assault of Bicyclist or Pedestrian) — Category V;
811.140 (Reckless Driving) — Category IV;
811.172 (Improperly Disposing of Human Waste) — Category V;
811.182 (Criminal Driving While Suspended or Revoked) — Category V;
811.231 (Reckless Endangerment of Highway Workers) — Category IV;
811.540 (Fleeing or Attempt to Elude a Police Officer) — Category IV;
811.700 (Failure to Perform Duties of Driver when Property is Damaged) — Category V;
811.740 (False Accident Report) — Category I; and
813.010 (Driving Under the Influence of Intoxicants) — Category IV.
830.035(2) (Fleeing; Attempts to Elude) — Category IV;
830.053 (False or Fraudulent Report of Theft of Boat) — Category I;
830.315(1) (Reckless Operation) — Category IV;
830.325 (Operation a Boat while Under the Influence of Intoxicating Liquor or Controlled Substance) — Category IV;
830.383 (Person Required to Remedy Especially Hazardous Condition) — Category V;
830.460(2) (Prohibited Activities — Operating a Vessel that Fails to Comply with Equipment Requirements) — Category V;
830.460(3) (Prohibited Activities — Operating a Vessel without Liability Protection) — Category V;
830.475(1) (Failure to Perform the Duties of an Operator at Accident) — Category V;
830.730 (False Information) — Category I;
830.909 (Abandoning Boat, Floating Home, or Boathouse) — Category V;
830.955(1) (Prohibition of Installation of Submersible Polystyrene Device) — Category V;
830.992 (Purchase of a Boat or Equipment from which Hull or Component Identification Number Removed) — Category V;
830.994 (Operates a Boat in Violation of a Court Order) — Category;

Initial Periods of Ineligibility

(d) Upon determination to proceed with the denial or revocation of a public safety professional's or instructor's certification based on discretionary disqualifying misconduct identified in subsection (a), an initial minimum period of ineligibility to apply for certification will be determined based upon the category of misconduct (i.e., Dishonesty, Disregard for Rights of Others, Misuse of Authority, Gross Misconduct, Misconduct or Insubordination).

(e) Following review and recommendation by a Policy Committee, the Board will determine the initial minimum period of ineligibility for discretionary disqualifying misconduct identified in subsection (a) from the time frame identified below for each category of discretionary disqualifying misconduct:

(A) Category I: Dishonesty (5 years to Lifetime).

(B) Category II: Disregard for Rights of Others (5 years to 15 years).

(C) Category III: Misuse of Authority (5 years to 10 years).

(D) Category IV: Gross Misconduct (5 years to 10 years).

(E) Category V: Misconduct (3 years to 7 years).

(F) Category VI: Insubordination (3 years to 7 years).

Eligibility to Reapply; Ineligibility Periods

(5) A person is not eligible to reapply for training or certification if the person had training or certification denied or revoked for:

(a) Mandatory grounds identified in section (3) of this rule; or

(b) Discretionary Disqualifying Misconduct identified in section (4) of this rule that is determined to be a Category I lifetime disqualifier.

(6) Eligibility to reapply for certification:

(a) In determining the initial minimum period of ineligibility within any category for discretionary disqualifying misconduct listed in section (4) of this rule, the Board will take into consideration any mitigating or aggravating factors, subject to the provisions of section (9) of this rule.

(b) The initial minimum period of ineligibility will be included in any Final Order of the Department.

(c) Any subsequent eligibility to apply for certification will be determined by the Board, after Policy Committee review, subject to the provisions of section (11) of this rule.

Guidelines for Denial or Revocation Based on Discretionary Disqualifying Misconduct

(7) In determining whether to take action on a conviction, the Department must use the following guidelines:

(a) In making a decision on a discretionary denial or revocation, the Department will consider the implementation dates relating to new mandatory conviction notification requirements adopted in 2003 and statutory changes dealing with lifetime disqualifier convictions for public safety officers adopted in 2001.

(b) The Department will not take action on a conviction constituting discretionary disqualifying misconduct that occurred prior to January 1, 2001. However, the Department may consider such conviction as evidence that a public safety professional or instructor does not meet the established moral fitness guidelines.

(c) The Department may take action on any conviction constituting discretionary disqualifying misconduct that occurred after January 1, 2001.

(d) The Board may reconsider any mandatory conviction which subsequently becomes a conviction constituting discretionary disqualifying misconduct, upon the request of the public safety professional or instructor.

(e) The length of ineligibility for training or certification based on a conviction begins on the date of conviction.

(f) The Department will not take action against a public safety professional, instructor, or agency for failing to report, prior to January 1, 2003, a conviction that constitutes discretionary disqualifying misconduct.

(g) The Department may take action against a public safety professional, instructor, or agency for failing to report, after January 1, 2003, any conviction that constitutes discretionary disqualifying misconduct.

Procedure for Denial or Revocation of a Certificate

(8) Scope of Revocation. Whenever the Department revokes the certification of any public safety professional or instructor under the provisions of OAR 259-008-0070, the revocation will encompass all public safety certificates, except fire certification(s), the Department has issued to that person.

(9) Denial and Revocation Procedure.

(a) Agency Initiated Review: When the entity utilizing a public safety professional or instructor requests that a public safety professional's or instructor's certification be denied or revoked, it must submit in writing to the Department the reason for the requested denial or revocation and all factual information supporting the request.

(b) Department Initiated Review: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the public safety professional's or instructor's certification be denied or revoked.

(c) Department Staff Review: When the Department receives information, from any source, that a public safety professional or instructor may not meet the established standards for Oregon public safety professionals or instructors, the Department will review the request and the supporting factual information to determine if the request for denial or revocation meets statutory and administrative rule requirements.

(A) If the reason for the request does not meet the statutory and administrative rule requirements for denial or revocation the Department will notify the requestor.

(B) If the reason for the request does meet statutory and administrative rule requirements but is not supported by adequate factual information, the Department will request further information from the employer or conduct its own investigation of the matter.

(C) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying misconduct listed in subsection (4), the case may be presented to the Board, through a Policy Committee.

(D) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(E) In misconduct cases in which there has been an arbitrator's opinion related to the public safety professional's or instructor's employment, the Department will proceed as follows:

(i) If the arbitrator's opinion finds that underlying facts supported the allegations of misconduct, the department will proceed as identified in paragraphs (A) through (D) of this subsection.

(ii) If the arbitrator has ordered employment reinstatement after a discharge for cause without a finding related to whether the misconduct occurred, the Department will proceed as identified in paragraphs (A) through (D) of this subsection.

(iii) If the arbitrator's opinion finds that underlying facts did not support the allegation(s) of misconduct, the Department will proceed as identified in paragraph (A) of this subsection and administratively close the matter.

(d) Policy Committee and Board Review: In making a decision to authorize initiation of proceedings under subsection (e) of this rule, based on discretionary disqualifying misconduct, the Policy Committees and Board will consider mitigating and aggravating circumstances, including, but not limited to, the following:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire; and

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self-reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor; and

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

(e) Initiation of Proceedings: Upon determination that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared and served on the public safety professional or instructor.

(f) Contested Case Notice:

(A) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules or Procedures adopted under OAR 259-005-0015.

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the public safety professional or instructor prior to Board review. If the Board disapproves the policy committee's recommendation, the Department will withdraw the Contested Case Notice.

(g) Response Time:

(A) A party who has been served with a "Contested Case Notice of Intent to Deny Certification" has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(B) A party who has been served with the "Contested Case Notice of Intent to Revoke Certification" has 20 days from the date of mailing or personal service of the notice in which to file a written request for hearing with the Department.

(h) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0672.

(i) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(j) Proposed and Final Orders:

(A) In cases in which a hearing is requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedures adopted under OAR 259-005-0015.

(B) Department-proposed amendments to a proposed order issued by an Administrative Law Judge in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order can be issued.

(k) Stipulated Order Revoking Certification: The Department may enter a stipulated order revoking the certification of a public safety professional or instructor upon the person's voluntary agreement to terminate an administrative proceeding to revoke a certification, or to relinquish a certification, under the terms and conditions outlined in the stipulated order.

Appeals, Reapplication, and Eligibility Determinations

(10) Appeal Procedure. A public safety professional or instructor, aggrieved by the findings and Order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final Order of the Department.

(11) Reapplication Process.

(a) Any public safety professional or instructor whose certification has been denied or revoked pursuant to section (4) of this rule, may reapply for certification within the applicable timeframes described in sections (4) through (6) of this rule. The initial minimum ineligibility period will begin on the date an Order of the Department denying or revoking certification becomes final. The initial minimum ineligibility period will cease when the applicable timeframe stated in the Order has been satisfied.

(b) Any public safety professional or instructor whose certification has been denied or revoked based on discretionary disqualifying misconduct may not reapply for certification until:

(A) The initial minimum period of ineligibility stated in an Order of the Department denying or revoking certification has been satisfied;

(i) If the initial period of ineligibility for the individual was for a period of less than the maximum period identified in section (4) of this rule, and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not reapply for certification under the provisions of this rule until after the maximum initial period of ineligibility identified in (4) of this rule has been satisfied.

(ii) If the individual has satisfied the maximum initial period of ineligibility and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not submit any further requests for an eligibility determination, and the original denial or revocation remains permanent.

(B) A written request for an eligibility determination has been submitted to the Department and a Policy Committee has recommended that a public safety professional's or instructor's eligibility to apply for public safety or instructor certification be restored and the Board has upheld the recommendation;

(i) A request for an eligibility determination should include documentation or information that supports the public safety professional's or instructor's request for eligibility to apply for certification.

(ii) In considering a request for an eligibility determination, the Policy Committee and the Board may consider mitigating and aggravating circumstances identified in Section 9(d) of this rule.

(iii) After reviewing a written request for an eligibility determination, the Board, through a Policy Committee, may determine that the individual's eligibility to apply for certification be restored if the criteria for certification have been met; or determine that the factors that originally resulted in denial or revocation have not been satisfactorily mitigated and the individual must remain ineligible to apply for certification.

(C) The public safety professional or instructor is employed or utilized by a public safety agency; and

(D) All requirements for certification have been met.

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

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

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2000, f. & cert. ef. 9-29-00; BPSST 14-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp) f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 7-2003, f. & cert. ef. 4-11-03; DPSST 7-2004, f. & cert. ef. 4-23-04; DPSST 10-2006, f. & cert. ef. 7-6-06; DPSST 16-2008, f. & cert. ef. 10-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 11-2011, f. & cert. ef. 7-1-11; DPSST 11-2012, f. & cert. ef. 4-24-12; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 22-2012, f. & cert. ef. 10-23-12; DPSST 26-2012(Temp), f. & cert. ef. 12-14-12 thru 6-12-13; DPSST 3-2013, f. & cert. ef. 1-22-13

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Rule Caption: Remove outdated references to supervisory and middle management training

Adm. Order No.: DPSST 4-2013

Filed with Sec. of State: 1-24-2013

Certified to be Effective: 1-24-13

Notice Publication Date: 1-1-2013

Rules Amended: 259-012-0005

Subject: DPSST no longer offers courses for supervisory or middle management certification levels. Outdated references to Supervisory and Middle Management training are removed.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-012-0005
Attendance

(1) The Oregon Public Safety Academy is open to all eligible personnel upon application from their employing agencies. All persons attending the courses may live in the dormitories provided, or, with the permission of their department, they may commute to classes. Reasonable fees may be charged to cover operating costs of the Academy for those attending courses that are not mandatory, and for persons not defined as corrections, parole and probation, emergency medical dispatchers, telecommunicators or police officers under ORS 181.610. Additionally, fees may be charged to an agency under the Act if they do not adhere to minimum standards as defined in OAR 259-008-0010. Application for Training (BPSST Form F-5) must be used to apply for mandated courses. Other courses presented at the Oregon Public Safety Academy may be announced through mailed course announcements with response required prior to established deadlines.

(2) Students must obtain permission from their employing agency before attending any optional classes offered at the Academy.

(3) Admission to the Oregon Public Safety Academy may be denied to any person who does not meet the minimum employment standards established by OAR 259-008-0010.

(4) Selection criteria for Academy training courses sponsored by the Department will be as follows:

(a) Mandated Basic Training:

(A) For mandated basic training, first priority for acceptance will be granted to public safety personnel identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665;

(B) Second priority will be granted to persons from public or private safety agencies who are not identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665;

(C) Third priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing course content, candidates' job assignments, and following established Department policy.

(b) Executive Level Training:

(A) First priority for acceptance into executive level courses will be granted to command officers identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665;

(B) Second priority will be granted to command officers from other public or private safety agencies;

(C) Third priority will be granted to persons identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665 and are not command officers;

(D) Fourth priority will be granted to persons from other public or private safety agencies who are not command officers;

(E) Fifth priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing candidates' job assignments and following established Department policy.

(c) Advanced and Specialized Training:

(A) First priority for acceptance into advanced and specialized courses will be granted to public safety personnel identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665, except as noted in paragraph (D) of this subsection;

(B) Second priority will be granted to persons from other public or private safety agencies;

(C) Third priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing candidates' job assignments and following established Department policy;

(D) Acceptance criteria for certain specialized courses will vary from these listed priorities due to the specific nature of the courses, or special entrance criteria established by the Department or a co-sponsoring organization or agency.

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; 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; DPSST 8-2006(Temp), f. & cert. ef. 6-9-06 thru 12-1-06; DPSST 17-2006, f. & cert. ef. 11-20-06; DPSST 4-2013, f. & cert. ef. 1-24-13

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Rule Caption: Repeal rule division outlining unfunded reimbursement program
Adm. Order No.: DPSST 5-2013
Filed with Sec. of State: 1-30-2013
Certified to be Effective: 1-30-13
Notice Publication Date: 1-1-2013
Rules Repealed: 259-015-0000, 259-015-0005, 259-015-0010
Subject: ORS 181.655 allows for the Department of Public Safety Standards and Training, through the Board on Public Safety Standards and Training, to offer reimbursement to agencies to help defray the cost of training officers. While the requirement remains in statute, the program has not been funded for decades. Because the program will continue to be unfunded, these rules are repealed to eliminate constituent confusion.
Rules Coordinator: Linsay Hale—(503) 378-2431

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Department of State Lands
Chapter 141

Rule Caption: Modification of land sale appraisal procedures for properties with an estimated value less than $100,000
Adm. Order No.: DSL 1-2013
Filed with Sec. of State: 2-14-2013
Certified to be Effective: 3-1-13
Notice Publication Date: 10-1-2012
Rules Amended: 141-067-0310
Subject: The 2012 Real Estate Asset Management Plan identifies the strategy of disposing of lower performing property and reinvesting in higher performing property. The Department owns a number of low potential sale properties that are worth less than $100,000. The average cost of preparing a non-timbered parcel for sale ranges from $2,000 to $2,500 and includes cultural survey, endangered species study and appraisal. Appraisals typically make up 75-80% of these costs. With low-valued parcels, the cost of the due diligence studies added to the market estimate of the property can raise the price of the property beyond its market appeal. The Land Board authorized staff to investigate this rules changes at its meeting of December 13, 2011.

The Department proposes to amend the rules to allow in-house summary appraisals that would not meet Uniform Standards of Professional Appraisal Practice (USPAP) standards, as is allowed under ORS 674.100. The appraisal would include a brief description of the property, highest and best use conclusion, sales comparison approach, based on area sales and value conclusion. The rules change would be consistent with DAS rules for disposal of parcels of less than or equal to $100,000 (OAR 125-045-0215). The new rules allow a "desk appraisal" or a "letter opinion of value", and provide descriptions of the content of a desk appraisal and a letter opinion of value. The rules affecting appraisals of properties valued greater than $100,000 would not be impacted by this rules change.
Rules Coordinator: Tiana Teeters—(503) 986-5239

141-067-0310
General Requirements for Appraisals

(1) Appraisals conducted for land sales, purchases or exchanges shall comply with the following requirements:

(a) Be conducted by a State of Oregon-licensed appraiser familiar with the type of property to be appraised and in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards.

(b) Unless directed otherwise by the Department, the appraisal shall estimate the fair market value of the property based on its highest and best use, taking into account the contributory value of all offered interests in the property such as water rights, minerals, or timber to the extent that such interests are consistent with the highest and best use of the property.

(c) The appraisal report must include sufficient description of the property, highest and best use analysis, valuation methodology and support materials to fully document and justify the appraiser's estimate of fair market value.

(d) The Department may, based on the particular use of the appraisal, impose additional requirements or conditions on the appraisal.

(2) For land sales, purchases or exchanges where the estimated fair market value of the lands or interest in lands is $100,000 or less, the Department may utilize a "desk appraisal" or a "letter opinion of value" as the Appraisal required under these rules.

(3) For purposes of this section, a "desk appraisal" is a written statement setting forth an opinion as to the market value of the lands or interest in lands as of a specific date. A desk appraisal conducted for land sales, purchases or exchanges shall comply with the following requirements:

(a) The desk appraisal must be conducted by an employee of the Department. A desk appraisal need not be prepared in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP), as desk appraisals performed by an employee of the Department are not required to be performed by State of Oregon-licensed appraiser pursuant to ORS 674.100(2)(h).

(b) Unless directed otherwise by the Department, the desk appraisal shall estimate the fair market value of the property based on its highest and best use, taking into account the contributory value of all offered interests in the property such as water rights, minerals, or timber to the extent that such interests are consistent with the highest and best use of the property.

(c) The desk appraisal must include a sufficient description of the characteristics of the property, a highest and best use analysis, a description of the valuation methodology, and a description of the support materials utilized to fully document and justify the estimate of fair market value. The description of the characteristics of the property, and description of the characteristics of properties used as comparison to the property, may be based on aerial and topographic photographs and maps and on generally accepted property data resources, such as the United States Department of Agriculture — Natural Resources Conservation Service, county assessor tax lot information, multiple listing services, and similar resources. Field inspections of the property and of the properties used as comparison to the property are not required as part of the desk appraisal.

(4) For purposes of this section, a "letter opinion of value" is a written statement from a real estate professional licensed under ORS 696 setting forth an opinion as to the market value of the lands prepared in accordance with the requirements of OAR 863-015-0190(3).

Stat. Auth.: OAR 141-167-0005 - 141-067-0120, 125-045, ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985

Stats. Implemented: OAR 141-167-0005 - 141-067-0120, 125-045, ORS 270.005 - 270.190, 273.045, 273.245 - 273.247, 273.251 - 273.311, 273.316 - 273.321, 273.413 - 273.456, 274.040, 274.905 - 274.940, 274.960 - 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02; DSL 6-2009, f. & cert. ef. 7-1-09; DSL 1-2013, f. 2-14-13, cert. ef. 3-1-13

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

Rule Caption: Waiving Commercial Driver License Skills Test for Drivers with Military CMV Experience
Adm. Order No.: DMV 1-2013
Filed with Sec. of State: 1-17-2013
Certified to be Effective: 2-1-13
Notice Publication Date: 12-1-2012
Rules Amended: 735-062-0080
Subject: ORS 807.072(3) allows DMV to waive the actual demonstration required under ORS 807.070 under circumstances established by DMV by rule. Therefore, DMV has amended OAR 735-062-0080 to establish criteria for waiver of the CDL skills testing for those returning from military service who meet certain criteria, including that the applicant's primary duty while serving in the military was the operation of commercial motor vehicles. DMV further amended the rule to no longer consider waiving the skills test if the applicant is surrendering a CDL issued by a Canadian Province or the United Mexican States, as DMV is unable to determine what classification of vehicle is authorized by such license or the testing process the person goes through when obtaining such licensure.
Rules Coordinator: Lauri Kunze—(503) 986-3171

735-062-0080
Waiving Drive Test Portion of Driver License Examination

(1) DMV will waive the actual demonstration of an applicant's ability to drive a Class C vehicle required by ORS 807.070(3) if all of the following apply:

(a) The applicant surrenders to DMV a driver license issued to the applicant by another state, the District of Columbia, a United States Territory, a Canadian Province or a jurisdiction with whom DMV has a reciprocity agreement and the driver license has not been expired for more than one year, or if the person's driver license issued by a jurisdiction listed above, has been lost or stolen, the applicant submits a letter of clearance, as required in OAR 735-062-0007;

(b) The surrendered, lost or stolen license authorizes the driving of a vehicle other than a moped or motorcycle;

(c) The surrendered, lost or stolen license includes no restrictions other than a single restriction or a combination of restrictions comparable to restrictions imposed on an Oregon driver license;

(d) The applicant has no physical disabilities or impairments which may necessitate any restrictions other than:

(A) "With corrective lenses";

(B) "Outside or side-view mirror(s)"; or

(C) The restriction(s) imposed on the applicant's surrendered, lost or stolen driver license issued by another jurisdiction.

(e) The applicant has no physical or mental condition that provides DMV with reason to question the applicant's ability to drive a motor vehicle without endangering the safety of persons or property.

(2) DMV may waive the actual demonstration of an applicant's ability to drive a Class A, B, or C commercial motor vehicle or any endorsement related to a commercial driver license if the applicant meets the qualifications set forth in subsections (1)(a) through (e) of this rule and surrenders a commercial driver license issued by another state or the District of Columbia that authorizes the driving of a commercial motor vehicle included in the Oregon classification for which the application is made.

(3) DMV may waive the actual demonstration of an applicant's ability to drive a Class A or B commercial motor vehicle if the applicant has military experience driving a Class A or Class B commercial motor vehicle and meets the following requirements:

(a) The applicant holds or is eligible for an Oregon non-commercial driver license;

(b) The applicant submits a completed Application for Military Skills Waiver, including the Commanding Officer's certification of commercial driving experience, showing the applicant meets the conditions for a waiver of drive skills testing set forth in 49 CFR, Section 383.77, Substitute for driving skills test for drivers with military CMV Experience; and

(c) DMV determines, based on documentary evidence submitted by the applicant or any military department or agency of the United States Department of Defense that:

(A) The class of commercial vehicle operated by the applicant in the military is equivalent to the class of commercial driver license for which the applicant is applying; and

(B) The applicant's primary duty while serving in the military was operation of a commercial motor vehicle and included operation of a commercial motor vehicle on public roadways.

(4) DMV will waive the actual demonstration of an applicant's ability to drive a motorcycle if:

(a) The applicant surrenders to DMV a motorcycle-endorsed driver license issued to the applicant by another state, the District of Columbia, a United States Territory or a Canadian Province, or submits a clearance letter as provided for in subsection (1)(a) of this rule; and

(b) The applicant meets the qualifications in subsections (1)(c), (d) and (e) of this rule.

(5) In addition to section (4) of this rule, DMV will waive the actual demonstration of an applicant's ability to drive a motorcycle if:

(a) The applicant passes a motorcycle skills test given during a motorcycle rider education course established by the Transportation Safety Division under ORS 802.320; and

(b) The motorcycle skills test administered during the motorcycle education course meets or exceeds the motorcycle skills test administered by DMV.

(6) Evidence of passing the motorcycle skills test identified in section (5) of this rule is a motorcycle education course completion card as provided for in OAR 735-062-0140. The completion card must have been issued within two years of application to be considered valid for waiver of the skills test.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.070, 807.072, 807.080 & 807.170

Stats. Implemented: ORS 807.070, 807.072, 807.080 & 807.170

Hist.: MV 61, f. 10-14-75, ef. 11-11-75; MV 15-1986, f. 9-16-86, ef. 10-1-86; MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0045; MV 26-1988, f. & cert. ef. 11-1-88; MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1990, f. & cert. ef. 8-16-90; MV 1-1991, f. & cert. ef. 3-18-91; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; MV 6-1992(Temp), f. 5-29-92, cert. ef. 6-1-92; MV 10-1992, f. 8-21-92, cert. ef. 9-1-92; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 4-1995, f. & cert. ef. 3-9-95; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 11-2006(Temp), f. & cert. ef. 8-25-06 thru 2-20-07; DMV 18-2006, f. & cert. ef. 12-13-06; DMV 3-2009, f. & cert. ef. 2-20-09; DMV 11-2009, f. 6-25-09, cert. ef. 7-1-09; DMV 1-2012, f. 1-27-12, cert. ef. 1-30-12; DMV 1-2013, f. 1-17-13, cert. ef. 2-1-13

Department of Transportation,
Highway Division
Chapter 734

Rule Caption: Rest Areas
Adm. Order No.: HWD 1-2013
Filed with Sec. of State: 1-17-2013
Certified to be Effective: 3-1-13
Notice Publication Date: 12-1-2012
Rules Adopted: 734-030-0016
Rules Amended: 734-030-0005, 734-030-0010, 734-030-0015
Subject: ORS 366.493 allows the Oregon Transportation Commission to adopt rules governing health and safety in rest areas under the jurisdiction of the Department of Transportation. These amendments update the existing rule language and provide for the exclusion from a rest area for up to one year for violation of the rest area rules and other regulations.
Rules Coordinator: Lauri Kunze—(503) 986-3171

734-030-0005
Definitions

The following definitions apply to OAR 734-030-0005 through 734-030-0025:

(1) "Police Officer" means a member of the Oregon State Police, sheriff, deputy sheriff, city police officer, or other person as may be designated by law.

(2) "Rest Area" includes safety rest areas, scenic overlooks and similar roadside areas which are under the jurisdiction of the Department of Transportation (ODOT). Other than when issuing "free coffee" permits under OAR 734-030-0025, when a Rest Area is sited on both sides of the highway, the two sides will be considered a single Rest Area.

(3) "Rest Area Attendant" means a Department of Transportation employee or contractor working in or responsible for the Rest Area; or for Rest Areas managed by Travel Information Council by agreement with ODOT a Travel Information Council employee or contractor working in or responsible for the Rest Area.

(4) "Rest Area Enforcement Officer" means a person specifically designated by the director of the Travel Information Council as described in Section 1, Chapter 328, Oregon Laws 2011 to issue citations and enforce rest area rules.

(5) "Service Animal" means any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

(6) "Visitor" means a person within the Rest Area who is not a Department of Transportation or Travel Information Council employee, Police Officer, Rest Area Enforcement Officer, or a Rest Area Attendant.

Stat. Auth.: ORS 184.616. 184.619, 366.205 & 366.493
Stats. Implemented: ORS 164.805, 366.205, 366.493, 374.305, 377.030 & 810.030
Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; 2HD 5-1984, f. & ef. 4-18-84; HWY 2-1993, f. & cert. ef. 4-15-93; HWD 3-2010(Temp), f. & cert. ef. 4-28-10 thru 10-15-10; HWD 10-2010, f. 9-27-10, cert. ef. 10-1-10; HWD 1-2013, f. 1-17-13, cert. ef 3-1-13

734-030-0010
Prohibited Activities

To preserve state property and increase health and safety in Rest Areas, the following activities are prohibited by Visitors to a Rest Area:

(1) Lighting a fire of any kind, other than propane or gas fueled camp stoves and grills.

(2) Picking, removing, or damaging plant life or forest products.

(3) Hunting, trapping, or injuring birds or animals.

(4) Discharging a firearm, bow and arrow, or other weapon or discharging fireworks, explosives, or other similar devices.

(5) Mutilating, defacing, damaging or removing any property, garbage, recycling, structure or facility.

(6) Digging up, defacing, or removing any dirt, stone, rock, or other natural substance.

(7) Operating a concession or selling merchandise, food, or services, except for a permitted "free coffee" service, public telephones, or articles dispensed by vending machines pursuant to an agreement with the Department of Transportation, or Travel Information Council for the Rest Areas managed by Travel Information Council by agreement with ODOT.

(8) Blocking or physically interfering with access to the restroom by other Visitors or blocking motor vehicle or pedestrian movement in the Rest Area.

(9) Smoking or carrying a lighted cigar, cigarette, pipe or other smoking implement in a restroom building or within 20 feet of a restroom building in the Rest Area.

(10) Consuming any alcoholic beverage or possessing an opened container of an alcoholic beverage within the Rest Area.

(11) Operating a motor vehicle in any area not constructed or designed for motor vehicles. Parking a motor vehicle outside the designated parking area or parking in violation of any posted parking regulation.

(12) Allowing a pet or other animal to run loose. All pets and Service Animals must be on a leash 6 feet or shorter and under direct hand control. All livestock must be on a lead of 10 feet or shorter and under direct hand control unless contained within a designated livestock corral.

(13) Allowing an animal, except a Service Animal, to be in any building or in any area except designated pet or livestock areas.

(14) Placing a poster, flyer, sign or other marker in or on any utility pole, sign post, building or other facility in a Rest Area.

(15) Depositing garbage, recyclables, or refuse of any kind except in designated containers.

(16) Dumping, spilling or allowing to leak any sewage, waste water, or other substance from the vehicle.

(17) Using restroom facilities to bathe, or wash clothing, dishes or other materials.

(18) Setting up a tent or other structure, camping, or remaining in a Rest Area for more than 12 hours within any 24-hour period.

(19) Participating in a public disturbance, or riotous or other behavior which interferes with the reasonable use of the Rest Area by other Rest Area Visitors.

(20) Obstructing, harassing or interfering with a Department of Transportation or Travel Information Council employee or Rest Area Attendant in the performance of their duties in the Rest Area.

(21) Creating noise by any means which interferes with the reasonable use of the Rest Area by other Rest Area Visitors.

Stat. Auth.: ORS 184.616. 184.619, 366.205 & 366.493
Stats. Implemented: ORS 164.805, 366.205, 366.493, 374.305, 377.030 & 810.030
Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; 2HD 5-1984, f. & ef. 4-18-84; HWY 8-1990(Temp), f. & cert. ef. 4-20-90; HWY 14-1990, f. & cert. ef. 12-5-90; HWD 1-2006, f. & cert. ef. 1-24-06; HWD 3-2010(Temp), f. & cert. ef. 4-28-10 thru 10-15-10; HWD 10-2010, f. 9-27-10, cert. ef. 10-1-10; HWD 1-2013, f. 1-17-13, cert. ef 3-1-13

734-030-0015
Compliance

(1) To preserve state property and increase health and safety in Rest Areas, a Department of Transportation or Travel Information Council employee, Police Officer, Rest Area Enforcement Officer, or the Rest Area Attendant is authorized to require compliance with OAR 734-030-0010.

(2) In addition to any other penalty prescribed by law, failure to comply with OAR 734-030-0010 governing health and safety in a Rest Area may result in a Class B violation as stated in ORS 366.991.

(3) A Police Officer may direct a person to leave the Rest Area for a period of up to 1 year when the person violates any Rest Area rule; or violates any federal, state, county or city law or court order. Such exclusion shall be in writing as described in section 5 of this rule. A lesser amount of time may be specified on the exclusion notice based on the frequency, severity, and impact to other Visitors of the violation as described in section 6 of this rule.

(4) A Rest Area Enforcement Officer, within a Rest Area managed by Travel Information Council by agreement with ODOT, may direct a person to leave the Rest Area for a period of up to 1 year when the person violates any rest area rule. Such exclusion shall be in writing as described in section 5 of this rule. A lesser amount of time may be specified on the exclusion notice based on the frequency, severity, and impact to other Visitors of the violation as described in section 6 of this rule.

(5) The notice of exclusion must be in writing and include the conduct leading to the exclusion; the name of the Rest Area; the effective date and length of the exclusion; the name of the person being excluded; the name of the person ordering the exclusion; and information consistent with OAR 734-030-0016 on how to contest the exclusion. If the person being excluded refuses to accept the written notice of exclusion, the exclusion is still valid. Verbal direction to the person as to the length of the exclusion is adequate as notice provided such action is documented on the written notice of exclusion.

(6) A person may be excluded from a Rest Area for up to 1 year as described in this rule. A lesser amount of time may be specified as follows:

(a) A person may be excluded for 1 month (30 days) when the person violates the posted rest area rules, or demonstrates unwillingness to comply or change behavior when requested.

(b) A person may be excluded for 6 months (180 days) when the person repeatedly violates the posted rest area rules, is cited for violation of federal, state, or local laws in the Rest Area, or causes property damage of $2,000 or less.

(c) A person may be excluded for 1 year (365 days) when the person physically attacks another person or thing in the Rest Area, is cited for criminal activity in the Rest Area, intentionally causes property damage, or causes property damage of more than $2,000.

(7) Violation of a notice of exclusion may result in arrest for criminal trespass under ORS 164.245.

Stat. Auth.: ORS 184.616. 184.619, 366.205 & 366.493
Stats. Implemented: ORS 164.805, 366.205, 366.493, 374.305, 377.030 & 810.030
Hist.: HC 476a, f. & ef. 10-7-54; HC 801, f. 11-24-59, ef. 1-1-60; 1 OTC 70, f. & ef. 3-5-76; HWY 2-1993, f. & cert. ef. 4-15-93; HWD 3-2010(Temp), f. & cert. ef. 4-28-10 thru 10-15-10; HWD 10-2010, f. 9-27-10, cert. ef. 10-1-10; HWD 1-2013, f. 1-17-13, cert. ef 3-1-13

734-030-0016
Exclusion Review Process

(1) A person excluded from a Rest Area may submit a written request for a review of the exclusion. Only the basis of the exclusion and the length of the exclusion may be contested. The review request must be received at the address listed on the exclusion notice within 7 business days from the date on the exclusion notice.

(2) The written request for review must include the person's name, mailing address and telephone number; the reason the person believes the exclusion should be withdrawn or modified; and be accompanied by a copy of the exclusion notice.

(3) The Travel Information Council Rest Area Operations Manager or Deputy Director not involved in the decision to exclude from TIC managed Rest Areas or the ODOT District Manager or Assistant District Manager not involved in the decision to exclude from ODOT managed Rest Areas will review the information provided along with the facts leading to the exclusion and make a final determination within 21 days of receipt of the written request. The review of the exclusion from a Rest Area is not subject to ORS 183 and is therefore not subject to the Administrative Procedures Act.

(4) Only one review will be conducted for each notice of exclusion. The review will be informal in nature however a written statement of the results of the review will be provided to the person requesting the review. The determination of the exclusion review is final and is not subject to appeal.

Stat. Auth.: ORS 184.616. 184.619, 366.205 & 366.493
Stats. Implemented: ORS 164.805, 366.205, 366.493, 374.305, 377.030 & 810.030
Hist.: HWD 1-2013, f. 1-17-13, cert. ef 3-1-13

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Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Annual re-adoption of IRP, HVUT and IFTA regulations
Adm. Order No.: MCTD 1-2013
Filed with Sec. of State: 1-17-2013
Certified to be Effective: 1-17-13
Notice Publication Date: 12-1-2012
Rules Amended: 740-200-0010, 740-200-0020, 740-200-0040
Subject: The amendment of OAR 740-200-0010 constitutes an adoption of the rules of the International Registration Plan (IRP) to the date of January 1, 2013. 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 its amendments with the effective date of January 1, 2013, 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 as the procedures and guidelines for Oregon-based IFTA participants with the effective date of January 1, 2013 to ensure Oregon remains current with the international IFTA standards.
Rules Coordinator: Lauri Kunze—(503) 986-3171

740-200-0010
Prorate Registration

(1) The provisions contained in the "International Registration Plan" (IRP), the IRP Audit Procedures Manual and all amendments thereto in effect January 1, 2013, are hereby adopted and prescribed by the Oregon Department of Transportation and apply to the apportioned registration of vehicles. Unless otherwise revised by written delegation, the designated person to cast a vote on an IRP ballot for Oregon is the Administrator of the Motor Carrier Transportation Division.

(2) In addition to the requirements described in section (1) of this rule, the following requirements apply to Oregon-based motor carriers who participate in IRP:

(a) Records required to be maintained for distance data must denote intermediate trip stops;

(b) Audit assessments are subject to penalty, late payment charges and interest described in IRP and the IRP Audit Procedures Manual;

(c) Any person against whom a proposed assessment is made by the Department may petition the Department for reassessment within 30 days after service upon the person of the assessment notice. If a petition for reassessment is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is timely filed, the Department will reconsider the assessment. The decision of the Department upon a petition for reassessment will become final 30 days after notice of the decision is served upon the petitioner. A petitioner may submit a request for hearing in the petition for reassessment; and

(d) If a request for hearing is timely received, a hearing will be scheduled and conducted in accordance with the provisions of ORS Chapter 183. The petitioner will be provided a minimum of 10 days notice of the time and place of the hearing. The Department may assess a penalty of $150 for failure to appear at a scheduled hearing.

(3) The mileage reporting period for application and renewal purposes will be the previous July through June twelve-month period.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 823.011 & 826.003
Stats. Implemented: ORS 826.005 & 826.007
Hist.: PUC 8-1990, f. & cert. ef. 5-25-90 (Order No. 90-834); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-081-0005; MCTB 6-2002, fr. & cert. ef. 11-18-02; MCTD 8-2003, f. & cert. ef. 11-18-03, cert. ef. 1-1-04; MCTD 4-2004, f. 12-28-04, cert. ef. 1-1-05; MCTD 2-2008, f. 6-23-08, cert. ef. 7-1-08; MCTD 1-2011, f. & cert. ef. 2-18-11; MCTD 6-2012, f. & cert. ef. 7-19-12; MCTD 1-2013, f. & cert. ef. 1-17-13

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, 2013. These rules apply to carriers conducting operations subject to ORS Chapter 826. As provided in CFR Title 26 Part 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.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 826.003
Stats. 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; MCTD 1-2013, f. & cert. ef. 1-17-13

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, 2013, 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; MCTD 1-2013, f. & cert. ef. 1-17-13

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Rule Caption: Intrastate household goods transportation regulations

Adm. Order No.: MCTD 2-2013(Temp)

Filed with Sec. of State: 1-17-2013

Certified to be Effective: 1-18-13 thru 7-15-13

Notice Publication Date:

Rules Amended: 740-060-0030, 740-060-0040, 740-060-0080

Subject: This temporary rule will correct the concern of using hourly charges for distance moves by limiting the amount time a mover can charge for transit time by using a mileage software program to determine the travel time. In addition, the temporary rule will require all movers to provide an estimate in writing when requested by the shipper.

Rules Coordinator: Lauri Kunze—(503) 986-3171

740-060-0030

General Information for Moving Household Goods in Oregon

The text of the information bulletin, "General Information for Moving Household Goods in Oregon," must include the following:

(1) The Oregon Department of Transportation requires the mover to give you this bulletin to provide information about purchasing the services of a motor carrier moving company. It tells you about your rights and responsibilities when having household goods moved within Oregon.

(2) Moving company rates and services are regulated by ODOT when the origin and destination of a move are within Oregon.

(3) If, after discussing your move with the mover, you still need information or assistance, you may obtain help by contacting ODOT, 550 Capitol Street NE, Salem, Oregon 97301-2530, (503) 378-5987, or online at: www.odot.state.or.us/trucking/special/moving.htm.

(4) ESTIMATES:

(a) Estimates are free of charge. You may obtain more than one estimate in order to compare movers and service. Be sure to tell each estimator the same information in order to compare service and quality of estimates;

(b) Estimates must be in writing. An estimate of charges may only be given after a visual inspection of the goods by the mover. Oral or telephone estimates are not permitted;

(c) You should NOT select a mover based solely on the lowest estimate provided because estimates are not binding and may differ from the final cost;

(d) Be cautious if you receive a very low estimate as compared to other estimates. All services may not have been included or it may not be accurate.

(e) BINDING ESTIMATES OR GUARANTEES OF ACTUAL CHARGES ARE ILLEGAL ON INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS IN OREGON;

(f) FINAL CHARGES FOR MOVES MUST BE BASED UPON RATES PUBLISHED IN THE MOVER'S TARIFF AND APPROVED BY THE PUC OR ODOT, REGARDLESS OF ANY ESTIMATE GIVEN BY THE MOVER PRIOR TO THE MOVE.

(5) CHANGES/ADDITIONAL SERVICE REQUIRES AN ADDENDUM ESTIMATE: When a written estimate of cost for services has been given to you, but additional services (not included on the first estimate) are needed, an addendum estimate must be prepared. This means that if you ask for additional materials or service, or an unforeseen circumstance arises, a second estimate must be given to you. An addendum estimate must clearly show you any extra estimated costs, and be signed by you as authorized.

(6) ESTIMATES FOR DELIVERY INTO STORAGE:

(a) If your shipment will be put into storage, be sure to look at the origin and destination address(es) on the estimate. This will tell you if the estimate is for one-way transportation only (into the warehouse), or for the complete trip to the final destination;

(b) If needed, ask for a second estimate of charges for removing your goods from storage and delivering them to the final site;

(c) Be sure the estimate includes the warehouse handling and storage charges. Generally, new storage charges are added monthly.

(7) UNDERESTIMATES:

(a) ODOT rules do not allow movers to provide underestimates for service. It is an underestimate if the final charge is higher than 10 percent of the original estimate, and addendum estimate (if any);

(b) ODOT requests that you contact them if this happens so that the situation may be investigated. ODOT may file a formal complaint against a mover for underestimating;

(c) If an underestimate does occur, you must still pay the total tariff charges because estimates are not binding;

(d) If payment is due upon delivery, the amount that must be paid is the estimated (and addendum estimate amount, if any) amount plus 10 percent. The excess amount is the amount above that. You may request deferred payment of the excess amount for 15 days. The 15-day extension does not include Saturdays, Sundays, or holidays.

(8) HOURLY RATED LOCAL MOVES:

(a) Local moves are generally within an area of 30 airmiles and are charged for on an hourly basis. Hourly rates depend upon the number of persons and vehicles employed on the job and whether overtime is involved;

(b) No inventory listing is required to be made by the mover on local hourly moves. You may wish to prepare your own inventory and count the items and boxes as they are loaded and unloaded. Discuss this with the mover in advance because a successful loss or damage claim settlement may depend on it.

(9) INTERCITY MOVES; RATED ON WEIGHT AND MILEAGE OR BASED ON HOURLY RATE:

(a) An intercity move is generally between cities more than 30 airmiles apart These types of moves can be charged on a weight distance rate or on an hourly rate, as specified in the carrier's tariff. Hourly rate limitations for distance moves are detailed in subpart (f) of this section.

(b) The weight distance rate is published in cents per 100 pounds. The charges increase in relation to the weight of the shipment and the distance moved. Accessorial services are charged separately;

(c) An inventory of items must be prepared by the mover for an intercity shipment prior to loading. The inventory document will be coded to list any pre-existing damage of your goods. This is so that the condition of your goods may be established at origin in case of a later claim;

(d) After completing the inventory, the driver and you should sign each page of the inventory. You have a right to note any disagreement with entries regarding damage or unusual wear noted by the mover. Your ability to recover from the mover for any loss or damage may depend on the notations made;

(e) The driver must give you a copy of each page of the inventory. You should attach your copy of the inventory to your copy of the bill of lading. It is your receipt for the goods.

(f) If a carrier elects to provide an hourly distance rate, as specified in its tariff, the hourly rate charged for the transit time to and from the move location is limited to the following;

(A) The calculation of time it takes for a carrier to travel from the terminal location to the origin of the move must be determined by Google Map miles using the address to address locations to establish the estimated time of travel to be charged to the shipper.

(B) The return trip from the destination of the move to the terminal location must be determined by Google Map miles using the address to address locations to establish the estimated time of travel to be charged to the shipper.

(10) PACKING YOURSELF:

(a) Caution: Generally, a moving company will NOT accept liability for items you pack yourself (unless the mover is negligent in handling the

items). Any items you pack must be able to withstand the normal rigors (shaking) of transportation. Discuss this with the mover. Consider asking the mover to pack any fragile items for you;

(b) Do not pack jewelry, money, or valuable papers with your belongings. Never pack matches, flammables, or other dangerous articles.

(11) VALUATION OPTIONS:

(a) Notice: A household goods mover's liability for loss or damage caused by the mover is limited in Oregon to 60 cents per pound per article based upon the actual weight of each article;

(b) Additional valuation protection may be purchased from the mover or an insurance company of your own choosing;

(c) You may want to check with your own insurance company first. Ask whether your insurance coverage applies when your goods are transported by a for-hire carrier;

(d) YOU ARE FREE TO PURCHASE INSURANCE FOR YOUR GOODS FROM SOMEONE OTHER THAN THE MOVER;

(e) Valuation protection options are available from the mover depending on your declared value of the goods. Movers must include in their information bulletin the valuation protection option(s) they offer, which may include:

(A) Option 1. Released Value Protection/Almost No Coverage. This type of valuation pays up to 60 cents per pound per article for any lost or damaged article. For example, it would pay a maximum of $30.00 for a 50-pound table ($.60 x 50 lbs.). You are not required to pay an extra charge for this option;

(B) Option 2. Depreciated Value Protection. The weight of your goods is multiplied by $1.25 per pound to figure the value of your goods, or you may declare a lump sum value of your goods. The greater of the two value figures will be used to calculate the amount you must pay for this protection. Ask your mover for the current price of this option. Any items lost or damaged are subject to depreciation under this option;

(C) Option 3. Replacement Cost Protection. The weight of your goods is multiplied by $3.50 per pound to figure the value of your goods, or you may declare a value of $10,000 or more. The greater of the two value figures will be used to calculate the amount you must pay for this protection. Ask your mover for the current price of this option. Depreciation does not apply under this option; and

(D) Valuation protection options, other than those found in paragraphs (A), (B) and (C) of this subsection may be offered by the mover, when approved by the Department.

(12) ADDITIONAL VALUATION INFORMATION:

(a) Hourly rated shipments are not usually weighed, so a lump sum value must be declared if you wish to purchase depreciated value or replacement cost protection;

(b) If NO option is chosen and signed by you on the bill of lading, the mover will assign depreciated value protection (Option 2 in paragraph (11)(e)(B) of this rule). You will be required to pay the valuation charge for this protection;

(c) Be sure the bill of lading has the option you have chosen before you sign it;

(d) Caution: If the actual value of your goods is higher than the amount you declare on the bill of lading, you may NOT be fully covered. If you are unsure of the value of your goods, you should check your homeowner's policy or call your insurance agent.

(13) POINTS TO REMEMBER:

(a) Bill of Lading Contract: The bill of lading is a contract between you and the mover. The mover is required by law to prepare a bill of lading for every shipment it transports;

(b) Get a copy of the bill of lading from the driver who loads the shipment before your goods leave the point of origin. It must show the mover's name, address, and telephone number, the address and telephone number furnished by you to which the mover can send messages regarding your shipment, the location to which your goods are moving, the date of loading, the preferred delivery date and the declared value of your goods;

(c) It is your responsibility to read the bill of lading before you sign it. If you do not agree with something on the bill of lading, do not sign it until you are satisfied that the bill of lading shows what service you want;

(d) The bill of lading requires the mover to provide the service you have requested, and requires you to pay the mover the charges for those services. The bill of lading is an important document. Do not lose or misplace your copy. Have it available until your shipment is delivered. Keep it until all charges are paid and all claims, if any, are settled;

(e) Weights: The transportation charge for an intercity move is based on the actual weight of the shipment and distance moved, plus the charge for any accessorial services provided. If you question the weight reported by a mover, you may request that the shipment be reweighed prior to delivery when scales are available. You may be assessed an extra charge for reweighing.

(14) AT DELIVERY, CHECK FOR LOSS OR DAMAGE:

(a) At the time of delivery, check for missing items and for damage. If an inventory was prepared, it is your responsibility to check the items delivered against the items listed on the inventory;

(b) If any item is missing, or new damage is discovered, discuss it with the driver. Make a record of the missing or damaged goods on the driver's copy and your copy of the bill of lading or inventory;

(c) After the shipment is unloaded, the driver will request that you sign the bill of lading and/or inventory sheets to show that you received the items listed. Do not sign these documents until your notations have been made if any items are missing or damaged;

(d) A claim settlement may depend on whether these notations were made by you at the time of delivery. Keep any evidence, such as crushed cartons, until the claim is settled.

(15) LOSS OR DAMAGE CLAIMS:

(a) Should your move result in the loss or damage to any of your property, you have the right to file a claim with the mover to recover for such loss or damage. Claims must be filed with the moving company in writing within three months from the date of delivery. You should, however, file a claim as soon as possible. Claim forms may be obtained from the mover;

(b) After receipt of your claim, the mover must:

(A) Acknowledge receipt of your claim by notifying you in writing within 30 days;

(B) Pay, decline, or offer a firm compromise settlement in writing within 120 days of receipt of your claim;

(C) Notify you in writing of the reasons for any delay in settling your claim beyond 120 days;

(D) Continue to notify you in writing of the reason for the delay each 60 days thereafter until the claim is settled.

(c) ODOT does NOT have the authority to settle claims but does enforce these time limits. The mover must send a copy of any delayed claim letter to ODOT. Contact ODOT if the mover does not adhere to these time limits;

(d) The time limit to file suit against the mover is within two years and one day from the date of any claim disallowance received in writing.

(16) READY TO ASSEMBLE FURNITURE:

(a) Moving companies have limited liability on "Ready to Assemble Furniture" with components that are not bordered by solid wood, veneer plywood or metal and structural fasteners that join into one of these materials. "Ready to Assemble Furniture" does not stand up to the normal strains of moving and needs to be fully disassembled prior to your move to avoid loose joints, chipping, and breakage. The cost of repair can exceed the value of this furniture.

(b) If you have purchased furniture second hand, look for fasteners secured into cam locks or into any material other than solid wood, veneer plywood or metal. Review your "Ready to Assemble Furniture" and make sure it is worth moving and decide as soon as possible how you will have it disassembled at origin and reassembled at destination.

(c) Your least expensive option is to disassemble furniture completely and remove and carefully place all hardware, fasteners, pins, cams, handles, wafers and dowels into a clearly labeled box. Your mover will then move these items at the valuation you chose.

(d) Your mover can also arrange for "Ready to Assemble Furniture" to be disassembled and reassembled for you at additional cost. If, however, these items are moved assembled they will be moved at your risk with specific caps on carrier liability.

Stat. Auth.: ORS 184.616, 184.619,823.011 & 825.232
Stats. Implemented: ORS 825.202, 825.204 & 825.224
Hist.: PUC 17-1987, f. & ef. 12-31-87 (Order No. 87-1309); PUC 5-1994, f. & cert. ef. 2-16-94 (Order No. 94-298); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-069-0007; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 4-1997, f. & cert. ef. 7-15-97; MCTB 3-2002, f. & cert. ef. 7-24-02; MCTD 9-2003(Temp), f. 12-12-03, cert. ef. 1-1-04 thru 6-28-04; MCTD 3-2004, f. 6-24-04, cert. ef. 6-29-04; MCTD 2-2013(Temp), f. 1-17-13, cert. ef. 1-18-13 thru 7-15-13

740-060-0040
Estimates of Charges

(1)(a) Estimates by the carrier for household goods moves. A carrier providing intrastate transportation of household goods must provide a written estimate when requested by the shipper. The carrier's representative must make a written estimate of charges only after visual inspection of the goods to be shipped. A weight factor of not less than seven pounds per cubic foot will be used to determine the estimated weight. Across the top of each form will be noted the words "Estimated Cost of Services." The orig-

inal or a true legible copy of each estimate form prepared in accordance with this must be delivered to the shipper, and a copy must be maintained by the carrier as part of its permanent record of shipment. Estimate forms must be retained with the freight bill for inspection by the Department's staff for three years;

(b) Estimates by the carrier for local moves. Every motor for-hire carrier providing intrastate transportation of household goods in local moving, must upon request of a shipper of household goods, give such shipper a written estimate of the charges. The carrier's representative must make such written estimate of charges only after a visual inspection of the goods to be shipped. A weight factor of not less than seven pounds per cubic foot will be used to determine the estimated weight. Across the top of each form shall be noted the words "Estimated Cost of Services." The original or a true legible copy of each estimate form prepared in accordance with this rule [shall] must be delivered to the shipper, and a copy must be maintained by the carrier as part of its permanent record of shipment. Estimate forms shall be retained with the freight bill for inspection by the Department's staff for one year;

(c) Addendum estimate for service. When an estimated cost for services has been furnished a shipper and additional services not included in the estimate are required, an addendum estimate for service must be prepared. Addendum estimates for service must be signed by the shipper. Addendum estimates for service must be attached to the original estimated cost for service or may be noted on the bill of lading. Addendum estimates for service must be maintained in accordance with the rules for estimated costs for service, and a copy must be furnished to the shipper.

(2) Underestimates for service. No carrier shall provide underestimates for service. An underestimate occurs when the charge assessed by the carrier exceeds the original estimate and addendum estimates for service by more than 10 percent.

(3) When full or partial payment is due upon delivery and the total tariff charges exceed estimated and addendum charges by more than 10 percent, a shipper may request deferment of the excess amount for 15 days. The shipper must pay the estimated charges plus 10 percent at the time of delivery. Upon payment of said charges, the carrier must relinquish possession of the shipment. The 15-day extension does not include Saturdays, Sundays, and holidays as specified in the carrier's tariff.

(4) Notification to shipper of charges. Whenever the shipper specifically requests notification of the actual weight and charges on a shipment, the carrier must comply with such request immediately upon determining the weight and charges. The shipper must supply the carrier with an address or telephone number at which the communication will be received. Such notification will be made by telephone, fax communication or in person at shipper's expense.

Stat. Auth.: ORS 184.616, 184.619,823.011 & 825.232
Stats. Implemented: ORS 825.202, 825.204 & 825.224
Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); Renumbered from 860-039-0010; PUC 9-1986(Temp), f. & ef. 8-19-86 (Order No. 86-831); PUC 12-1986, f. & ef. 10-2-86 (Order No. 86-1026); PUC 17-1987, f. & ef. 12-31-87 (Order No. 87-1309); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-069-0010; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 4-1997, f. & cert. ef. 7-15-97; MCTD 2-2013(Temp), f. 1-17-13, cert. ef. 1-18-13 thru 7-15-13

740-060-0080
Determination of Weight

(1) A carrier subject to rates based on weight must determine the gross weight, tare weight and net weight or constructive weight of a shipment:

(a) A carrier transporting shipments of household goods subject to rates based on the weight of shipment must determine the tare weight of each vehicle used in the transportation of household goods by having it weighed prior to the transportation of each shipment, with the driver for the proposed trip but without the crew thereon. The weight must be determined by a certified weighmaster or on a certified scale, and when so weighed, the fuel tanks on such vehicle must be full and the vehicle must contain all pads, chains, dollies, hand trucks, and other equipment needed in the proposed transportation of shipments to be loaded thereon, and such weight must be entered on the bill of lading. After the vehicle has been loaded, it must be weighed, with the same driver and equipment but without the crew thereon, at the certified scale nearest to the point of origin of the shipment, and the net weight of the shipment must be obtained by deducting the tare weight from the gross weight, and both the gross and net weights must then be entered on the bill of lading. Where no certified scale is available at the point of origin, the gross weight must be obtained at the nearest certified scale either in the direction of the movement of the shipment, or in the direction of the next pickup or delivery in the case of part loads. In the transportation of part loads, this rule will apply in all respects, except that the gross weight of a vehicle containing one or more part loads must be used as the tare weight of such vehicle as to part loads subsequently loaded Also, the person paying the freight charges, or his representative, upon request of either, must be permitted without charge to accompany, in his own conveyance, the carrier to the weighing station and to observe the weighing of his shipment after loading. The carrier must use a certified scale which will permit the shipper to observe the weighing of his shipment without causing delay; or

(b) If no certified scale is available at origin at any point en route, or at destination, a constructive weight, based upon 7 pounds per cubic foot of properly loaded van space, may be used, provided the shipper is notified prior to unloading that this method will be used to determine weight and charges on the shipment.

(2) Obtaining weight tickets. The carrier must obtain a weight ticket signed by the weighmaster for each weighing required under this rule, with tare and gross weights evidenced by separate tickets, and the driver must enter thereon the number of the bill of lading accompanying the shipment involved. No other additions or must be made on any such ticket. As soon as such weight tickets are obtained, true copies thereof must be attached to the receipt or bill of lading accompanying the shipment, and retained in the carrier's file. A true copy of each weight ticket pertaining to a shipment must be given to the shipper at the weighing station if the shipper is present or upon delivery of the shipment if the shipper is not present at the weighing. A part load for any one shipper not exceeding 1,000 pounds may be weighed on a certified scale prior to being loaded on the vehicle. Additionally, an automobile or other article weighing in excess of 500 pounds which is mounted on wheels may be weighed separately by obtaining the weight of such article on a certified scale prior to loading on the vehicle to be used in its transportation.

(3) Minimum weight shipments. No for-hire carrier must accept a shipment of household goods for transportation which appears to be subject to the minimum weight provisions of the carrier's tariff without first having advised the shipper of such minimum weight provisions.

(4) Reweighing of shipment. The carrier, upon request of shipper, or his representative, made prior to the delivery date, will reweigh the shipment. The carrier must inform the person requesting the reweigh, within a reasonable time prior to the gross reweighing, of the tariff charges and the location of a certified scale in close proximity to the destination of the shipment which will be used, and of the right of the shipper or his representative, to observe the gross and tare reweighing. The carrier, without altering or deleting the initial weights, will write on the bill of lading the gross, tare and net weights on reweigh, and must give the shipper, or his representative, original or true copies of the weight tickets on reweigh in the same manner as prescribed for initial weighing. The lower of the two net scale weights must be used for determining the applicable charges. Charges for reweighing must be determined by tariff rule.

Stat. Auth.: ORS 184.616, 184.619, 823.011& 825.232
Stats. Implemented: ORS 825.202
Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-039-0040; MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-069-0040; MCT 3-1996, f. & cert. ef. 3-14-96; MCTD 2-2013(Temp), f. 1-17-13, cert. ef. 1-18-13 thru 7-15-13

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Land Conservation and Development Department
Chapter 660

Rule Caption: Allowance for tsunami emergency hazard response storage structures in forest zones
Adm. Order No.: LCDD 1-2013
Filed with Sec. of State: 1-29-2013
Certified to be Effective: 2-1-13
Notice Publication Date: 1-1-2013
Rules Amended: 660-006-0005, 660-006-0025
Subject: The adopted amendments authorize approval of certain types of emergency storage structures in forest zones near coastal areas to facilitate local community tsunami preparedness planning efforts.
Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-006-0005
Definitions

For the purpose of this division, the following definitions apply:

(1) Definitions contained in ORS 197.015 and the Statewide Planning Goals.

(2) "Commercial Tree Species" means trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.

(3) "Cubic Foot Per Acre" means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(4) "Cubic Foot Per Tract Per Year" means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

(5) "Date of Creation and Existence." When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

(6) "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(7) "Forest Operation" means any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620(6).

(8) "Governing Body" means a city council, county board of commissioners, or county court or its designate, including planning director, hearings officer, planning commission or as provided by Oregon law.

(9) "Lot" means a single unit of land that is created by a subdivision of land as provided in ORS 92.010.

(10) "Parcel" means a single unit of land that is created by a partition of land and as further defined in ORS 215.010(1).

(11) "Storage structures for emergency supplies" means structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.

(12) "Tract" means one or more contiguous lots or parcels in the same ownership.

(13) "Western Oregon" means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & 1993 OL Ch. 792

Hist.: LCDC 8-1982, f. & ef. 9-1-82; LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2011, f. & cert. ef. 2-2-11; LCDD 1-2013, f. 1-29-13, cert. ef. 2-1-13

660-006-0025

Uses Authorized in Forest Zones

(1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:

(a) Uses related to and in support of forest operations;

(b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;

(c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc;

(d) Dwellings authorized by ORS 215.705 to 215.755; and

(e) Other dwellings under prescribed conditions.

(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones:

(a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;

(b) Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation;

(c) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities; and

(d) For the purposes of section (2) of this rule "auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(3) The following uses may be allowed outright on forest lands:

(a) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;

(b) Farm use as defined in ORS 215.203;

(c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups;

(d) Temporary portable facility for the primary processing of forest products;

(e) Exploration for mineral and aggregate resources as defined in ORS chapter 517;

(f) Private hunting and fishing operations without any lodging accommodations;

(g) Towers and fire stations for forest fire protection;

(h) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans and public road and highway projects as described in ORS 215.213(1) and 215.283(1);

(i) Water intake facilities, canals and distribution lines for farm irrigation and ponds;

(j) Caretaker residences for public parks and public fish hatcheries;

(k) Uninhabitable structures accessory to fish and wildlife enhancement;

(l) Temporary forest labor camps;

(m) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head;

(n) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.467 and Goal 8;

(o) Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation;

(p) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structures;

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and

(q) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under this division.

(4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:

(a) Permanent facility for the primary processing of forest products;

(b) Permanent logging equipment repair and storage;

(c) Log scaling and weigh stations;

(d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;

(e)(A) Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the camp-

ground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

(B) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by paragraph (4)(e)(C) of this rule.

(C) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(f) Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable;

(g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;

(h) Television, microwave and radio communication facilities and transmission towers;

(i) Fire stations for rural fire protection;

(j) Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4;

(k) Aids to navigation and aviation;

(l) Water intake facilities, related treatment facilities, pumping stations, and distribution lines;

(m) Reservoirs and water impoundments;

(n) Firearms training facility;

(o) Cemeteries;

(p) Private seasonal accommodations for fee hunting operations may be allowed subject to section (5) of this rule, OAR 660-006-0029, and 660-006-0035 and the following requirements:

(A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and

(D) A governing body may impose other appropriate conditions.

(q) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;

(r) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;

(s) Home occupations as defined in ORS 215.448;

(t) A manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.213 and 215.283. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this subsection is not eligible for replacement under subsection (3)(p) of this rule. Governing bodies every two years shall review the permit authorizing such mobile homes. When the hardships end, governing bodies or their designate shall require the removal of such mobile homes. Oregon Department of Environmental Quality review and removal requirements also apply to such mobile homes. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons;

(u) Expansion of existing airports;

(v) Public road and highway projects as described in ORS 215.213(2)(p) through (r) and (10) and 215.283(2)(q) through (s) and (3);

(w) Private accommodations for fishing occupied on a temporary basis may be allowed subject to section (5) of this rule, OAR 600-060-0029 and 660-006-0035 and the following requirements:

(A) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

(D) Accommodations must be located within one-quarter mile of fish bearing Class I waters; and

(E) A governing body may impose other appropriate conditions.

(x) Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations;

(y) An outdoor mass gathering subject to review by a county planning commission under the provisions of ORS 433.763. These gatherings are those of more than 3,000 persons that continue or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.; and

(z) Storage structures for emergency supplies to serve communities and households that are located in tsunami inundation zones, if:

(A) Areas within an urban growth boundary cannot reasonably accommodate the structures;

(B) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by DOGAMI or the local jurisdiction;

(C) Sites where the structures could be co-located with an existing use approved under this section are given preference for consideration;

(D) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;

(E) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and

(F) Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.

(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.

(6) Nothing in this rule relieves governing bodies from complying with other requirement contained in the comprehensive plan or implementing ordinances such as the requirements addressing other resource values (e.g., Goal 5) that exist on forest lands.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.040, 197.230, 197.245, 215.700, 215.705, 215.720, 215.740, 215.750, 215.780 & 1993 OL Ch. 792

Hist.: LCDC 1-1990, f. & cert. ef. 2-5-90; LCDC 7-1992, f. & cert. ef. 12-10-92; LCDC 1-1994, f. & cert. ef. 3-1-94; LCDC 8-1995, f. & cert. ef. 6-29-95; ; LCDC 3-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 2-2011, f. & cert. ef. 2-2-11; LCDD 1-2013, f. 1-29-13, cert. ef. 2-1-13

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

Adm. Order No.: LCDD 2-2013
Filed with Sec. of State: 1-29-2013
Certified to be Effective: 1-29-13
Notice Publication Date: 4-1-2012
Rules Amended: 660-033-0130
Subject: The 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. Specifically, the acreage threshold for allowing siting such a facility on non-arable EFU zoned lands, without taking an exception to statewide planning goals, is raised from 100 acres to 250 acres.
Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-033-0130
Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(1) A dwelling on farmland may be considered customarily provided in conjunction with farm use if it meets the requirements of OAR 660-033-0135.

(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

(3)(a) A dwelling may be approved on a pre-existing lot or parcel if:

(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (3)(g) of this rule:

(i) Since prior to January 1, 1985; or

(ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(B) The tract on which the dwelling will be sited does not include a dwelling;

(C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

(D) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

(E) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in subsections (3)(c) and (d) of this rule; and

(F) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

(c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);

(C) A hearings officer of a county determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

(ii) The dwelling will comply with the provisions of ORS 215.296(1); and

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(D) A local government shall provide notice of all applications for dwellings allowed under subsection (3)(c) of this rule to the Oregon Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of this rule.

(d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The tract on which the dwelling will be sited is:

(i) Identified in OAR 660-033-0020(8)(c) or (d);

(ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and

(iii) Twenty-one acres or less in size; and

(C) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(D) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

(E) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:

(i) "flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

(e) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compliance with both Goals 3 and 4 and may qualify as an exclusive farm use zone under ORS Chapter 215, a county may apply the standards for siting a dwelling under either section (3) of this rule or OAR 660-006-0027, as appropriate for the predominant use of the tract on January 1, 1993;

(f) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under section (3) of this rule in any area where the county determines that approval of the dwelling would:

(A) Exceed the facilities and service capabilities of the area;

(B) Materially alter the stability of the overall land use pattern of the area; or

(C) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

(g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

(h) The county assessor shall be notified that the governing body intends to allow the dwelling.

(i) When a local government approves an application for a single-family dwelling under section (3) of this rule, the application may be transferred by a person who has qualified under section (3) of this rule to any other person after the effective date of the land use decision.

(4) A single-family residential dwelling not provided in conjunction with farm use requires approval of the governing body or its designate in any farmland area zoned for exclusive farm use:

(a) In the Willamette Valley, the use may be approved if:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;

(C) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(D) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the county shall:

(i) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

(ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under subsections (3)(a) and section (4) of this rule, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and

(iii) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(E) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-033-0100(11), the use may be approved if:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(C) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(c) In counties located outside the Willamette Valley require findings that:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B)(i) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

(ii) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not "generally unsuitable". A lot or parcel or portion of a lot or parcel is presumed to be suitable if, in Western Oregon it is composed predominantly of Class I-IV soils or, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if, in Western Oregon, it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

(C) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in paragraph (4)(a)(D) of this rule. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(D) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(d) If a single-family dwelling is established on a lot or parcel as set forth in section (3) of this rule or OAR 660-006-0027, no additional dwelling may later be sited under the provisions of section (4) of this rule;

(e) Counties that have adopted marginal lands provisions before January 1, 1993, shall apply the standards in ORS 215.213(3) through 215.213(8) for nonfarm dwellings on lands zoned exclusive farm use that are not designated marginal or high-value farmland.

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(6) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only

portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

(7) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(8)(a) A lawfully established dwelling is a single-family dwelling which:

(A) Has intact exterior walls and roof structure;

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring for interior lights; and

(D) Has a heating system.

(b) In the case of replacement, the dwelling to be replaced shall be:

(A) Removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this section shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section; and

(B) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

(c) An accessory farm dwelling authorized pursuant to OAR 660-033-0130(24)(a)(B)(iii), may only be replaced by a manufactured dwelling.

(9)(a) To qualify, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

(b) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under 215.780, if the owner of a dwelling described in OAR 660-033-0130(9) obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

(c) For the purpose of OAR 660-033-0130(9)(b), "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).

(10) A manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this section is not eligible for replacement under 215.213(1)(q) or 215.283(1)(p). Department of Environmental Quality review and removal requirements also apply. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(11) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zones under this division is allowed.

(12) In order to meet the requirements specified in the statute, a historic dwelling shall be listed on the National Register of Historic Places.

(13) Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule may be established, subject to the adoption of the governing body or its designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.

(14) Home occupations and the parking of vehicles may be authorized. Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time persons.

(15) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

(16)(a) A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(A) Technical and engineering feasibility;

(B) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(C) Lack of available urban and nonresource lands;

(D) Availability of existing rights of way;

(E) Public health and safety; and

(F) Other requirements of state and federal agencies.

(b) Costs associated with any of the factors listed in subsection (16)(a) of this rule may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

(c) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(d) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change

in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

(e) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

(f) In addition to the provisions of subsections (16)(a) to (d) of this rule, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of 660-011-0060.

(g) The provisions of subsections (16)(a) to (d) of this rule do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

(17) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval. Permanent features of a power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

(18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

(b) In addition to and not in lieu of the authority in ORS 215.130 to continue, alter, restore or replace a use that has been disallowed by the enactment or amendment of a zoning ordinance or regulation, a use formerly allowed pursuant to 215.213(1)(a) or 215.283(1)(a), as in effect before January 1, 2010, the effective date of 2009 Oregon Laws, chapter 850, section 14, may be expanded subject to:

(A) The requirements of subsection (c) of this section; and

(B) Conditional approval of the county in the manner provided in ORS 215.296.

(c) A nonconforming use described in subsection (b) of this section may be expanded under this section if:

(A) The use was established on or before January 1, 2009; and

(B) The expansion occurs on:

(i) The tax lot on which the use was established on or before January 1, 2009; or

(ii) A tax lot that is contiguous to the tax lot described in subparagraph (i) of this paragraph and that was owned by the applicant on January 1, 2009.

(19)(a) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

(b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(c) of this rule.

(c) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(20) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:

(a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

(b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

(c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;

(d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:

(A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;

(B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and

(C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

(21) "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in this rule, a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.

(22) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor

amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval. Permanent features of a power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

(23) A farm stand may be approved if:

(a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

(c) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

(d) As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.

(24) Accessory farm dwellings as defined by subsection (24)(e) of this section may be considered customarily provided in conjunction with farm use if:

(a) Each accessory farm dwelling meets all the following requirements:

(A) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;

(B) The accessory farm dwelling will be located:

(i) On the same lot or parcel as the primary farm dwelling; or

(ii) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these rules; or

(iv) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi- unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or

(v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and

(C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

(b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(A) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:

(i) At least $40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(B) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(C) On land not identified as high-value farmland in counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm dwelling is located on a farm or ranch operation that meets the standards and requirements of 215.213(2)(a) or (b) or OAR 660-033-0130(24)(b)(A); or

(D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and

(i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;

(ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

(iii) A Producer License for the sale of dairy products under ORS 621.072.

(c) The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be created consistent with the minimum parcel size requirements in 660-033-0100.

(d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4) of this rule.

(e) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

(25) In counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, an armed forces reserve center is allowed, if the center is within one-half mile of a community college. An "armed forces reserve center" includes an armory or National Guard support facility.

(26) Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(27) Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this section to the Oregon Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(28) The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facil-

ity. A county shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.

(29)(a) Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.

(b) Composting operations and facilities allowed on land not defined as high-value farmland shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract are allowed uses, while other composting operations are subject to the review standards of ORS 215.296. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

(30) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under 30.936 or 30.937.

(31) Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

(32) Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(a) A public right of way;

(b) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(c) The property to be served by the utility.

(33) An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in 197.015(10) or subject to review under this division. Agritourism and other commercial events or activities may not be permitted as mass gatherings under 215.213(11) and 215.283(4).

(34) Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month planning period is subject to review by a county planning commission under the provisions of ORS 433.763.

(35)(a) As part of the conditional use approval process under ORS 215.296 and OAR 660-033-0130(5), for the purpose of verifying the existence, continuity and nature of the business described in ORS 215.213(2)(w) or 215.283(2)(y), representatives of the business may apply to the county and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies; and

(b) Alteration, restoration or replacement of a use authorized in ORS 215.213(2)(w) or 215.283(2)(y) may be altered, restored or replaced pursuant to 215.130(5), (6) and (9).

(36) For counties subject to ORS 215.283 and not 215.213, a community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(37) For purposes of this rule a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval. A proposal for a wind power generation facility shall be subject to the following provisions:

(a) For high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

(i) Technical and engineering feasibility;

(ii) Availability of existing rights of way; and

(iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under OAR 660-033-0130(37)(a)(B);

(B) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;

(C) Costs associated with any of the factors listed in OAR 660-033-0130(37)(a)(A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

(D) The owner of a wind power generation facility approved under OAR 660-033-0130(37)(a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and

(E) The criteria of OAR 660-033-0130(37)(b) are satisfied.

(b) For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

(A) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;

(B) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

(c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.

(d) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of 660-033-0130(37)(b) shall apply to the entire project.

(38) A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

(a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

(b) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

(c) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(d) "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

(e) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

(f) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

(E) The project is not located on high-value farmland soils unless it can be demonstrated that:

(i) Non high-value farmland soils are not available on the subject tract;

(ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

(F) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(g) For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

(A) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

(i) Nonarable soils are not available on the subject tract;

(ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

(B) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;

(C) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

(ii) When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(D) The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are satisfied.

(h) For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 250acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732

and OAR chapter 660, division 4. The governing body or its designate must find that:

(A) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

(i) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

(B) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

(C) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;

(D) The requirements of OAR 660-033-0130(38)(f)(D) are satisfied;

(E) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

(F) If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse affects to state or federal special status species or to wildlife species of concern as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

(G) The provisions of paragraph (F) are repealed on January 1, 2022.

(i) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

(j) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

(k) The commission may re-evaluate the acreage thresholds identified in subsections (f), (g) and (h) should ORS 469.300(11)(a)(D) be amended.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.040 & 215.213

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994 , f. & cert. ef. 6-3-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LDCD 5-1996, f. & cert. ef. 12-23-96; LCDD 5-1997, f. & cert. ef. 12-23-97; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 9-2000, f. & cert. ef. 11-3-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. & cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 7-2010(Temp), f. & cert. ef. 6-17-10 thru 11-30-10; LCDD 9-2010, f. & cert. ef. 9-24-10; LCDD 11-2010, f. & cert. ef. 11-23-10; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. & cert. ef. 2-14-12; LCDD 2-2013, f. & cert. ef. 1-29-13

Landscape Contractors Board
Chapter 808

Rule Caption: Clarifies the definition of patio as used in ORS 671.520 and 671.690.
Adm. Order No.: LCB 1-2013
Filed with Sec. of State: 1-29-2013
Certified to be Effective: 2-1-13
Notice Publication Date: 11-1-2012
Rules Adopted: 808-002-0755
Subject: Clarifies the definition of patio as used in ORS 671.520 and 671.690.
Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-002-0755
Patio

"Patio" as used in ORS 671.520 and 671.690 is a single or multi-level area, which may be accessorized, including but not limited to stairs, railings, seating, low voltage lighting fire pits, outdoor kitchens and outdoor wood fire ovens and ornamental water features. However, nothing in this rule authorizes a licensee under 671.510 to 671.760 to perform work outside the scope of that license.

Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.520 & 671.690
Hist.: LCB 1-2013, f. 1-29-13, cert. ef. 2-1-13

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Oregon Department of Education
Chapter 581

Rule Caption: Changes fees charged by the Department of Education for fingerprinting of private school employees.
Adm. Order No.: ODE 4-2013
Filed with Sec. of State: 1-17-2013
Certified to be Effective: 1-17-13
Notice Publication Date: 9-1-2012
Rules Amended: 581-045-0586
Rules Repealed: 581-045-0586(T)
Subject: Changes the fees charged by ODE for processing fingerprinting applications for private school employees based on FBI reduction of fees. We would like to reduce the rate we charge private schools to reflect this change from $62.00 to $59.00.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-045-0586
Fingerprinting of Subject Individuals Employed by Private Schools in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Subject individual" means:

(A) A person employed by a Private School in a position not requiring licensure under ORS 342.223; and

(B) Any person newly hired as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223.

(b) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed. Fees shall be paid to the Oregon Department of Education with submission of fingerprint cards and associated form. The fee amount and distribution shall be as follows:

(A) Oregon State Police (OSP) — $28;

(B) Federal Bureau of Investigation (FBI) — $16.50;

(C) Oregon Department of Education — $14.50;

(D) TOTAL — $59.

(d) "Information to be required" means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and

(B) A properly completed Department of Education form #581-2283-M.

(e) "Convictions of crimes prohibiting employment, contract or assignment by a contractor" means, notwithstanding any other statutes or

Oregon administrative rule, conviction of a crime listed in ORS 342.143, or making a false statement as to the conviction of a crime;

(f) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;

(g) "Knowingly made a false statement" means that a subject individual has failed to disclose a crime on the Department of Education form #581-2283-M as part of the criminal background check process.

(h) "Private School" means a school that:

(A) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combination of those grade levels; and

(B) Provides instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

(2) A private school may request that Department of Education conduct a criminal records check of a subject individual. Upon receipt of the information, the Department shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the private school a fee not to exceed the actual cost of acquiring and furnishing the information.

(3) The Oregon Department of Education shall review the criminal records of subject individual upon the private school's submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status. The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has knowingly made a false statement as to conviction of a crime. A private school may choose to employ or contract with a person who has knowingly made a false statement as to conviction of a crime.

(4) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.

(5) The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has been convicted of a crime listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number. A private school may choose to employ or contract with a person who has been convicted of a crime listed in ORS 342.143 or the substantial equivalent. The crimes listed in ORS 342.143 are:

(a) ORS 163.095 — Aggravated Murder;

(b) ORS 163.115 — Murder;

(c) ORS 163.185 — Assault in the First Degree;

(d) ORS 163.235 — Kidnapping in the First Degree;

(e) ORS 163.355 — Rape in the Third Degree;

(f) ORS 163.365 — Rape in the Second Degree;

(g) ORS 163.375 — Rape in the First Degree;

(h) ORS 163.385 — Sodomy in the Third Degree;

(i) ORS 163.395 — Sodomy in the Second Degree;

(j) ORS 163.405 — Sodomy in the First Degree;

(k) ORS 163.408 — Unlawful Sexual Penetration in the Second Degree;

(l) ORS 163.411 — Unlawful Sexual Penetration in the First Degree;

(m) ORS 163.415 — Sexual Abuse in the Third Degree;

(n) ORS 163.425 — Sexual Abuse in the Second Degree;

(o) ORS 163.427 — Sexual Abuse in the First Degree;

(p) ORS 163.432 — Online sexual corruption of a child in the second degree;

(q) ORS 163.433 — Online sexual corruption of a child in the first degree;

(r) ORS 163.435 — Contributing to the Sexual Delinquency of a Minor;

(s) ORS 163.445 — Sexual Misconduct;

(t) ORS 163.465 — Public Indecency;

(u) ORS 163.515 — Bigamy;

(v) ORS 163.525 — Incest;

(w) ORS 163.547 — Child Neglect in the First Degree;

(x) ORS 163.575 — Endangering the Welfare of a Minor;

(y) ORS 163.670 — Using Child in Display of Sexually Explicit Conduct;

(z) ORS 163.675 (1985 Replacement Part) — Sale of Exhibition of Visual Reproduction of Sexual Conduct by Child;

(aa) ORS 163.680 (1993 Edition) — Paying for Viewing Sexual Conduct Involving a Child;

(bb) ORS 163.684 — Encouraging Child Sex Abuse in the First Degree;

(cc) ORS 163.686 — Encouraging Child Sex Abuse in the Second Degree;

(dd) ORS 163.687 — Encouraging Child Sex Abuse in the Third Degree;

(ee) ORS 163.688 — Possession of Materials Depicting Sexually Explicit Conduct of a Child in the First Degree;

(ff) ORS 163.689 — Possession of Materials Depicting Sexually Explicit Conduct of a child in the Second Degree;

(gg) ORS 164.325 — Arson in the First Degree;

(hh) ORS 164.415 — Robbery in the First Degree;

(ii) ORS 166.005 — Treason;

(jj) ORS 166.087 — Abuse of Corpse in the first Degree;

(kk) ORS 167.007 — Prostitution;

(ll) ORS 167.008 – Patronizing a Prostitute;

(mm) ORS 167.012 — Promoting Prostitution;

(nn) ORS 167.017 — Compelling Prostitution;

(oo) ORS 167.057 — Luring a minor;

(pp) ORS 167.062 — Sadomasochistic Abuse or Sexual Conduct in Live Show;

(qq) ORS 167.075 — Exhibiting an Obscene Performance to a Minor;

(rr) ORS 167.080 — Displaying Obscene Materials to Minors;

(ss) ORS 167.090 — Publicly Displaying Nudity or Sex for Advertising Purposes;

(tt) ORS 475.808 — Unlawful manufacture of hydrocodone within 1,000 feet of school;

(uu) ORS.475.810 — Unlawful delivery of hydrocodone;

(vv) ORS 475.812 – Unlawful delivery of hydrocodone within 1,000 feet of school;

(ww) ORS 457.818 — Unlawful manufacture of methadone within 1,000 feet of school;

(xx) ORS 475.820 — Unlawful delivery of methadone; and

(yy) ORS 475.822 — Unlawful delivery of methadone within 1,000 feet of school.

(zz) ORS 475.828 – Unlawful manufacture of oxycodone within 1,000 feet of school;

(aaa) ORS 475.830 — Unlawful delivery of oxycodone;

(bbb) ORS 475.832 – Unlawful delivery of oxycodone within 1,000 feet of school;

(ccc) ORS 475.848 — Unlawful manufacture of heroin within 1,000 feet of school;

(ddd) ORS 475.852 — Unlawful delivery of heroin within 1,000 feet of school;

(eee) ORS 475.858 — Unlawful manufacture of marijuana within 1,000 feet of school;

(fff) ORS 475.860 — Unlawful delivery of marijuana;

(ggg) ORS 475.862 — Unlawful delivery of marijuana within 1,000 feet of school;

(hhh) ORS 475.864 — Unlawful possession of marijuana;

(iii) ORS 475.868 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;

(jjj) ORS 475.872 — Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;

(kkk) ORS 475.878 — Unlawful manufacture of cocaine within 1,000 feet of school;

(lll) ORS 475.880 — Unlawful delivery of cocaine;

(mmm) ORS 475.888 — Unlawful manufacture of methamphetamine within 1,000 feet of school;

(nnn) ORS 475.890 — Unlawful delivery of methamphetamine;

(ooo) ORS 475.892 — Unlawful delivery of methamphetamine within 1,000 feet of school;

(ppp) ORS 475.904 — Unlawful manufacture or delivery of controlled substance within 1,000 feet of school;

(qqq) ORS 475.906 — Penalties for distribution to minors.

(6) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action. The Department of Education will return fingerprint cards and associated forms without appropriate fees without taking any other action.

(7) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

(a) Card sequence number;

(b) Name of Private School submitting the cards;

(c) Date cards and Department form received;

(d) Date incomplete card returned to the school (only if applicable);

(e) Date completed card sent to Oregon State Police;

(f) Date private school was notified of state police record or lack of record;

(g) Date FBI card returned to Department;

(h) Date private school was notified of FBI record or lack of record.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: EB 16-1997, f. & cert. ef. 12-29-97; ODE 29-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 13-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; Administrative correction 8-2-04; ODE 9-2006, f. & cert. ef. 2-21-06; Renumbered from 581-022-1732, ODE 25-2008, f. & cert. ef. 9-26-08; ODE 27-2009, f. & cert. ef. 12-10-09; ODE 7-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 28-2012(Temp), f. 9-13-12, cert. ef. 9-17-12 thru 3-15-13; ODE 4-2013, f. & cert. ef. 1-17-13

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Rule Caption: Changes fees charged by Department of Education for fingerprinting of public school employees.
Adm. Order No.: ODE 5-2013
Filed with Sec. of State: 1-17-2013
Certified to be Effective: 1-17-13
Notice Publication Date: 9-1-2012
Rules Amended: 581-021-0500
Rules Repealed: 581-021-0500(T)
Subject: Changes the fees charged by ODE for processing fingerprinting applications for public school employees based on FBI reduction of fees. We would like to reduce the rate we charge school districts to reflect this change from $62.00 to $59.00.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0500
Fingerprinting of Subject Individuals in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Subject individual" means:

(A) Any person newly hired by a school district and not requiring licensure under ORS 342.223;

(B) Any person newly hired as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223;

(C) Any person included above unless the current employer has on file evidence from a previous employer documenting a successfully completed Oregon and FBI criminal records check. The Oregon Department of Education or the Teacher Standards and Practices Commission verification of a previous check shall be acceptable only in the event the employer can demonstrate records are not otherwise available. Additional evidence that the employee has not resided outside the state between the two periods of time working in the district shall be maintained;

(D) A person who is a community college faculty member providing instruction at a kindergarten through grade 12 school site during the regular school day; and

(E) A person who is an employee of a public charter school.

(b) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed the local school district's State School Fund by the Department of Education for processing each fingerprint card submitted. The fee amount and distribution shall be as follows:

(A) Oregon State Police (OSP) — $28;

(B) Federal Bureau of Investigation (FBI) — $16.50;

(C) Oregon Department of Education — $14.50;

(D) TOTAL — $59.

(d) "Information to be required" means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and

(B) A properly completed Department of Education form #581-2283-M.

(e) For purposes of criminal background checks pursuant to ORS 326.603 and 326.607, conducted in relation to individuals subject to such criminal background verification, the following definitions of "conviction" of a crime applies:

(A) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.

(B) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining that the individual committed an offense, which if done by an adult, would constitute a crime listed in ORS 342.143.

(C) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction. A later court order or other action relieving the individual of the sex offender registration/reporting requirement does not affect the status of the conduct as a conviction for purposes of this rule.

(D) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.

(E) A conviction exists for purposes of this rule, regardless of whether a dismissal was later entered into the record in connection with a diversion or on any sort of deferred adjudication or delayed entry of judgment.

(F) A conviction exists for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon. A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual.

(G) A conviction does not exist, except as noted above, only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is overturned by an appellate court of record and no later conviction, adjudication or plea indicating the individual committed the offense in question is on the record.

(f) "Knowingly made a false statement" means that a subject individual has failed to disclose a crime on the Department of Education form #581-2283-M as part of the criminal background check process.

(g) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;

(h) "Newly hired" means the employment of a person after application or request for a position without regard to that person's current or previous employer; and

(i) "School district" means:

(A) A taxing district providing public elementary or secondary education, or any combination thereof, within the state;

(B) An education service district;

(C) The Oregon School for the Deaf;

(D) An educational program under the Youth Corrections Education Program; and

(E) A public charter school.

(2) School districts shall adopt and implement local board policy related to fingerprint collection and processing which shall:

(a) Specify that subject individuals as defined by this rule are subject to fingerprinting and criminal record checks required by law;

(b) Specify which contractors will be considered to have unsupervised access to children and are subject to fingerprinting and criminal records checks required by law;

(c) Specify the format used to notify subject individuals that fingerprinting and criminal record checks are required by law and that any action resulting from those checks may be appealed as a contested case;

(d) Provide a clear statement that the district will terminate the employee, if it receives notification by the Superintendent of Public Instruction that the person has been convicted, of the crimes prohibiting employment that are listed in section (9) of this rule;

(e) Provide a clear statement that the district may terminate the employee, if it receives notification by the Superintendent of Public Instruction that the person has knowingly made a false statement as to the conviction of any crime;

(f) Specify that subject individuals may begin to carry out terms of a contract or employment on a probationary basis pending the return of criminal record checks by the FBI;

(g) Identify that employment shall be offered prior to collecting fingerprint cards for submission to the Department of Education and that fees may be collected from the applicant. The applicant may request that the amount of the fee be withheld from the amount otherwise due the individual, and the school district shall withhold the amount only upon the request of the subject individual; and

(h) Identify a procedure that ensures the integrity of fingerprint collection and will prevent any possible compromise of the process.

(3) Fingerprints may be collected by one of the following:

(a) Employing school district staff;
(b) Contracted agent of employing school district;
(c) Local or state law enforcement agency.
(4) School districts shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints for each subject individual defined in this rule immediately following offer and acceptance of employment or contract.
(5) The Department of Education shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the school district a fee not to exceed the actual cost of acquiring and furnishing the information.
(6) The Oregon Department of Education shall review the criminal records of subject individual upon the district's submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status and related impact on employment or contract qualification. The Superintendent of Public Instruction or designee shall also notify the school district if the subject individual has knowingly made a false statement as to conviction of a crime.
(7) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.
(8) Subject individuals who refuse to consent to the criminal records check or refuse to be fingerprinted shall be terminated from employment or contract status by the district.
(9) Subject individuals who have been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction. The crimes listed in ORS 342.143 are:
(a) ORS 163.095 — Aggravated Murder;
(b) ORS 163.115 — Murder;
(c) ORS 163.185 — Assault in the First Degree;
(d) ORS 163.235 — Kidnapping in the First Degree;
(e) ORS 163.355 — Rape in the Third Degree;
(f) ORS 163.365 — Rape in the Second Degree;
(g) ORS 163.375 — Rape in the First Degree;
(h) ORS 163.385 — Sodomy in the Third Degree;
(i) ORS 163.395 — Sodomy in the Second Degree;
(j) ORS 163.405 — Sodomy in the First Degree;
(k) ORS 163.408 — Unlawful Sexual Penetration in the Second Degree;
(l) ORS 163.411 — Unlawful Sexual Penetration in the First Degree;
(m) ORS 163.415 — Sexual Abuse in the Third Degree;
(n) ORS 163.425 — Sexual Abuse in the Second Degree;
(o) ORS 163.427 — Sexual Abuse in the First Degree;
(p) ORS 163.432 — Online sexual corruption of a child in the second degree;
(q) ORS 163.433 — Online sexual corruption of a child in the first degree;
(r) ORS 163.435 — Contributing to the Sexual Delinquency of a Minor;
(s) ORS 163.445 — Sexual Misconduct;
(t) ORS 163.465 — Public Indecency;
(u) ORS 163.515 — Bigamy;
(v) ORS 163.525 — Incest;
(w) ORS 163.547 — Child Neglect in the First Degree;
(x) ORS 163.575 — Endangering the Welfare of a Minor;
(y) ORS 163.670 — Using Child in Display of Sexually Explicit Conduct;
(z) ORS 163.675 (1985 Replacement Part) — Sale of Exhibition of Visual Reproduction of Sexual Conduct by Child;
(aa) ORS 163.680 (1993 Edition) — Paying for Viewing Sexual Conduct Involving a Child;
(bb) ORS 163.684 — Encouraging Child Sex Abuse in the First Degree;
(cc) ORS 163.686 — Encouraging Child Sex Abuse in the Second Degree;
(dd) ORS 163.687 — Encouraging Child Sex Abuse in the Third Degree;
(ee) ORS 163.688 — Possession of Materials Depicting Sexually Explicit Conduct of a Child in the First Degree;
(ff) ORS 163.689 — Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree;
(gg) ORS 164.325 — Arson in the First Degree;
(hh) ORS 164.415 — Robbery in the First Degree;
(ii) ORS 166.005 — Treason;
(jj) ORS 166.087 — Abuse of Corpse in the First Degree;
(kk) ORS 167.007 — Prostitution;
(ll) ORS 167.008 – Patronizing a Prostitute;
(mm) ORS167.012 — Promoting Prostitution;
(nn) ORS 167.017 — Compelling Prostitution;
(oo) ORS 167.057 — Luring a minor;
(pp) ORS 167.062 — Sadomasochistic Abuse or Sexual Conduct in Live Show;
(qq) ORS 167.075 — Exhibiting an Obscene Performance to a Minor;
(rr) ORS 167.080 — Displaying Obscene Materials to Minors;
(ss) ORS 167.090 — Publicly Displaying Nudity or Sex for Advertising Purposes;
(tt) ORS 475.808 – Unlawful manufacture of hydrocodone within 1,000 feet of school;
(uu) ORS.475.810 – Unlawful delivery of hydrocodone;
(vv) ORS 475.812 – Unlawful delivery of hydrocodone within 1,000 feet of school;
(ww) ORS 457.818 – Unlawful manufacture of methadone within 1,000 feet of school;
(xx) ORS 475.820 – Unlawful delivery of methadone; and
(yy) ORS 475.822 – Unlawful delivery of methadone within 1,000 feet of school.
(zz) ORS 475.828 – Unlawful manufacture of oxycodone within 1,000 feet of school;
(aaa) ORS 475.830 – Unlawful delivery of oxycodone;
(bbb) ORS 475.832 – Unlawful delivery of oxycodone within 1,000 feet of school;
(ccc) ORS 475.848 — Unlawful manufacture of heroin within 1,000 feet of school;
(ddd) ORS 475.852 — Unlawful delivery of heroin within 1,000 feet of school;
(eee) ORS 475.858 — Unlawful manufacture of marijuana within 1,000 feet of school;
(fff) ORS 475.860 — Unlawful delivery of marijuana;
(ggg) ORS 475.862 — Unlawful delivery of marijuana within 1,000 feet of school;
(hhh) ORS 475.864(4) — Unlawful possession of marijuana within 1,000 feet of school;
(iii) ORS 475.868 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;
(jjj) ORS 475.872 — Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;
(kkk) ORS 475.878 — Unlawful manufacture of cocaine within 1,000 feet of school;
(lll) ORS 475.880 — Unlawful delivery of cocaine;
(mmm) ORS 475.882 — Unlawful delivery of cocaine within 1,000 feet of school;
(nnn) ORS 475.888 — Unlawful manufacture of methamphetamine within 1,000 feet of school;
(ooo) ORS 475.890 — Unlawful delivery of methamphetamine;
(ppp) ORS 475.892 — Unlawful delivery of methamphetamine within 1,000 feet of school;
(qqq) ORS 475.904 — Unlawful manufacture or delivery of controlled substance within 1,000 feet of school;
(rrr) ORS 475.906 — Penalties for distribution to minors.
(10) Subject individuals who have been convicted of any of the crimes listed in ORS 161.405 or an attempt to commit any of the crimes listed in section (9) of this rule shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction.
(11) A school district may terminate the employment of any subject individuals who knowingly makes a false statement as to the conviction of a crime upon notification of the false statement by the Superintendent of Public Instruction.
(12) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.
(13) Prior to making a determination that results in a notice and opportunity for hearing, the Superintendent of Public Instruction may cause an investigation to be undertaken. Subject individuals and districts shall

cooperate with the investigation and may be required to furnish oral or written statements by affidavit or under oath. If the Superintendent of Public Instruction determines through investigation that a violation of this rule has not occurred, a written decision explaining the basis for the decision will be provided to the subject individual.

(14) Applicants may appeal a determination that prevents their employment or eligibility to contract with a school district as a contested case under ORS 183.413 to 183.470 to the Oregon Superintendent of Public Instruction.

(15) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action.

(16) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

(a) Card sequence number;

(b) District submitting the cards;

(c) Date cards and Department form received;

(d) Date completed card sent to Oregon State Police;

(e) Date denial or probationary approval sent to district;

(f) Date FBI card returned to Department; and

(g) Date denial or final approval sent to district.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: ODE 25-2008, f. & cert. ef. 9-26-08; ODE 12-2009, f. & cert. ef. 12-10-09; ODE 18-2009, f. & cert. ef. 12-10-09; ODE 2-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 25-2012(Temp), f. 9-13-12, cert. ef. 9-17-12 thru 3-15-13; ODE 5-2013, f. & cert. ef. 1-17-13

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Rule Caption: Modifies rule relating to evaluation of child as required by federal IDEA.

Adm. Order No.: ODE 6-2013

Filed with Sec. of State: 1-17-2013

Certified to be Effective: 1-17-13

Notice Publication Date: 11-1-2012

Rules Amended: 581-015-2110

Subject: OAR 581-015-2110 General Evaluation and Reevaluation Requirements, was implemented to comply with federal regulations implementing the Individuals with Disabilities Education Act (IDEA), specifically found at 34 CFR 300.301 Initial Evaluations, 34 CFR 300.304 Evaluation Procedures, and 34 CFR 300.305 Additional Requirements for Evaluations and Reevaluations.

OAR 581-015-2110(5)(c)(B) should speak to transfer students in the process of evaluation per federal standards found at 34 CFR 300.304(5). However, the existing OAR speaks to students in the process of reevaluation. Therefore, this amendment is needed to comply with federal standards. Additionally, the implementing authority needs to reflect 34 CFR 300.301 as it is also addressed in this OAR.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-015-2110

General Evaluation and Reevaluation Procedures

(1) Evaluation planning. Before conducting any evaluation or reevaluation of a child, the public agency must conduct evaluation planning in accordance with OAR 581-015-2115.

(2) Notice and consent.

(a) Before conducting any evaluation or reevaluation, the public agency must provide notice to the parent in accordance with OAR 581-015-2310 that describes any evaluation procedures the agency proposes to conduct as a result of the evaluation planning process.

(b) Before conducting any evaluation or reevaluation, the public agency must obtain informed written consent for evaluation in accordance with OAR 581-015-2090 and 581-015-2095.

(c) If the public agency refuses an evaluation or reevaluation requested by the parent, the public agency must provide the parent with prior written notice under OAR 581-015-2310.

(d) Parents may challenge the public agency's refusal to conduct a reevaluation under OAR 581-015-2345.

(3) Conduct of evaluation. In conducting the evaluation, the public agency must:

(a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining:

(A) Whether the child is a child with a disability under OAR 581-015-2130 through 581-015-2180; and

(B) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

(b) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(4) Other evaluation procedures. Each public agency must ensure that:

(a) Assessments and other evaluation materials used to assess a child under this part:

(A) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(B) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;

(C) Are used for the purposes for which the assessments or measures are valid and reliable;

(D) Are administered by trained and knowledgeable personnel; and

(E) Are administered in accordance with any instructions provided by the producer of the assessments.

(b) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(c) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(d) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(e) The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified; and

(f) The evaluation includes assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

(5) Evaluation timelines:

(a) Initial. An initial evaluation must be completed within 60 school days from written parent consent to the date of the meeting to consider eligibility.

(b) Reevaluation. A reevaluation must be completed within 60 school days from written parent consent (or from the date the evaluation is initiated under OAR 581-015-2095(3)(c)) to the date of the meeting to consider eligibility, continuing eligibility or the student's educational needs.

(c) Exceptions. An evaluation may be completed in more than 60 school days under the following circumstances documented in the child's educational record:

(A) The parents of a child repeatedly fail or refuse to produce the child for an evaluation, or for other circumstances outside the school district's control.

(B) The student is a transfer student in the process of evaluation and the district and the parents agree in writing to a different length of time to complete the evaluation in accordance with subsection (d);

(C) The district and the parents agree in writing to extend the timeline for an evaluation to determine eligibility for specific learning disabilities in accordance with OAR 581-015-2170.

(d) Transfer students.

(A) When a child with disabilities transfers from one school district to another school district in the same school year, the previous and current school district must coordinate any pending assessments as necessary and as expeditiously as possible to ensure prompt completion of the evaluation.

(B) The exception under subsection (c)(B) only applies if the current school district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current school district agree to a specific time for completion of the evaluation.

Stat. Auth.: ORS 343.041 & 343.157
Stats. Implemented: ORS 343.146, 343.157, 34 CFR 300.304, 300.305
Hist.: ODE 10-2007, f. & cert. ef. 4-25-07; ODE 6-2013, f. & cert. ef. 1-17-13

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

Rule Caption: Temporary amendments to OAR 415-050 entitled Standards For Detoxification Centers
Adm. Order No.: ADS 3-2013(Temp)
Filed with Sec. of State: 2-4-2013
Certified to be Effective: 2-4-13 thru 8-2-13
Notice Publication Date:
Rules Amended: 415-050-0000, 415-050-0005, 415-050-0015, 415-050-0025, 415-050-0035, 415-050-0040, 415-050-0045, 415-050-0050, 415-050-0055, 415-050-0060, 415-050-0065, 415-050-0070, 415-050-0075, 415-050-0090
Subject: These rules prescribe standards for the development and operation of detoxification centers and services for those with substance use disorders approved by the Addictions and Mental Health Division, of the Oregon Health Authority.

The temporary amendments add new language regarding Level III.7-D: Medically Monitored Detoxification, and expand expectations related to medical coverage and the staffing of those, and other levels of service.
Rules Coordinator: Nola Russell—(503) 945-7652

415-050-0000
Purpose

Purpose. These rules prescribe standards for the development and operation of substance use disorder detoxification centers approved by the Addictions and Mental Health Division.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(1) & (2); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0000; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0005
Definitions

As used in these rules:

(1) "Alcoholic" means any person who has lost the ability to control the use of alcoholic beverages, or who uses alcoholic beverages to the extent that the health of the person or that of others is substantially impaired or endangered or the social or economic function of the person is substantially disrupted. An alcoholic may be physically dependent, a condition in which the body requires a continuing supply of alcohol to avoid characteristic withdrawal symptoms, or psychologically dependent, a condition characterized by an overwhelming mental desire for continued use of alcoholic beverages. An alcoholic suffers from the disease of alcoholism.

(2) "Biennial Plan" means the document prepared by the Community Mental Health Program (CMHP) or direct contractor and submitted to the Division.

(3) "Client" means a person receiving services under these rules.

(4) "Community Mental Health Program" or "CMHP" means the organization of all services for persons with mental or emotional disturbances, drug abuse problems, mental retardation or other developmental disabilities, and alcoholism and alcohol abuse problems, operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an omnibus contract with the Division.

(5) "Coordinated Care Organization (CCO)" means a corporation, governmental agency, public corporation or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization's members.

(6) "County" means the board of county commissioners or its representatives.

(7) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(8) "Evaluation" means an assessment of an individual to determine the existence of a substance use disorder, and the appropriate treatment and rehabilitation likely to overcome the problem.

(9) "Level III.2-D" or "Social Detox" means clinically managed residential detoxification in a non-medical or social detoxification setting. This level emphasizes peer and social support and is intended for individuals whose intoxication is sufficient to warrant 24-hour support or whose withdrawal symptoms are sufficiently severe to require primary medical nursing care services.

(10) "Level III.7-D" or "Medically Monitored Detoxification" means an inpatient setting that provides medically managed intensive inpatient treatment services.

(11) "Local Alcoholism Planning Committee" means a committee appointed or designated by a board of county commissioners. The committee shall identify needs and establish priorities for alcoholism services in the county. Members of the committee shall be representative of the geographic area and include a number of minority members which reasonably reflect the proportion of the need for alcoholism treatment and rehabilitation services of minorities in the community.

(12) "Physical Restraint" means a device which restricts the physical movement of a client and which cannot be removed by the person and is not a normal article of clothing, a therapy device, or a simple safety device.

(13) "Problem Drinker" means a person who habitually or periodically uses alcoholic beverages to the extent that the person's health or that of others is substantially impaired or endangered or the person's social or economic functioning is substantially disrupted.

(14) "Rehabilitation" means those services to assist in overcoming problems associated with a substance use disorder that enable the client to function at the person's highest potential, such as through vocational rehabilitation services.

(15) "Seclusion" means the placement of a client alone in a locked room.

(16) "Substance Use Disorders" means disorders related to the taking of a drug of abuse including alcohol; to the side effects of a medication; and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse; substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia; as well as substance induced psychotic disorder, mood disorder, etc., as defined in DSM criteria.

(17) "Treatment" means the specific medical and non-medical therapeutic techniques employed to assist the client in recovering from a substance use disorder.

(18) "Treatment Staff" means paid staff directly responsible for client care and treatment.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(3); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0005; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0015
Management of Detoxification Centers

Each Center is required to meet the following standards for management:

(1) Compliance with OAR 309-013-0120 through 309-013-0220, 309-013-0075 through 309-013-0105, and applicable sections of 309-014-0000 through 309-014-0040. In addition to items listed in 309-014-0030(3)(c), the Center's personnel policies shall include:

(a) The Center's philosophical approach to treatment;

(b) Rules of employee conduct, including ethical standards; and

(c) Standards for employee use and abuse of alcohol and other drugs.

(2) Compliance with the Civil Rights Act of 1964, as amended in 1972, Equal Pay Act of 1963, Age Discrimination in Employment Act of 1967, and any subsequent amendments.

(3) Implementation of a policy and procedure prohibiting client abuse which is consistent with OAR 407-045.

(4) Implementation of a policy and procedure for resolving employee performance problems, which shall specify the sequence of steps to be taken when performance problems arise, and identify the resources to be used in assisting employees to deal with problems which interfere with job performance.

(5) Maintenance of personnel records for each member of the Center's staff. The personnel record shall:

(a) Contain the employee's resume and/or employment application, wage and salary information, and the employee's formal performance appraisals;

(b) Contain documentation of training/development needs of the employee and identify specific methods for meeting those needs;

(c) Contain documentation of any formal corrective actions taken due to employee performance problems;

(d) Contain documentation of any actions of commendation taken for the employee; and

(e) Be maintained and utilized in such a way as to insure employee confidentiality. Records shall be retained for a period of three years following the departure of an employee.

(6) Implementation of personnel performance appraisal procedures that shall:

(a) Be based on pre-established performance criteria in terms of specific responsibilities of the position as stated in the job description;

(b) Be conducted at least annually;

(c) Require employees to review and discuss their performance appraisals with their supervisors, as evidenced by their signature on the appraisal document;

(d) Require that when the results of performance appraisal indicates there is a discrepancy between the actual performance of an employee and the criteria established for optimum job performance, the employee shall be informed of the specific deficiencies involved, in writing; and

(e) Require documentation that when deficiencies in employee performance have been found in an appraisal, a remedial plan is developed and implemented with the employee.

(7) Implementation of a development plan which addresses continuing training for staff members.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0015; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0025
Admission of Clients

Each Center shall meet the following standards pertaining to admission of clients:

(1) The Center shall have written criteria for admission and for rejecting admission requests. The criteria shall be available to clients, staff, and the community and be in compliance with ORS 430.397 through 430.401.

(2) The Center shall utilize a written intake procedure. The procedure shall include:

(a) A determination that the Center's services are appropriate to the needs of the client;

(b) Steps for making referrals of individuals not admitted to the Center;

(c) Steps for accepting referrals from outside agencies; and

(d) A specific time limit within which the initial client assessment shall be completed on each client.

(3) The Center shall make available, for clients and others, program orientation information. The orientation information shall include:

(a) The Center's philosophical approach to treatment;

(b) Information on clients' rights and responsibilities while receiving services from the Center;

(c) A written description of the Center's services; and

(d) Information on the rules governing client's behavior and those infractions, if any, that may result in discharge or other actions.

(4) In addition to the information required by the Division's data system, the following information shall be recorded in each client's record at the time of admission:

(a) Name, address, and telephone number;

(b) Who to contact in case of an emergency;

(c) Name of individual completing intake; and

(d) Identification of client's significant other, if any.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0025; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0035
Treatment Services

Each Center shall meet the following treatment standards:

(1) The Center shall provide individual or group motivational counseling sessions and client advocacy and case management services; all of which shall be documented in client files.

(2) The Center shall encourage clients to remain in treatment for an appropriate duration as determined by the treatment plan. Also, the Center shall encourage all clients to enter programs for ongoing recovery.

(3) The Center shall refer clients to Alcoholics Anonymous, Al-Anon, Alateen, or other self-help groups when clinically indicated and to the extent available in the community.

(4) Individuals fluent in the language and sensitive to the special needs of the population served shall be provided as necessary to assist in the delivery of services.

(5) The Center shall develop an individualized treatment plan for each client accepted for treatment. The treatment plan shall be appropriate to the length of stay and condition of the client. The treatment plan shall:

(a) Identify the problems from the client assessment and evaluation;

(b) Specify objectives for the treatment of each identified client problem;

(c) Specify the treatment methods and activities to be utilized to achieve the specific objectives desired and define the responsibilities of the client and treatment staff for each activity;

(d) Specify the necessary frequency of contact for the client services and activities;

(e) Specify the participation of significant others in the treatment planning process and the specified treatment where appropriate;

(f) Document the client's participation in developing the content of the treatment plan and any modifications by, at a minimum, including the client's signature; and

(g) Document any efforts to encourage the client to remain in the Center's treatment, and efforts to encourage the client to accept referral for ongoing treatment.

(6) The client record shall document the client's involvement in treatment activities and progress toward achieving objectives contained in the client's treatment plan. The documentation shall be kept current, dated, be legible, and signed by the individual making the entry.

(7) Treatment plans shall be reviewed by the Center's supervisor and the results of the review shall be documented in the client record.

(8) The program shall conduct and document in the client's record discharge planning for clients who complete treatment. The discharge plan shall include:

(a) Referrals made to other services or agencies at the time of discharge;

(b) The client's plan for follow-up, aftercare, or other post-treatment services; and

(c) Document participation by the client in the development of the discharge plan.

(9) At discharge a treatment summary and final evaluation of the client's progress toward treatment objectives shall be entered in the client's record.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0035; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0040
Medical Services

Each Center shall meet the following standards for medical services:

(1) The Center shall have written procedures for providing immediate transportation for clients to a general hospital in case of a medical emergency.

(2) The Center shall have a written description of its medical policies and procedures. The description shall:

(a) Specify the level of medical care provided; and

(b) Include a written policy and procedure, developed by a physician, for determining the client's need for medical evaluation.

(3) The physician's involvement in the development and review of medical operating procedures, quarterly reviews of physicians' standing orders, and consultation in any medical emergencies shall be documented.

(4) Individuals shall have access to ASAM Level III.7.D medically monitored services which provide intensive inpatient treatment services, as follows:

(a) Physicians shall be available 24 hours a day by telephone;

(b) An individual shall be seen by a physician within 24 hours of admission, or sooner if medically necessary;

(c) A physician shall be available to provide onsite monitoring of care and further evaluation on a daily basis;

(d) An RN or other qualified nursing specialist shall be present to administer an initial assessment;

(e) A nurse shall be responsible for overseeing the monitoring of the individuals' progress and medication administration on an hourly basis, if needed; and

(f) Appropriately licensed and credentialed staff shall be available to administer medications in accordance with physician orders.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0040; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0045
Management of Medications

Each Center shall have:

(1) A written order signed by a physician, a physician's standing order, or a physician's order received by phone and signed by the physician at the earliest opportunity before any medication is administered to, or self-administered by any client.

(2) Assurances that medications prescribed for one client shall not be administered to, or self-administered by another client or employee.

(3) A policy that no unused, outdated, or recalled drugs shall be kept in the Center. All unused, outdated, or recalled drugs shall be disposed of in a manner that assures that they cannot be retrieved, except that drugs under the control of the Food and Drug Administration shall be mailed with the appropriate forms by express, prepaid, or registered mail, every 30 days to the Oregon Board of Pharmacy. A written record of all disposals of drugs shall be maintained in the Center and shall include:

(a) A description of the drug, including the amount;

(b) The client for whom the medication was prescribed;

(c) The reason for disposal; and

(d) The method of disposal.

(4) A policy that all prescription drugs stored in the Center shall be kept in a locked stationary container. Only those medications requiring refrigeration shall be stored in a refrigerator.

(5) A policy that in the case where a client self-administers his or her own medication, self-administration shall be recommended by the Center, approved in writing by the physician, and closely monitored by the treatment staff.

(6) Individual records which shall be kept for each client for any prescription drugs administered to, or self-administered by any client. This written record shall include:

(a) Client's name;

(b) Prescribing physician's name;

(c) Description of medication, including prescribed dosage;

(d) Verification in writing by staff that the medication was taken and the times and dates administered, or self-administered;

(e) Method of administration;

(f) Any adverse reactions to the medication; and

(g) Continuing evaluation of the client's ability to self-administer the medication.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0045; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0050
Staffing Pattern

(1) Each Center shall be in staffing compliance with ASAM Patient Placement Criteria 2R as follows:

(a) Each Level III.2 Center shall be staffed by:

(A) Appropriately credentialed personnel who are trained and competent to implement physician-approved protocols for patient observation and supervision, determination of appropriate level of care, and facilitation of patient's transition to continuing care;

(B) Medical evaluation and consultation shall be available 24 hours a day, in accordance with treatment and transfer practice guidelines; and

(C) All clinicians who assess and treat patients shall be able to obtain and interpret information regarding the needs of these patients. Such knowledge includes the signs and symptoms of alcohol and other drug intoxication and withdrawal, as well as the appropriate treatment and monitoring of those conditions and how to facilitate entry into ongoing care.

(b) Each Level III.7.D Center shall be staffed by:

(A) Physicians who are available 24 hours a day by telephone, available to assess the patient within 24 hours of admission, or earlier, (if medically necessary), and available to provide on-site monitoring of care and further evaluation on a daily basis;

(B) A registered nurse or other licensed and credentialed nurse shall be available to conduct a nursing assessment upon admission and to oversee the monitoring of the patient's progress and medication administration on an hourly basis, if needed;

(C) Appropriately licensed and credentialed staff shall be available to administer medications in accordance with physician orders; and

(D) The level of nursing care shall be appropriate to the severity of patient needs.

(2) The Center shall maintain a minimum ratio of paid full-time staff to bed capacity as follows:

(a) 1 through 8 beds — 1 staff person on duty;

(b) 9 through 18 beds — 2 staff persons on duty;

(c) 19 through 30 beds — 3 staff persons on duty;

(d) 31 beds and above — One additional staff person beyond the three staff required above for each additional 15 beds or part thereof.

(3) The Center's written staffing plan shall address the provision of appropriate and adequate staff coverage during emergency and high demand situations.

(4) The Center shall provide a minimum of one hour per month of personal clinical supervision and consultation for each staff person and volunteer who is responsible for the delivery of treatment services. The clinical supervision shall relate to the individual's skill level with the objective of assisting staff and volunteers to increase their treatment skills and quality of services to clients.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0050; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0055
Management Staff Qualifications

Each Center shall be directed by a person with the following qualifications at the time of hire:

(1) For an individual recovering from the disease of alcoholism and/or from other drug addiction, continuous sobriety for the immediate past three years.

(2)(a) Five years of paid full-time experience in the field of substance abuse , with at least one year in a paid administrative capacity; or

(b) A Bachelor's degree in a relevant field and four years of paid full-time experience with at least one year in a paid administrative capacity; or

(c) A Master's degree in a relevant field and three years of paid full-time experience with at least one year in a paid administrative capacity.

(3) Knowledge and experience demonstrating competence in planning and budgeting, fiscal management, supervision, personnel management, employee performance assessment, data collection, and reporting.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0055; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0060
Staff Qualifications

Each Center shall have:

(1) An identified clinical supervisor who has the following qualifications at the time of hire:

(a) For an individual recovering from the disease of alcoholism, and/or from other drug addiction, continuous sobriety for the immediate past three years;

(b)(A) Five years of paid full-time experience in the field of substance abuse with a minimum of two years of direct substance abuse treatment experience; or

(B) A Bachelor's degree in a relevant field and four years of paid full-time experience, with a minimum of two years of direct substance abuse treatment experience; or

(C) A Master's degree in a relevant field and three years of paid full-time experience with a minimum of two years of direct substance abuse treatment experience.

(c) Knowledge and experience demonstrating competence in the treatment of the disease of substance abuse, including the management of

substancel withdrawal, client evaluation; motivational, individual, group, family and other counseling techniques; clinical supervision, including staff development, treatment planning and case management; and utilization of community resources including Alcoholics Anonymous, Al-Anon, and Alateen.

(2) If the Center's director meets the qualifications of the clinical supervisor, the director may be the Center's clinical supervisor.

(3) The Center's treatment staff shall:

(a) For individuals recovering from the disease of alcoholism and/or from other drug addiction, have maintained continuous sobriety for the immediate past two years at the time of hire;

(b) Have training knowledge and/or experience demonstrating competence in the treatment of the disease of substance abuse, including the management of substance withdrawal; client evaluation; motivational counseling techniques; and the taking and recording of vital signs;

(c) Within six weeks of employment, be currently certified or in process of certification in first aid methods including cardiopulmonary resuscitation.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0060; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0065
Use of Volunteers

Each Center utilizing volunteers shall have the following standards for volunteers:

(1) A written policy regarding the use of volunteers that shall include:

(a) Philosophy, goals, and objectives of the volunteer program;

(b) Specific responsibilities and tasks of volunteers;

(c) Procedures and criteria used in selecting volunteers, including sobriety requirements for individuals recovering from a substance use disorder;

(d) Terms of service of volunteers;

(e) Specific accountability and reporting requirements of volunteers;

(f) Specific procedure for reviewing the performance of volunteers and providing direct feedback to them; and

(g) Specific procedure for discontinuing a volunteer's participation in the program.

(2) There shall be documentation that volunteers complete an orientation and training program specific to their responsibilities before they participate in assignments. The orientation and training for volunteers shall:

(a) Include a thorough review of the Center's philosophical approach to treatment;

(b) Include information on confidentiality regulations and client's rights;

(c) Specify how volunteers are to respond to and follow procedures for unusual incidents;

(d) Explain the Center's channels of communication and reporting requirements and the accountability requirements for volunteers;

(e) Explain the procedure for reviewing the volunteer's performance and providing feedback to the volunteer; and

(f) Explain the procedure for discontinuing a volunteer's participation.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15-1983, f. 7-27-83, ef. 10-25-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0065; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0070
Building Requirements

Each Center shall provide facilities which shall:

(1) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes. Written evidence of compliance shall be maintained in the Center.

(2) Have floors, walls, and ceilings which meet the interior finish requirements of the Fire and Life Safety Code.

(3) Provide an adequately ventilated separate dining room or area for the exclusive use of clients, employees, and invited guests.

(4) Have a separate living room or lounge area for the exclusive use of Center clients, employees, and invited guests which shall provide a minimum of 15 square feet per client, and have adequate ventilation.

(5) Have sleeping areas that are separate from the dining, living, multi-purpose, laundry, kitchen, and storage areas; have an outside room with an openable window of at least the minimum required by the State Fire Marshal; have a ceiling height of at least seven feet six inches; provide a minimum of 60 square feet per client, with at least three feet between beds; provide permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room; and provide a curtain or window shade at each window to assure privacy.

(6) Have bathrooms conveniently located in each building containing a client bedroom and that provides a minimum of one toilet for each eight clients and one bathtub or shower for each ten clients; have one handwashing sink convenient to every room containing a toilet; provide permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room; have arrangements for individual privacy for clients; provide a privacy screen at each window; have a mirror; and have adequate ventilation.

(7) Have an adequate supply of hot and cold water, installed and maintained in compliance with current rules of the Health Division, which shall be distributed to taps conveniently located throughout the facility. All plumbing shall be in compliance with the State Plumbing Code.

(8) Have, if provided, laundry facilities separate from living areas including bedrooms, kitchen and dining areas, and areas used for the storage of unrefrigerated perishable foods.

(9) Have storage areas appropriate to the size of the Center. Separate storage areas shall be provided for food, kitchen supplies and utensils, clean linens and soiled linens and clothing, and cleaning compounds and equipment, poisons, chemicals, rodenticides, insecticides and other toxic materials which shall be properly labeled, stored in the original container, and kept in a locked storage area.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0070; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0075
Client Furnishings and Linens

Each Center shall provide furniture and linen for each client which shall include:

(1) A bed, including a frame, and a clean, comfortable mattress and pillow;

(2) A private dresser or similar storage area for personal belongings which is readily accessible to the resident;

(3) Access to a closet or similar storage area for clothing;

(4) Linens, including sheets, pillowcase, blankets appropriate in number and type for the season and the client's comfort, and towels and washcloth; and

(5) A locked area not readily accessible to clients for safe storage of such items as money and jewelry.

Stat. Auth.: ORS 413.042 & 430.256
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0075; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

415-050-0090
Food Service

Each Center shall provide food service that shall:

(1) Provide a nourishing, well-balanced diet for all clients.

(2) Provide modified or special diets as ordered by a physician.

(3) Assure at least three meals daily.

(4) Have menus that are prepared in advance which provide a sufficient variety of foods served in adequate amounts for each client at each meal, and adjusted for seasonal changes. Records of menus as served shall be filed and maintained in the facility's record for at least 30 days.

(5) Have supplies of staple foods for a minimum of one week, and of perishable foods for a minimum of two-day periods which shall be maintained on the premises.

(6) Provide food stored and served at proper temperatures.

(7) Not serve or store raw milk and home-canned vegetables, meats, and fish.

(8) Meet the requirements of the State of Oregon Sanitary Code for Eating and Drinking Establishments relating to the preparation, storage, and serving of food.

(9) Have all utensils, including dishes, glassware, and silverware, used in the serving or preparation of drink of food for clients effectively washed, rinsed, sanitized, and stored after each individual use to prevent contamination in accordance with Health Division standards.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.306 & 430.345 - 430.375
Hist.: MHD 15(Temp), f. 1-16-74, ef. 2-1-74; MHD 45, f. & ef. 7-20-77; MHD 15-1983, f. 7-27-83, ef. 10-25-83, Renumbered from 309-052-0000(6); ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-050-0090; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 3-2013(Temp), f. & cert. ef. 2-4-13 thru 8-2-13

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

Rule Caption: Temporary amendments to OAR 309-112 entitled "Use of Restraints in State Institutions".
Adm. Order No.: MHS 2-2013(Temp)
Filed with Sec. of State: 1-23-2013
Certified to be Effective: 1-23-13 thru 7-19-13
Notice Publication Date:
Rules Amended: 309-112-0000, 309-112-0005, 309-112-0010, 309-112-0015, 309-112-0017, 309-112-0020, 309-112-0025, 309-112-0030, 309-112-0035
Subject: These rules address the use of physical restraints in the treatment and behavior management of patients committed to state institutions operated by the Oregon Health Authority, Addictions and Mental Health Division.
Rules Coordinator: Nola Russell—(503) 945-7652

309-112-0000
Purpose and Statutory Authority

These rules prescribe policies and procedures concerning the use of restraint in the treatment and behavior management of patients committed to state institutions operated by the Division. In addition to these general rules, other more specific requirements established by federal regulations must be followed where applicable.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 426.385 & 427.031
Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 22-1982(Temp), f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13

309-112-0005
Definitions

(1) "Chief Medical Officer" means the physician designated by the superintendent of each state institution pursuant to ORS 179.360(1)(f) who is responsible for the administration of medical treatment at each state institution, or his or her designee.

(2) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(3) "Interdisciplinary Team (IDT)" means a group of professional and direct care staff which has primary responsibility for the development of a plan for the care, treatment, and training of an individual patient or resident.

(4) "Patient" means a person who is residing in a state institution.

(5) "Restraint" means one or more of the following procedures:

(a) "Lockdown" means locking all patients in state institutions for the mentally ill in their own rooms;

(b) "Personal Restraint" means a procedure in which a patient is placed in a prone or supine position or held in a chair by another person in order to restrict the physical movement of the patient or resident;

(c) "Physical Restraint" means a device which restricts the physical movement of a patient and which cannot be removed by the person and is not a normal article of clothing, a therapy device, or a simple safety device; or

(d) "Seclusion" means the placement of a patient alone in a locked room.

(6) "Restraint Review Committee" means the committee appointed by the superintendent of each state institution as provided in OAR 309-112-0030.

(7) "Security Area" means a cottage or unitin which a program is conducted for dangerous patients , including those judged guilty but not responsible, those court ordered into a secure program prior to trial, and those court committed patients not manageable in less secure programs.

(8) "Security Transportation" means using physical restraint while a patient is being transported outside a security area or being admitted to and receiving treatment at an outside care facility.

(9) "State Institution" means Oregon State Hospital, campuses, including the Blue Mountain Recovery Center.

(10) "Superintendent" means the executive head of any state institution, or that person's designee.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 426.385 & 427.031
Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 11-1982(Temp), f. & ef. 6-10-82; MHD 21-1982, f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHD 2-1986, f. & ef. 3-31-86; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13

309-112-0010
General Policies Concerning Use of Restraint

(1) State institutions shall not use restraint except as outlined in these rules and in the applicable federal regulations, No form of restraint shall be used as punishment, for the convenience of staff, or as a substitute for activities, treatment, or training.

(2) Under no circumstances may seclusion or lockdown be used in ICF/MR institutions.

(3) State institutions shall provide training in the appropriate use of restraint to all employees having direct care responsibilities.

(4) Medication will not be used as a restraint, but will be prescribed and administered according to acceptable medical, nursing, and pharmaceutical practices.

(5) Patients shall not be permitted to use restraint on other patients.

(6) Physical restraint must be used in accordance with sound medical practice to assure the least risk of physical injury and discomfort. Any patient placed in physical restraint shall be protected from self-injury and from injury by others.

(7) Checking a patient in restraint:

(a) A patient in restraint must be checked at least every 15 minutes;

(b) Attention shall be paid to the patient's basic personal needs (such as regular meals, personal hygiene, and sleep) as well as the person's need for good body alignment and circulation;

(c) Staff shall document that the patient was checked and appropriate attention paid to the person's needs.

(8) During waking hours the patient must be exercised for a period not less than 10 minutes during each two hours of physical restraint. Partial release of physical restraint shall be employed as necessary to permit motion and exercise without endangering other staff and patients.

(9) Unless the order authorizing use of restraint specifically provides otherwise, the patient shall be released as soon as it is reasonable to assume that the behavior causing use of restraint will not immediately resume if the person is released.

(10) These rules require staff of state institutions to apply the most appropriate form of restraint consistent with the patient's behavior requiring intervention, the need to protect the staff and other patients, the patient's treatment or training needs and preservation of the patient's sense of personal dignity and self-esteem. The determination of the most appropriate intervention requires consideration of the following factors:

(a) The individual patient involved, e.g., the present physical ability to engage in violent or destructive behavior, any preference the individual patient has for one method of behavior management versus another, and the individual's reaction to various methods of intervention;

(b) The risk or degree of physical or psychological harm and discomfort that accompany the various methods of intervention;

(c) The risk or degree of interference with the individual's ongoing treatment and other activities.

(11) A summary of all uses of restraint, other than personal restraint for 15 minutes or less, shall be sent to the chief medical officer at least monthly.

(12) The following types of procedures are part of ordinary and customary medical care for physical illnesses or conditions and are not subject to the provisions of these rules:

(a) Holding or restraining a patient during an examination, blood drawing, performance of a diagnostic test, or during treatment for an acute medical condition;

(b) Restricting movement with orthopedic devices such as casts, wheel chairs, braces, and positioning devices;

(c) Isolating a patient with a known or suspected infectious disease;

(d) Protecting seizure-prone and self-abusive patients by the use of protective gear.

(13) A patient, parent, guardian, or a duly authorized representative of the patient, parent, or guardian has the right to contest any application of these rules as provided in the state institution's grievance policies and procedures.

(14) Violation of the rights, policies, and procedures set forth in these rules by an employee of the Division constitutes cause for disciplinary action.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 426.385 & 427.031
Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 11-1982(Temp), f. & ef. 6-10-82; MHD 21-1982, f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHD 16-1985(Temp), f. & ef. 10-9-85; MHD 2-1986, f. & ef. 3-31-86; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13

309-112-0015
Use of Restraint in Emergencies

(1) Subject to the provisions of these rules, restraint may be used to manage the behavior of a patient in emergencies. An emergency exists, as determined by the chief medical officer or designee if, because of the behavior of a patient:

(a) There is a substantial likelihood of immediate physical harm to the patient or others in the institution; and

(b) There is a substantial likelihood of significant property damage; or

(c) The patient's behavior seriously disrupts the activities of other patients on the ward or cottage; and

(d) Measures other than the use of restraint are deemed ineffective to manage the behavior.

(2) When an emergency exists, the staff of a state institution shall select the most appropriate intervention consistent with OAR 309-112-0010(9);

(3) Whenever the interdisciplinary team (IDT) has reason to believe that in the course of a patient's care, custody, and treatment at a state institution it may become necessary to use restraint in an emergency, a member of the IDT shall, if practicable, ask the patient for an expression of preference or aversion to the various forms of intervention. A member of the IDT shall also ask the parent or guardian for an expression of preference regarding forms of intervention. The patient's expression, if any, as well as that of the parent or guardian shall be relayed to the other IDT members and recorded in the patient's chart;

(4) The patient's wishes for or against particular forms of intervention shall be respected by the person authorizing the use of restraint, provided that primary consideration shall be given to the need to protect the patient and others in the institution.

(5) Authorization:

(a) Except as provided in subsections (5)(d) and (e) of this rule, restraint shall be administered only pursuant to the order of the chief medical officer or the chief medical officer's designee.

(b) For the purposes of this section, the chief medical officer may designate one or more of the following persons: A physician licensed to practice medicine in the State of Oregon, a psychologist, or a qualified mental retardation professional.

(c) The chief medical officer or designee shall order the use of restraint only after adequately assessing the patient's condition and the environmental situation.

(d) If the chief medical officer or designee is not available immediately to assess the need for intervention, and an emergency exists as defined in section (1) of this rule:

(A) The person in charge of the ward or cottage at the time:

(i) May temporarily authorize the use of restraint for a period of time not to exceed 30 minutes; and

(ii) Shall contact the chief medical officer or designee at the earliest practical time.

(B) The chief medical officer or designee shall personally observe the patient as soon as practicable to assess the individual and assess the appropriateness of the temporary use of restraint. The observation shall be documented in the person's chart.

(e) Personal restraints may be administered for up to 15 minutes, without specific authorization, by one or more staff persons with specific training in the use of personal restraints. Use of personal restraints in excess of 15 minutes must be ordered by the chief medical officer or designee or as provided in subsection (3)(d) of this rule. The order may be verbal or written but shall be documented as provided in section (4) of this rule.

(4) Documentation:

(a) No later than the end of their work shifts, the persons who authorized and carried out the use of restraint shall document in the patient's chart including but not necessarily limited to:

(A) The specific behavior which required intervention;

(B) The method of intervention used and the patient's response to the intervention; and

(C) The reason this specific intervention was used.

(b) Within 24 hours after the incident resulting in the use of restraint, the chief medical officer or designee who ordered the intervention shall review and sign the documentation. In the case of patients detained in a psychiatric hospital pursuant to an emergency hold under ORS 426.180 through 426.225, the treating physician shall sign the documentation, if the treating physician is not the chief medical officer or designee who ordered the intervention.

(5) Time Limits: All orders authorizing use of restraint shall contain an expiration time, not to exceed 12 hours and consistent with OAR 309-112-0010(8). Upon personal re-examination of the patient, the chief medical officer or designee may extend the order for up to 12 hours at each review, provided that the behavior of the patient justifies extended intervention. After each 24 hours of continuous restraint, a second opinion from another designee of the chief medical officer shall be required for further extension of the restraint.

(6) Reporting: Under this rule all emergency uses of restraint in excess of 15 minutes shall be reported daily to the chief medical officer or designee.

(7) After the second use of emergency restraint on a particular patient during a one-month period, a treatment program designed to reduce the need for restraint must be developed.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 426.385 & 427.031
Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 22-1982(Temp), f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHD 2-1986, f. & ef. 3-31-86; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13

309-112-0017
Use of Restraint as Part of Planned Treatment Programs

Subject to the provisions of these rules, restraint may be used as part of planned treatment or training programs provided the informed consent of the patient is obtained or, if informed consent cannot be obtained, authorization to proceed with necessary treatment is obtained as provided in OAR 309-114-0000 through 309-114-0025.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 426.385 & 427.031
Hist.: MHD 11-1982(Temp), f. & ef. 6-10-82; MHD 21-1982, f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13

309-112-0020
Use of Lockdown and Security Transportation

(1) The chief medical officer or designee may authorize the use of a "lockdown" in a security area in a state institution for the mentally ill:

(a) In order to carry out a search of the security area;

(b) When insufficient staff are present to safely manage the security area; and

(c) When any condition develops which, in the opinion of the chief medical officer, requires lockdown to maintain safety in the security area or to protect the public.

(2) The chief medical officer or designee may authorize the use of secure transportation for patients of a secure program when outside the security area or being admitted to and receiving treatment at an outside care facility.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 426.385 & 427.031
Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 22-1982(Temp), f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13

309-112-0025
Use of Restraint for Acute Medical Conditions

(1) During medical treatment for acute physical conditions, personal and physical restraint may be used to prevent a patient from injuring himself or herself.

(2) Use of a restraint in the presence of a physician may be authorized verbally; ongoing or continuing use of personal or physical restraint must be ordered in writing by a physician.

(3) Treatment staff shall:

(a) Attend to the patient's basic personal needs and exercise needs in accordance with general medical practice; and

(b) To the extent practicable, accommodate the patient's mental disabilities treatment regimen.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 426.385 & 427.031
Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13

309-112-0030
Restraint Review Committee

(1) Each state institution shall have a Restraint Review Committee. The members of the committee shall be appointed by the superintendent of each institution and shall consist of five members; two from institution staff and three community persons who are knowledgeable in the field of mental health. A quorum shall consist of three members. The committee may be

one formed specifically for the purposes set forth in this rule, or the duties prescribed in this rule may be assigned to an existing committee.

(2) The purpose and duty of the Restraint Review Committee is to review and evaluate at least quarterly the appropriateness of all such interventions and report its findings to the superintendent.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 426.385 & 427.031
Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 12-1982, f. & ef. 6-10-82; MHD 22-1982(Temp), f. & ef. 9-24-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13

309-112-0035
Notice to Patients, Residents, and Employees

(1) Upon admission, state institutions shall inform patients verbally and in writing, of the rights, policies, and procedures set forth in these rules. In addition, a clear and simple statement of the title and number of these rules, their general purpose, and instructions on how to obtain a copy of the rules and how to seek advice about their content shall be prominently displayed in areas frequented by patients in all state institutions.

(2) All employees of state institutions shall be notified in writing at the commencement of their employment, or, for present employees, within a reasonable time of the effective date of these rules, of the rights, policies, and procedures set forth in these rules.

Stat. Auth.: ORS 179.040 & 413.042
Stats. Implemented: ORS 426.385 & 427.031
Hist.: MHD 1-1982(Temp), f. & ef. 1-14-82; MHD 7-1982, f. & ef. 3-29-82; MHD 1-1984, f. 1-20-84, ef. 2-1-84; MHS 2-2013(Temp), f. & cert. ef. 1-23-13 thru 7-19-13

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Rule Caption: Temporary amendments to OAR 309-032 entitled "Integrated Services and Supports", related to mental health services.
Adm. Order No.: MHS 3-2013(Temp)
Filed with Sec. of State: 2-11-2013
Certified to be Effective: 2-11-13 thru 8-9-13
Notice Publication Date:
Rules Amended: 309-032-1505, 309-032-1510, 309-032-1525, 309-032-1530, 309-032-1535, 309-032-1540
Subject: These rules prescribe minimum standards for the services and supports provided by addictions and mental health providers approved by the Addictions and Mental Health Division of the Oregon Health Authority. These rules:

(1) Promote recovery, resiliency, wellness, independence and safety for individuals receiving addictions and mental health services and supports;

(2) Specify standards for services and supports that are person-directed, youth guided, family-driven, culturally competent, trauma-informed and wellness-informed; and

(3) Promote functional and rehabilitative outcomes for individuals that are developmentally appropriate.
Rules Coordinator: Nola Russell—(503) 945-7652

309-032-1505
Definitions

(1) "Abuse of an adult" means the circumstances defined in OAR 407-045-0260 for abuse of an adult with mental illness.

(2) "Abuse of a child" means the circumstances defined in ORS 419B.005.

(3) "Addictions and Mental Health Services and Supports" means all services and supports that are regulated by this rule, including, but not limited to, Outpatient Community Mental Health Services and Supports for Children and Adults, ICTS for Children, ITS for Children, Outpatient and Residential Alcohol and Other Drug Treatment Services and Outpatient and Residential Problem Gambling Treatment Services.

(4) "Adolescent" means an individual from 12 through 17 years of age, or those individuals who are determined to be developmentally appropriate for youth services.

(5) "Adult" means a person 18 years of age or older, or an emancipated minor. An Individual with Medicaid eligibility, who is in need of services specific to children, adolescents, or young adults in transition, must be considered a child until age 21 for the purposes of these rules. Adults who are between the ages of 18 and 21, who are considered children for purposes of these rules, must have all rights afforded to adults as specified in these rules.

(6) "Alcohol and Other Drug Treatment and Recovery Services" means outpatient, intensive outpatient, and residential services and supports for individuals with substance use disorders.

(7) "Alcohol and Other Drug Treatment Staff" means a person certified or licensed by a health or allied provider agency to provide alcohol and other drug treatment services that include assessment, development of an Individual Service and Support Plan (ISSP), and individual, group and family counseling.

(a) For treatment staff holding certification in addiction counseling, qualifications for the certificate must have included at least:

(A) 750 hours of supervised experience in substance use counseling;

(B) 150 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For treatment staff holding a health or allied provider license, the license or registration must have been issued by one of the following state bodies and the person must possess documentation of at least 60 contact hours of academic or continuing professional education in alcohol and other drug treatment:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(8) "Assessment" means the process of obtaining sufficient biopsychosocial information, through a face-to-face interview to determine a diagnosis and to plan individualized services and supports.

(9) "ASAM PPC-2R" means the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-related Disorders, Second Edition Revised, April 2001, which is a clinical guide used in matching individuals to appropriate levels of care, and incorporated by reference in these rules.

(10) "Authority" means the Oregon Health Authority.

(11) "Behavior Support Plan" means the individualized proactive support strategies, consistent with OAR 309-032-1540(8), documented in the ISSP that are used by the provider and family when applicable, to support positive behavior.

(12) "Behavior Support Strategies" means proactive supports designed to replace challenging behavior with functional, positive behavior. The strategies address environmental, social, neurodevelopmental and physical factors that affect behavior.

(13) "Biopsychosocial Information" means the relevant physical, psychological, social, environmental and cultural factors that inform the individual's diadnosis.

(14) "Care Coordination" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs. Care coordination includes facilitating communication between the family, natural supports, community resources, and involved providers and agencies; organizing, facilitating and participating in team meetings; and providing for continuity of care by creating linkages to and managing transitions between levels of care and transitions for transition-age young adults to adult services.

(15) "Case Management" means the services provided to assist individuals, who reside in a community setting, or are transitioning to a community setting, in gaining access to needed medical, social, educational, entitlement and other applicable services.

(16) "Chemical Restraint" means the administration of medication for the acute management of potentially harmful behavior. Chemical restraint is prohibited in the services regulated by these rules.

(17) "Child" means a person under the age of 18. An individual with Medicaid eligibility, who is in need of services specific to children, adolescents, or young adults in transition, must be considered a child until age 21 for purposes of these rules.

(18) "Child and Family Team" means those persons who are responsible for creating, implementing, reviewing, and revising the service coordination section of the ISSP in ICTS programs. At a minimum, the team must be comprised of the family, care coordinator, and child when appropriate. The team should also include any involved child-serving providers and agencies and any other natural, formal, and informal supports as identified by the family.

(19) "Children's Emergency Safety Intervention Specialist (CESIS)" means a Qualified Mental Health Professional (QMHP) who is licensed to order, monitor, and evaluate the use of seclusion and restraint in accredited

and certified facilities providing intensive mental health treatment services to individuals under 21 years of age.

(20) "Clinical Supervision" means oversight by a qualified Clinical Supervisor of addictions and mental health services and supports provided according to this rule, including ongoing evaluation and improvement of the effectiveness of those services and supports.

(21) "Clinical Supervisor" means a person qualified to oversee and evaluate addictions or mental health services and supports.

(a) For supervisors in alcohol and other drug treatment programs, holding a certification or license in addiction counseling, qualifications for the certificate or license must have included at least:

(A) 4000 hours of supervised experience in substance use counseling;

(B) 300 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For supervisors, in alcohol and other drug treatment programs, holding a health or allied provider license, such license or registration must have been issued by one of the following state bodies and the supervisor must possess documentation of at least 120 contact hours of academic or continuing professional education in the treatment of alcohol and other drug-related disorders:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(22) "Co-occurring substance use and mental health disorders (COD)" means the existence of a diagnosis of both a substance use disorder and a mental health disorder.

(23) "Community Mental Health Program (CMHP)" means an entity that is responsible for planning and delivery of services for persons with substance use disorders or a mental health diagnosis, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(24) "Conditional Release" means placement by a court or the Psychiatric Security Review Board (PSRB), of a person who has been found eligible under ORS 161.327(2)(b) or 161.336, for supervision and treatment in a community setting.

(25) "Court" means the last convicting or ruling court unless specifically noted.

(26) "Criminal Records Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 407-007-0000 through 407-007-0370.

(27) "Crisis" means either an actual or perceived urgent or emergent situation that occurs when an individual's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent a serious deterioration in the individual's mental or physical health or to prevent referral to a significantly higher level of care.

(28) "Cultural Competence" means the process by which people and systems respond respectfully and effectively to people of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, sexual orientations and other diversity factors in a manner that recognizes, affirms, and values the worth of individuals, families and communities and protects and preserves the dignity of each.

(29) "Culturally Specific Program" means a program that is designed to meet the unique service needs of a specific culture and that provides services to a majority of individuals representing that culture.

(30) "Declaration for Mental Health Treatment" means a written statement of an individual's preferences concerning his or her mental health treatment. The declaration is made when the individual is able to understand and legally make decisions related to such treatment. It is honored, as clinically appropriate, in the event the individual becomes unable to make such decisions.

(31) "Deputy Director" means the Deputy Director of the Addictions and Mental Health Division, or that person's designee.

(32) "Developmentally Appropriate" means services and supports that match emotional, social and cognitive development rather than chronological age.

(33) "Diagnosis" means the principal mental health, substance use or problem gambling diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM). The diagnosis is determined through the assessment and any examinations, tests, or consultations suggested by the assessment, and is the medically appropriate reason for services.

(34) "Director" means the Director of the Addictions and Mental Health Division, or that person's designee.

(35) "Division" means the Addictions and Mental Health Division.

(36) "DSM" means the Diagnostic and Statistical Manual of Mental Disorders-IV-R, published by the American Psychiatric Association.

(37) "DSM Five-axis Diagnosis" means the multi-axial diagnosis, consistent with the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM), resulting from the assessment.

(38) "Driving Under the Influence of Intoxicants (DUII) Alcohol and Other Drug Rehabilitation Program" means a program of treatment and therapeutically oriented education services for an individual who is either:

(a) A violator of ORS 813.010 Driving Under the Influence of Intoxicants; or

(b) A defendant who is participating in a diversion agreement under ORS 813.200.

(39) "Emergency Safety Intervention" means the use of seclusion or personal restraint under OAR 309-032-1540(9) of these rules, as an immediate response to an unanticipated threat of violence or injury to an individual, or others.

(40) "Emergent" means the onset of symptoms requiring attention within 24 hours to prevent serious deterioration in mental or physical health or threat to safety.

(41) "Enhanced Care Services (ECS)" and "Enhanced Care Outreach Services (ECOS)" means mental health services and supports provided to individuals residing in licensed Seniors and People with Disabilities (SPD) facilities.

(42) "Entry" means the act or process of acceptance and enrollment into services regulated by this rule.

(43) "Evaluation Specialist" means a person who possesses valid certification issued by the Division to conduct DUII evaluations.

(44) "Family" means the biological or legal parents, siblings, other relatives, foster parents, legal guardians, spouse, domestic partner, caregivers and other primary relations to the individual whether by blood, adoption, legal or social relationships. Family also means any natural, formal or informal support persons identified as important by the individual.

(45) "Family Support" means the provision of supportive services to persons defined as family to the individual. It includes support to caregivers at community meetings, assistance to families in system navigation and managing multiple appointments, supportive home visits, peer support, parent mentoring and coaching, advocacy, and furthering efforts to develop natural and informal community supports.

(46) "Fully Capitated Health Plan (FCHP)" means a prepaid health plan under contract with the Division of Medical Assistance Programs to provide capitated physical or behavioral health services.

(47) "Gender Identity" means a person's self-identification of gender, without regard to legal or biological identification, including, but not limited to persons identifying themselves as male, female, transgender and transsexual.

(48) "Gender Presentation" means the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, mannerisms, speech patterns and social interactions.

(49) "Grievance" means a formal complaint submitted to a provider verbally, or in writing, by an individual, or the individual's chosen representative, pertaining to the denial or delivery of services and supports.

(50) "Guardian" means a person appointed by a court of law to act as guardian of a minor or a legally incapacitated person.

(51) "HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996 and the regulations published in Title 45, parts 160 and 164, of the Code of Federal Regulations (CFR).

(52) "Incident Report" means a written description of any incident involving an individual, occurring on the premises of a program, or involving program staff or an ISSP activity, including, but not limited to, injury, major illness, accident, act of physical aggression, medication error, suspected abuse or neglect, or any other unusual incident that presents a risk to health and safety.

(53) "Individual" means any person being considered for or receiving services and supports regulated by these rules.

(54) "Individual Service and Support Plan" (ISSP) means a comprehensive plan for services and supports provided to or coordinated for an individual and his or her family, as applicable, that is reflective of the assessment and the intended outcomes of service.

(55) "Individual Service Note" means the written record of services and supports provided, including documentation of progress toward intended outcomes, consistent with the timelines stated in the ISSP.

(56) "Individual Service Record" means the documentation, written or electronic, regarding an individual and resulting from entry, assessment, orientation, service and support planning, services and supports provided, and transfer.

(57) "Informed Consent for Services" means that the service options, risks and benefits have been explained to the individual and guardian, if applicable, in a manner that they comprehend, and the individual and guardian, if applicable, have consented to the services on, or prior to, the first date of service.

(58) "Intensive Outpatient Alcohol and Other Drug Treatment Services" means structured nonresidential evaluation, treatment, and continued care services for individuals with substance use disorders who need a greater number of therapeutic contacts per week than are provided by traditional outpatient services. Intensive outpatient services may include, but are not limited to, day treatment, correctional day treatment, evening treatment, and partial hospitalization.

(59) "Intensive Community-based Treatment and Support Services (ICTS)" means a specialized set of comprehensive in-home and community-based supports and mental health treatment services, including care coordination as defined in these rules, for children that are developed by the child and family team and delivered in the most integrated setting in the community.

(60) "Intensive Treatment Services (ITS)" means the range of services in the system of care comprised of Psychiatric Residential Treatment Facilities (PRTF) and Psychiatric Day Treatment Services (PDTS), or other services as determined by the Division, that provide active psychiatric treatment for children with severe emotional disorders and their families.

(61) "Interim Referral and Information Services" means services provided by an alcohol and other drug treatment provider to individuals on a waiting list, and whose services are funded by the Substance Abuse Prevention and Treatment (SAPT) Block Grant, to reduce the adverse health effects of alcohol and other drug use, promote the health of the individual and reduce the risk of disease transmission.

(62) "Interdisciplinary Team" means the group of people designated to advise in the planning and provision of services and supports to individuals receiving ITS services or ECS services and may include multiple disciplines or agencies. For Psychiatric Residential Treatment Facilities (PRTF), the composition of the interdisciplinary team must be consistent with the requirements of 42 CFR Part 441.156.

(63) "Intern" or "Student" means a person who provides a paid or unpaid program service to complete a credentialed or accredited educational program recognized by the state of Oregon.

(64) "Juvenile Psychiatric Security Review Board (JPSRB)" means the entity described in ORS 161.385.

(65) "Level of Care" means the range of available services provided from the most integrated setting to the most restrictive and most intensive in an inpatient setting.

(66) "Level of Service Intensity Determination." means the Division approved process by which children and young adults in transition are assessed for ITS and ICTS services.

(67) "Licensed Health Care Professional" means a practitioner of the healing arts, acting within the scope of his or her practice under State law, who is licensed by a recognized governing board in Oregon.

(68) "Licensed Medical Practitioner (LMP)" means a person who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Physician licensed to practice in the State of Oregon; or

(b) Nurse practitioner licensed to practice in the State of Oregon; or

(c) Physician's Assistant licensed to practice in the State of Oregon; and

(d) Whose training, experience and competence demonstrate the ability to conduct a mental health assessment and provide medication management.

(e) For ICTS and ITS providers, LMP means a board-certified or board-eligible child and adolescent psychiatrist licensed to practice in the State of Oregon.

(69) "Local Mental Health Authority (LMHA)" means one of the following entities:

(a) The board of county commissioners of one or more counties that establishes or operates a CMHP;

(b) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(c) A regional local mental health authority comprised of two or more boards of county commissioners.

(70) "Mandatory Reporter" means any public or private official, as defined in ORS 419B.005(3), who comes in contact with or has reasonable cause to believe that an individual has suffered abuse, or that any person with whom the official comes in contact with, has abused the individual. Pursuant to 430.765(2) psychiatrists, psychologists, clergy and attorneys are not mandatory reporters with regard to information received through communications that are privileged under 40.225 to 40.295.

(71) "Mechanical Restraint" means the use of any physical device to involuntarily restrain the movement of all or a portion of an individual's body as a means of controlling his or her physical activities in order to protect the individual or other persons from injury. Mechanical restraint is prohibited in the services regulated by these rules.

(72) "Medicaid" means the federal grant-in-aid program to state governments to provide medical assistance to eligible persons, under Title XIX of the Social Security Act.

(73) "Medical Director" means a physician licensed to practice medicine in the State of Oregon and who is designated by an alcohol and other drug treatment program to be responsible for the program's medical services, either as an employee or through a contract.

(74) "Medical Supervision" means an LMP's review and approval, at least annually, of the assessment and the medical appropriateness of services and supports identified in the ISSP for each individual receiving mental health services for one or more continuous years.

(75) "Medically Appropriate" means services and medical supplies required for prevention, diagnosis or treatment of a physical or mental health condition, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an individual or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to an individual.

(76) "Medication Administration Record" means the documentation of the administration of written or verbal orders for medication, laboratory and other medical procedures issued by a LMP employed by, or under contract with, the provider and acting within the scope of his or her license.

(77) "Mental Health Organization (MHO)" means an approved organization that manages most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs can be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(78) "Older Adult" means an individual who is 60 years of age or older.

(79) "Older Adult Services" means age-appropriate services designed for older adults and provided by professionals trained in geriatrics. The services are preventative and include primary prevention efforts including suicide prevention, early identification services, early intervention services and comprehensive local planning for older adult mental health services.

(80) "Oregon Health Authority" means the Oregon Health Authority of the State of Oregon.

(81) "Outpatient Alcohol and Other Drug Treatment Program" means a publicly or privately operated program that provides assessment, treatment, and rehabilitation on a regularly scheduled basis or in response to crisis for individuals with alcohol or other drug use disorders and their family members, or significant others, consistent with Level I or Level II of the ASAM PPC-2R.

(82) "Outpatient Community Mental Health Services and Supports" means all outpatient mental health services and supports provided to children, youth and adults.

(83) "Outpatient Problem Gambling Treatment Services" means all outpatient treatment services and supports provided to individuals with gambling related problems and their families.

(84) "Outreach" means the delivery of addictions, problem gambling or mental health services, referral services and case management services in non-traditional settings, such as, but not limited to, the individual's residence, shelters, streets, jails, transitional housing sites, drop-in centers, single room occupancy hotels, child welfare settings, educational settings or medical settings. It also refers to attempts made to engage or re-engage an individual in services by such means as letters or telephone calls.

(85) "Peer" means any person supporting an individual, or a family member of an individual, who has similar life experience, either as a current or former recipient of addictions or mental health services, or as a fam-

ily member of an individual who is a current or former recipient of addictions or mental health services.

(86) "Peer Delivered Services" means an array of agency or community-based services and supports provided by peers, and peer support specialists, to individuals or family members with similar lived experience, that are designed to support the needs of individuals and families as applicable.

(87) "Peer Support Specialist" means a person providing peer delivered services to an individual or family member with similar life experience, under the supervision of a qualified Clinical Supervisor. A Peer Support Specialist must complete a Division approved training program and be:

(a) A self-identified person currently or formerly receiving mental health services; or

(b) A self-identified person in recovery from a substance use or gambling disorder, who meets the abstinence requirements for recovering staff in alcohol and other drug or gambling treatment programs; or

(c) A family member of an individual who is a current or former recipient of addictions or mental health services.

(88) "Performance Improvement Plan" means a plan that describes the provider's quality assessment and performance improvement strategies and measurements.

(89) "Person-directed" means the individual, and others involved in supporting the treatment and recovery of the individual, are actively involved in assessment, planning and revising services and supports and intended outcomes. Individuals are empowered through this process to regain their health, safety and independence to the greatest extent possible and in a manner that is holistic and specific to the individual, including culturally, developmentally, age and gender appropriate.

(90) "Personal Restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of an individual's body to protect the individual, or others, from immediate harm. Personal restraint does not include briefly holding without undue force an individual to calm or comfort him or her, or holding an individual's hand to safely escort him or her from one area to another. Personal restraint can be used only in approved ITS programs as an emergency safety intervention under OAR 309-032-1540(9).

(91) "Problem Gambling Treatment Staff" means a person certified or licensed by a health or allied provider agency to provide problem gambling treatment services that include assessment, development of an Individual Service and Support Plan (ISSP), and an individual, group and family counseling.

(a) For treatment staff holding certification in problem gambling counseling, qualifications for the certificate must have included at least:

(A) 100 hours of supervised experience in problem gambling counseling;

(B) 30 contact hours of education and training in problem gambling related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For treatment staff holding a health or allied provider license, the license or registration must have been issued by one of the following state bodies and the person must possess documentation of at least 60 contact hours of academic or continuing professional education in problem gambling treatment:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(92) "Program" means a particular type or level of service that is organizationally distinct.

(93) "Program Administrator" or "Program Director" means a person with appropriate professional qualifications and experience, who is designated to manage the operation of a program.

(94) "Program Staff" means an employee or person who, by contract with the program, provides a service and who has the applicable competencies, qualifications or certification, required in this rule to provide the service.

(95) "Provider" means an organizational entity, or qualified person, that is operated by or contractually affiliated with, a community mental health program, or contracted directly with the Division, for the direct delivery of addictions, problem gambling or mental health services and supports.

(96) "Psychiatric Day Treatment Services (PDTS)" means the comprehensive, interdisciplinary, non-residential, community-based program certified under this rule consisting of psychiatric treatment, family treatment and therapeutic activities integrated with an accredited education program.

(97) "Psychiatric Residential Treatment Facility (PRTF)" means facilities that are structured residential treatment environments with daily 24-hour supervision and active psychiatric treatment including Psychiatric Residential Treatment Services (PRTS), Secure Children's Inpatient Treatment Programs (SCIP), Secure Adolescent Inpatient Treatment Programs (SAIP), and Sub-acute psychiatric treatment for children who require active treatment for a diagnosed mental health condition in a 24-hour residential setting.

(98) "Psychiatric Residential Treatment Services (PRTS)" means services delivered in a PRTF that include 24-hour supervision for children who have serious psychiatric, emotional or acute mental health conditions that require intensive therapeutic counseling and activity and intensive staff supervision, support and assistance.

(99) "Psychiatric Security Review Board (PSRB)" means the entity described in ORS 161.295 through 161.400.

(100) "Psychiatrist" means a physician licensed pursuant to ORS 677.010 to 677.228 and 677.410 to 677.450 by the Board of Medical Examiners for the State of Oregon and who has completed an approved residency training program in psychiatry.

(101) "Psychologist" means a psychologist licensed by the Oregon Board of Psychologist Examiners.

(102) "Qualified Mental Health Associate (QMHA)" means a person delivering services under the direct supervision of a QMHP and meeting the following minimum qualifications as authorized by the LMHA or designee:

(a) Bachelor's degree in a behavioral sciences field; or

(b) A combination of at least three years relevant work, education, training or experience.

(103) "Qualified Mental Health Professional (QMHP)" means a LMP or any other person meeting one or more of the following minimum qualifications as authorized by the LMHA or designee:

(a) Bachelor's degree in nursing and licensed by the State of Oregon;

(b) Bachelor's degree in occupational therapy and licensed by the State of Oregon;

(c) Graduate degree in psychology;

(d) Graduate degree in social work;

(e) Graduate degree in recreational, art, or music therapy; or

(f) Graduate degree in a behavioral science field.

(104) "Qualified Person" means a person who is a QMHP, or a QMHA, and is identified by the PSRB in its Conditional Release Order. This person is designated by the provider to deliver or arrange and monitor the provision of the reports and services required by the Conditional Release Order.

(105) "Quality Assessment and Performance Improvement" means the structured, internal monitoring and evaluation of services to improve processes, service delivery and service outcomes.

(106) "Recovery" means a process of healing and transformation for a person to achieve full human potential and personhood in leading a meaningful life in communities of his or her choice.

(107) "Representative" means a person who acts on behalf of an individual, at the individual's request, with respect to a grievance, including, but not limited to a relative, friend, employee of the Division, attorney or legal guardian.

(108) "Reportable Incident" means a serious incident involving an individual in an ITS program that must be reported in writing to the Division within 24 hours of the incident, including, but not limited to, serious injury or illness, act of physical aggression that results in injury, suspected abuse or neglect, involvement of law enforcement or emergency services, or any other serious incident that presents a risk to health and safety.

(109) "Residential Alcohol and Other Drug Treatment Program" means a publicly or privately operated program as defined in ORS 430.010 that provides assessment, treatment, rehabilitation, and twenty-four hour observation and monitoring for individuals with alcohol and other drug dependence, consistent with Level III of ASAM PCC-2R.

(110) "Residential Problem Gambling Treatment Program" means a publicly or privately operated program that is licensed in accordance with OAR 309-032-1540(11), that provides assessment, treatment, rehabilitation, and twenty-four hour observation and monitoring for individuals with gambling related problems.

(111) "Residential Transition Program" means an Alcohol and Other Drug residential program that provides a drug-free supportive living environment and provides clinical services consistent with Level III of the ASAM PPC-2R.

(112) "Resilience" means the universal capacity that a person uses to prevent, minimize, or overcome the effects of adversity. Resilience reflects a person's strengths as protective factors and assets for positive development.

(113) "Respite care" means planned and emergency supports designed to provide temporary relief from care giving to maintain a stable and safe living environment. Respite care can be provided in or out of the home. Respite care includes supervision and behavior support consistent with the strategies specified in the ISSP.

(114) "Screening" means the process to determine whether the individual needs further assessment to identify circumstances requiring referrals or additional services and supports.

(115) "Seclusion" means the involuntary confinement of an individual to an area or room from which the individual is physically prevented from leaving. Seclusion can be used only in approved ITS programs as an emergency safety intervention specified in OAR 309-032-1540(9).

(116) "Secure Children's Inpatient Programs (SCIP) and Secure Adolescent Inpatient Programs (SAIP)" means ITS programs that are designed to provide inpatient psychiatric stabilization and treatment services to children up to age 14 for SCIP services and individuals under the age of 21 for SAIP services, who require a secure intensive treatment setting.

(117) "Services" means those activities and treatments described in the ISSP that are intended to assist the individual's transition to recovery from a substance use disorder, problem gambling disorder or mental health condition, and to promote resiliency, and rehabilitative and functional individual and family outcomes.

(118) "Signature" means any written or electronic means of entering the name, date of authentication and credentials of the person providing a specific service or the person authorizing services and supports. Signature also means any written or electronic means of entering the name and date of authentication of the individual receiving services, the guardian of the individual receiving services, or any authorized representative of the individual receiving services.

(119) "Skills Training" means providing information and training to individuals and families designed to assist with the development of skills in areas including, but not limited to, anger management, stress reduction, conflict resolution, self-esteem, parent-child interactions, peer relations, drug and alcohol awareness, behavior support, symptom management, accessing community services and daily living.

(120) Sub-Acute Psychiatric Care" means services that are provided by nationally accredited providers to children who need 24-hour intensive mental health services and supports, provided in a secure setting to assess, evaluate, stabilize or resolve the symptoms of an acute episode that occurred as the result of a diagnosed mental health condition.

(121) "Substance Abuse Prevention and Treatment Block Grant" or "SAPT Block Grant" means the federal block grants for prevention and treatment of substance abuse under Public Law 102-321 (31 U.S.C. 7301-7305) and the regulations published in Title 45 Part 96 of the Code of Federal Regulations.

(122) "Substance Use Disorders" means disorders related to the taking of a drug of abuse including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse, and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorder, mood disorder, etc, as defined in DSM criteria.

(123) "Successful DUII Completion" means that the DUII program has documented in its records that for the period of service deemed necessary by the program, the individual has:

(a) Met the completion criteria approved by the Division; and

(b) Met the terms of the fee agreement between the provider and the individual.

(124) "Supports" means activities, referrals and supportive relationships designed to enhance the services delivered to individuals and families for the purpose of facilitating progress toward intended outcomes.

(125) "Systems Integration" means the efforts by providers to work collaboratively with other service systems including, but not limited to, schools, corrections, child welfare and physical health providers, in order to coordinate and enhance services and supports and reduce barriers to service delivery.

(126) "Time out" means the restriction of a child for a period of time to a designated area from which he or she is not physically prevented from leaving, for the purpose of providing him or her an opportunity to regain self-control. When time out is documented as a behavior support strategy in the ISSP, it must be tracked for effectiveness in increasing positive behavior.

(127) "Transfer" means the process of assisting an individual to transition from the current services to the next appropriate setting or level of care.

(128) "Trauma Informed Services" means services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and addictions services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

(129) "Treatment" means the planned, medically appropriate, individualized program of medical, psychological, and rehabilitative procedures, experiences and activities designed to remediate symptoms of a DSM diagnosis, that are included in the ISSP.

(130) "Urinalysis Test" means an initial test and, if positive, a confirmatory test:

(a) An initial test must include, at a minimum, a sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration.

(b) A confirmatory test is a second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen. The confirmatory test must be by a different analytical method from that of the initial test to ensure reliability and accuracy.

(c) All urinalysis tests must be performed by laboratories meeting the requirements of OAR 333-024-0305 to 333-024-0365.

(131) "Urgent" means the onset of symptoms requiring attention within 48 hours to prevent a serious deterioration in an individual's mental or physical health or threat to safety.

(132) "Variance" means an exception from a provision of these rules, granted in writing by the Division, upon written application from the provider. Duration of a variance is determined on a case-by-case basis.

(133) "Volunteer" means an individual who provides a program service or who takes part in a program service and who is not an employee of the program and is not paid for services. The services must be non-clinical unless the individual has the required credentials to provide a clinical service.

(134) "Wellness" means an approach to healthcare that emphasizes good physical and mental health, preventing illness, and prolonging life.

(135) "Young Adult in Transition" means an individual who is developmentally transitioning into independence, sometime between the ages of 14 and 25.

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

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

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12; MHS 3-2013(Temp), f. & cert. ef. 2-11-13 thru 8-9-13

309-032-1510
Provider Policies

(1) Personnel Policies: All providers must develop and implement written personnel policies and procedures, compliant with these rules, including:

(a) Personnel Qualifications and Credentialing;

(b) Mandatory abuse reporting, compliant with ORS 430.735-430.768 and 407-045-0250 through 407-045-0360;

(c) Criminal Records Checks, compliant with ORS 181.533 through 181.575 and 407-007-0000 through 407-007-0370; and

(d) Fraud, waste and abuse in Federal Medicaid and Medicare programs compliant with OAR 410-120-1380 and 410-120-1510.

(2) Service Delivery Policies: All providers must develop and implement written policies and procedures, consistent with these rules, describing the provider's approach to services and supports and the procedures for the delivery of services and supports.

(a) Policies must be available to individuals and family members upon request; and

(b) Service delivery policies and procedures must include, at a minimum:

(A) Fee agreements;

(B) Confidentiality and compliance with HIPAA, Federal Confidentiality Regulations (42 CFR, Part 2), and State confidentiality regulations as specified in ORS 179.505 and 192.518 through 192.530;

(C) Compliance with Title 2 of the Americans with Disabilities Act of 1990 (ADA);

(D) Grievances and Appeals;

(E) Individual Rights;

(F) Quality Assessment and Performance Improvement; and

(G) Crisis Prevention and Response, and Incident Reporting;

(3) Residential Program Policies: In addition to the personnel and service delivery policies required of all providers, residential program providers must develop and implement written policies and procedures for the following:

(a) Medical Protocols and Medical Emergencies;

(b) Medication Administration, Storage and Disposal;

(c) Facility standards for Alcohol and Other Drug Residential Treatment Programs, including the standards under these rules;

(d) General Safety and Emergency Procedures; and

(e) Emergency Safety Interventions in ITS Programs.

(f) Alcohol and Other Drug Residential Treatment programs must establish written policies that prohibit:

(A) Physical or other forms of aversive action to discipline an individual;

(B) Seclusion, personal restraint, mechanical restraint and chemical restraint;

(C) Withholding shelter, regular meals, clothing or aids to physical functioning; and

(D) Discipline of one individual by another.

(4) Behavior Support Policies: Applicable providers, as specified below, must develop behavior support policies including:

(a) ITS and ICTS Services: policies consistent with 309-032-1540 (8) of these rules.

(b) ECS Services: policies consistent with 309-032-1540 (8) of these rules.

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

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

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12; MHS 3-2013(Temp), f. & cert. ef. 2-11-13 thru 8-9-13

309-032-1525
Entry and Assessment

(1) Entry Process: The program must utilize a written entry procedure to ensure the following:

(a) Individuals must be considered for entry without regard to race, ethnicity, gender, gender identity, gender presentation, sexual orientation, religion, creed, national origin, age, except when program eligibility is restricted to children, adults or older adults, familial status, marital status, source of income, and disability.

(b) Individuals must receive services in the most timely manner feasible consistent with the presenting circumstances.

(c) For individuals receiving services funded by the SAPT Block Grant, entry of pregnant women to services must occur no later than 48 hours from the date of first contact, and no less than 14 days after the date of first contact for individuals using substances intravenously. If services are not available within the required timeframe, the provider must document the reason and provide interim referral and informational services as defined in these rules, within 48 hours.

(d) Written informed consent for services must be obtained from the individual or guardian, if applicable, prior to the start of services. If such consent is not obtained, the reason must be documented and further attempts to obtain informed consent must be made as appropriate.

(e) The provider must establish an Individual Service Record for each individual on the date of entry.

(f) The provider must report the entry of all individuals on the mandated state data system.

(g) In accordance with ORS 179.505 and HIPAA, an authorization for the release of information must be obtained for any confidential information concerning the individual being considered for, or receiving, services.

(h) Orientation: At the time of entry, the program must offer to the individual and guardian if applicable, written program orientation information. The written information must be in a language understood by the individual and must include:

(A) A description of individual rights consistent with these rules; and

(B) Policies concerning grievances and confidentiality.

(2) Entry Priority:

(a) Entry of adults and older adults, in community-based mental health programs, whose services are not funded by Medicaid, must be prioritized in the following order:

(A) Individuals who, in accordance with the assessment of professionals in the field of mental health, are at immediate risk of hospitalization for the treatment of mental health conditions or are in need of continuing services to avoid hospitalization or pose a hazard to the health and safety of themselves, including the potential for suicide;

(B) Individuals who, because of the nature of their diagnosis, their geographic location or their family income, are least capable of obtaining assistance from the private sector; and

(C) Individuals who, in accordance with the assessment of professionals in the field of mental health, are experiencing mental health conditions but will not require hospitalization in the foreseeable future.

(b) Entry of children in community-based mental health services, whose services are not funded by Medicaid, must be prioritized in the following order:

(A) Children who are at immediate risk of psychiatric hospitalization or removal from home due to emotional and mental health conditions;

(B) Children who have severe mental health conditions;

(C) Children who exhibit behavior which indicates high risk of developing conditions of a severe or persistent nature; and

(D) Any other child who is experiencing mental health conditions which significantly affect the child's ability to function in everyday life but not requiring hospitalization or removal from home in the near future.

(c) Entry of individuals whose services are funded by the SAPT Block Grant, must be prioritized in the following order:

(A) Women who are pregnant and using substances intravenously;

(B) Women who are pregnant;

(C) Individuals who are using substances intravenously; and

(D) Women with dependent children.

(3) Assessment:

(a) When an individual is admitted for services, an assessment must be completed prior to development of the ISSP..

(b) The assessment must be completed by qualified program staff as follows:

(A) A QMHP in mental health programs. A QMHA may assist in the gathering and compiling of information to be included in the assessment.

(B) Supervisory or treatment staff in alcohol and other drug treatment programs, and

(C) Supervisory or treatment staff in problem gambling treatment programs.

(c) Each assessment must include:

(A) Sufficient biopsychosocial information and documentation to justify the presence of a DSM diagnosis that is the medically appropriate reason for services.

(B) Suicide potential must be assessed and individual service records must contain follow-up actions and referrals when an individual reports symptoms indicating risk of suicide.

(d) When the assessment process determines the presence of co-occurring substance use and mental health disorders, all providers must document referral for further assessment, planning and intervention from an appropriate professional, either with the same provider or with a collaborative community provider.

(e) In addition to periodic assessment updates based on changes in the clinical circumstance, any individual continuing to receive mental health services for one or more continuous years, must receive an annual assessment by a QMHP.

(f) Addiction treatment services meeting ASAM level II and higher must be justified by documenting ASAM criteria following the format of the ASAM decision tree.

(g) The requirements in OAR 309-032-1525(3)(d)(A), 309-032-1525(3)(e) and 309-032-1525(3)(f) are minimum requirements to meet Medicaid auditing standards and may result in financial findings when not met. The requirements in 309-032-1525(3)(d)(B) through 309-032-1525(3)(d) are quality standards and may result in limitations, or revocation of, certification when not met. Failure to maintain certification may result in exclusion or limited participation in the Medicaid program.

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

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

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12; MHS 3-2013(Temp), f. & cert. ef. 2-11-13 thru 8-9-13

309-032-1530
Individual Service and Support Planning and Coordination

(1) Individual Services and Supports: The provider must deliver or coordinate, for each individual, appropriate services and supports to collaboratively facilitate intended service outcomes as identified by the individual, and family, when applicable.

(a) Qualified program staff must facilitate a planning process, resulting in an ISSP that reflects the assessment and the level of care to be provided.

(b) An ISSP must be completed prior to the start of services. For mental health services, a QMHP, who is also a licensed health care professional, must recommend the services and supports by signing the ISSP.

(c) Individuals, and family members, as applicable, must be collaboratively included in the development of the ISSP.

(d) Providers must fully inform the individual and guardian when applicable, of the proposed services and supports, in developmentally and culturally appropriate language, obtain informed consent for all proposed services, and give the individual and guardian when applicable, a written copy of the ISSP.

(e) Providers must collaborate with community partners to coordinate or deliver services and supports identified in the ISSP.

(f) Providers must request authorization to exchange information with any applicable physical health care providers or Fully Capitated Health Plans, for the individual, to collaborate in promoting regular and adequate health care.

(g) When there are barriers to services due to culture, gender, language, illiteracy, or disability, the provider must take measures to address or overcome those barriers including: Providing supports including, but not limited to, the provision of interpreters to provide translation services, at no additional cost to the individual.

(2) Individual Service and Support Plan (ISSP):

(a) The ISSP must document the specific services and supports to be provided, arranged or coordinated to assist the individual and his or her family, if applicable, to achieve intended outcomes.

(b) At minimum, each ISSP must include:

(A) Measurable or observable intended outcomes;

(B) Specific services and supports to be provided;

(C) Applicable service and support delivery details including frequency and duration of each service; and

(D) For ITS programs, the interdisciplinary team must conduct a review of progress and transfer criteria at least every 30 days from the date of entry and must document members present, progress and changes made. For Psychiatric Day Treatment Services, the review must be conducted every 30 days and the LMP must participate in the review at least every 90 days.

(c) For ICTS and ITS programs, the ISSP must include:

(A) Proactive safety and crisis planning; and

(B) A behavior support plan, consistent with OAR 309-032-1540(8) of these rules.

(d) A QMHP, who is also a licensed health care professional, must recommend the services and supports by signing the ISSP for each individual receiving mental health services within ten (10) business days of the development of the ISSP;

(e) A LMP must approve the ISSP at least annually for each individual receiving mental health services for one or more continuous years. The LMP may designate oversight activities by documenting the designation to a specific licensed health care professional.

(f) The requirements in OAR 309-032-1530(2)(a) through 309-032-1530(2)(e) are minimum requirements to meet both Medicaid auditing and quality standards and may result in financial findings or limitations or both, or revocation of certification when not met. Failure to maintain certification may result in exclusion or limited participation in the Medicaid program.

(3) Individual Service Notes:

(a) A written individual service note must be recorded each time a service is provided.

(b) Individual Service Notes must document the:

(A) Specific service provided;

(B) Duration of the service provided;

(C) Date on which the service was provided;

(D) Location of service; and

(E) Date of authentication and name, signature, and credentials, of the person who provided the service.

(c) Individual service notes must also include:

(A) Periodic reviews of progress toward intended outcomes;

(B) Any significant events or changes in the individual's life circumstances, including mental status, treatment response and recovery status; and

(C) Any decisions to transfer an individual from service.

(d) The requirements in OAR 309-032-1530(3)(a) and 309-032-1530(3)(b)(A) through 309-032-1530(3)(b)(E) are minimum requirements to meet Medicaid auditing standards and may result in financial findings when not met. The requirements in 309-032-1530(3)(c)(A) through 309-032-1530(3)(c)(C) are quality standards and may result in limitations, or revocation of, certification when not met. Failure to maintain certification may result in exclusion or limited participation in the Medicaid program.

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

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

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12; MHS 3-2013(Temp), f. & cert. ef. 2-11-13 thru 8-9-13

309-032-1535
Individual Service Record

(1) Documentation Standards: Documentation must be appropriate in quality and quantity to meet professional standards applicable to the provider and any additional standards for documentation in the provider's policies and any pertinent contracts.

(2) General Requirements for Individual Service Record: All providers must develop and maintain an Individual Service Record for each individual upon entry. The record must, at a minimum, include:

(a) Identifying information, or documentation of attempts to obtain the information, including:

(A) The individual's name, address, telephone number, date of birth, gender, and for adults, marital status and military status;

(B) Name, address, and telephone number of the parent or legal guardian, primary care giver or emergency contact;

(C) Contact information for medical and dental providers;

(b) Informed Consent for Service, including medications, or documentation specifying why the provider could not obtain consent by the individual or guardian as applicable;

(c) Written refusal of any services and supports offered, including medications;

(d) A signed fee agreement, when applicable;

(e) Assessment and updates to the assessment;

(f) An ISSP, including any applicable behavior support or crisis intervention planning;

(g) Individual service notes;

(h) A Transfer Summary, when required;

(i) Other plans as made available, such as, but not limited to recovery plans, wellness action plans, education plans, and advance directives for physical and mental health care; and

(j) Applicable signed consents for release of information.

(3) Medical Service Records: When medical services are provided, the following documents must be part of the Individual Service Record as applicable:

(a) Medication Administration Records as per these rules;

(b) Laboratory reports; and

(c) LMP orders for medication, protocols or procedures.

(4) Documentation in Residential Programs: In addition to the requirements for Individual Service Records in subsection 309-032-1535(2), PRTS and Alcohol and Other Drug Residential Treatment providers must include the following documentation in the Individual Service Record:

(a) A personal belongings inventory created upon entry and updated whenever an item of significant value is added or removed, or on the date of transfer;

(b) Documentation indicating that the individual and guardian, as applicable, were provided with the required orientation information upon entry;

(c) Background information including strengths and interests, all available previous mental health or substance use assessments, previous living arrangements, service history, behavior support considerations, education service plans if applicable, and family and other support resources;

(d) Medical information including a brief history of any health conditions, documentation from a LMP or other qualified health care professional of the individual's current physical health, and a written record of any

prescribed or recommended medications, services, dietary specifications, and aids to physical functioning;

(e) Copies of documents relating to guardianship or any other legal considerations, as applicable;

(f) A copy of the individual's most recent ISSP, if applicable, or in the case of an emergency or crisis-respite entry, a summary of current addictions or mental health services and any applicable behavior support plans;

(g) Documentation of the individual's ability to evacuate the home consistent with the program's evacuation plan developed in accordance with the Oregon Structural Specialty Code and Oregon Fire Code;

(h) Documentation of any safety risks; and

(i) Incident reports, when required, including:

(A) The date of the incident, the persons involved, the details of the incident, and the quality and performance actions taken to initiate investigation of the incident and correct any identified deficiencies; and

(B) Any child abuse reports made by the provider to law enforcement or to the DHS Children, Adults and Families Division, documenting the date of the incident, the persons involved and, if known, the outcome of the reports.

(5) Additional documentation in ITS Programs: In addition to OAR 309-032-1535(2), 309-032-1535(3) and 309-032-1535(4), ITS providers must include the following documentation in the Individual Service Record:

(a) Level of Service Intensity Determination;

(b) Names and contact information of the members of the interdisciplinary team;

(c) Documentation by the interdisciplinary team that the child's ISSP has been reviewed, the services provided are medically appropriate for the specific level of care, and changes in the plan recommended by the interdisciplinary team, as indicated by the child's service and support needs, have been implemented;

(d) Emergency safety intervention records, in a separate section or in a separate format, documenting each incident of personal restraint or seclusion, signed and dated by the qualified program staff directing the intervention and, if required, by the psychiatrist or clinical supervisor authorizing the intervention; and

(e) A copy of the written transition instructions provided to the child and family on the date of transfer.

(6) Additional documentation in ICTS Programs: In addition to OAR 309-032-1535(2), ICTS providers must include the following documentation in the Individual Service Record:

(a) Level of Service Intensity Determination;

(b) Names and contact information of the members of the child and family team;

(c) Documented identification of strengths and needs; and

(d) A summary and review of service coordination planning in all relevant life domains by the participating team members.

(7) PSRB and JPSRB Documentation: When the individual is under the jurisdiction of the PSRB or JPSRB, providers must include the following additional documentation in the Individual Service Record:

(a) Monthly reports to the PSRB or JPSRB;

(b) Interim reports, as applicable;

(c) The PSRB Initial Evaluation; and

(d) For PSRB and JPSRB services, a copy of the Conditional Order of Release.

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

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

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12; MHS 3-2013(Temp), f. & cert. ef. 2-11-13 thru 8-9-13

309-032-1540

Program Specific Service Standards

In addition to individualized service and support planning and coordination, providers of each of the following program-specific service areas must ensure the following requirements listed for that service are met.

(1) Co-Occurring Mental Health and Substance Use Disorders (COD): Providers approved and designated to provide services and supports for individuals diagnosed with COD must provide concurrent service and support planning and delivery for substance use and mental health diagnosis, including integrated assessment, ISSP and individual service record

(2) Outpatient Mental Health Services to Children, Adults and Older Adults:

(a) Crisis services must be provided directly or through linkage to a local crisis services provider and must include the following:

(A) 24 hours, seven days per week telephone or face-to-face screening to determine an individual's need for immediate community mental health services; and

(B) 24 hour, seven days per week capability to conduct, by or under the supervision of a QMHP, an assessment resulting in an ISSP that includes the crisis services necessary to assist the individual and family to stabilize and transition to the appropriate level of care.

(b) Individual, family and group therapy provided by a QMHP;

(c) Psychiatric services including medication management as applicable, provided by a LMP who is either an employee of the provider or is a contracted provider; and

(d) Available case management services including the following:

(A) Assistance in applying for benefits to which the individual may be entitled. Program staff must assist individuals in gaining access to, and maintaining, resources such as Social Security benefits, general assistance, food stamps, vocational rehabilitation, and housing. When needed, program staff must arrange transportation or accompany individuals to help them apply for benefits;

(B) Assistance with completion of a declaration for mental health treatment with the individual's participation and informed consent;

(C) Referral and coordination to help individuals gain access to services and supports identified in the ISSP;

(D) When an individual receives residential services, program staff must collaborate with the residential program and family to coordinate services;

(E) When an individual resides in an Adult Foster Home, program staff must assist in the development of a Personal Care Plan. Program staff must also evaluate the appropriateness of services in relation to the individual's assessed need and review the Personal Care Plan every 180 days;

(F) When an individual is admitted to a hospital or non-hospital facility, program staff must make contact in person or by telephone with the individual within one working day of entry and be actively involved with transition planning from the hospital or non-hospital facility;

(G) If an individual is receiving treatment in a state funded long-term care psychiatric facility, program staff must, from the point of entry, be actively involved with transitioning the individual from long term care;

(H) When significant health and safety concerns are identified, program staff must assure that necessary services or actions occur to address the identified health and safety needs for the individual; and

(I) For children and youth, program staff must create linkages to and ongoing communication with other involved child-serving providers and agencies such as child welfare, education, primary care and juvenile justice, and make referrals for additional services and supports as indicated.

(e) Skills training as indicated;

(f) Peer delivered supports, as indicated; and

(g) Older adult services, including preventative mental health services, when applicable.

(3) Enhanced Care Services:

(a) Enhanced care services must be provided in DHS' SPD licensed facilities that have a multipurpose room, an area providing an environment with low stimulation, an accessible outdoor space with a covered area, a refrigerator, a microwave conveniently located for program activities, space for interdisciplinary meetings, space for mental health treatment and space for storage of records. A minimum of one private room is required in facilities opened after January 1, 1994.

(b) Services must include:

(A) 12 hours per week of mental health services available during evening and weekend shifts provided or arranged for by the contracted mental health provider;

(B) Weekly interdisciplinary team meetings to develop the ISSP, review the behavior support plan and to coordinate care planning with the SPD licensed provider staff and related professionals, including a QMHP, prescriber, SPD direct care staff, SPD case manager, SPD facility RN and SPD facility administrator; and

(C) A crisis service staffed by a QMHP or the local CMHP available to the provider and facility direct care staff 24-hours per day.

(c) ECOS services must be delivered according to the individual's needs and do not require the services listed under OAR 309-032-1540(3)(b)(A) and 309-032-1540(3)(b)(B) of this rule.

(d) Behavior support services must be consistent with OAR 309-032-1540(8) of these rules.

(4) Psychiatric Security Review Board and Juvenile Psychiatric Security Review Board: Services and supports must include all appropriate

services determined necessary to assist the individual in maintaining community placement and which are consistent with Conditional Release Orders and the Agreement to Conditional Release.

(a) Providers of PSRB and JPSRB services acting through the designated Qualified Person, must submit reports to the PSRB or JPSRB as follows:

(A) Orders for Evaluation: For individuals under the jurisdiction of the PSRB or the JPSRB, providers must take the following action upon receipt of an Order for Evaluation:

(i) Within 15 days of receipt of the Order, schedule an interview with the individual for the purpose of initiating or conducting the evaluation;

(ii) Appoint a QMHP to conduct the evaluation and to provide an evaluation report to the PSRB or JPSRB;

(iii) Within 30 days of the evaluation interview, submit the evaluation report to the PSRB or JPSRB responding to the questions asked in the Order for Evaluation; and

(iv) If supervision by the provider is recommended, notify the PSRB or JPSRB of the name of the person designated to serve as the individual's Qualified Person, who must be primarily responsible for delivering or arranging for the delivery of services and the submission of reports under these rules.

(B) Monthly reports consistent with PSRB or JPSRB reporting requirements as specified in the Conditional Release Order that summarize the individual's adherence to Conditional Release requirements and general progress; and

(C) Interim reports, including immediate reports by phone, if necessary, to ensure the public or individual's safety including:

(i) At the time of any significant change in the individual's health, legal, employment or other status which may affect compliance with Conditional Release orders;

(ii) Upon noting major symptoms requiring psychiatric stabilization or hospitalization;

(iii) Upon noting any other major change in the individual's ISSP;

(iv) Upon learning of any violations of the Conditional Release Order; and

(v) At any other time when, in the opinion of the Qualified Person, such an interim report is needed to assist the individual.

(b) JPSRB providers must submit copies of all monthly reports and interim reports to both the JPSRB and the Division.

(5) Intensive Community-Based Treatment and Support Services (ICTS) for Children: ICTS services may be delivered at a clinic, facility, home, school, other provider or allied agency location or other setting as identified by the child and family team. In addition to services specified by the ISSP and the standards for outpatient mental health services, ICTS services must include:

(a) Care coordination provided by a QMHP or a QMHA supervised by a QMHP;

(b) A child and family team, as defined in these rules;

(c) Service coordination planning, to be developed by the child and family team;

(d) Review of progress at child and family team meetings to occur at a frequency determined by the child and family team and consistent with needs;

(e) Proactive safety and crisis planning that utilizes professional and natural supports to provide 24 hours, seven days per week flexible response and is reflective of strategies to avert potential crisis without placement disruptions; and

(6) Intensive Treatment Services (ITS) for Children:

(a) ITS Providers must meet the following general requirements:

(A) Maintain the organizational capacity and interdisciplinary treatment capability to deliver clinically and developmentally appropriate services in the medically appropriate amount, intensity and duration for each child specific to the child's diagnosis, level of functioning and the acuity and severity of the child's psychiatric symptoms;

(B) Maintain 24 hour, seven days per week treatment responsibility for children in the program;

(C) Non-residential programs must maintain on-call capability at all times to respond directly or by referral to the treatment needs of children, including crises, 24 hours per day and seven days per week;

(D) Inform the Division and the legal guardian within twenty-four hours of reportable incidents;

(E) Maintain linkages with primary care physicians, CMHPs and MHOs and the child's parent or guardian to coordinate necessary continuing care resources for the child; and

(F) Maintain linkages with the applicable education service district or school district to coordinate and provide the necessary educational services for the children and integrate education services in all phases of assessment, service and support planning, active treatment and transition planning.

(b) General staffing requirements: ITS providers must have the clinical leadership and sufficient QMHP, QMHA and other program staff to meet the 24-hour, seven days per week treatment needs of children and must establish policies, procedures and contracts to assure:

(A) Availability of psychiatric services to meet the following requirements;

(i) Provide medical oversight of the clinical aspects of care in nationally accredited sub-acute and psychiatric residential treatment facilities and provide 24-hour, seven days per week psychiatric on-call coverage; or consult on clinical care and treatment in psychiatric day treatment; and

(ii) Assess each child's medication and treatment needs, prescribe medicine or otherwise assure that case management and consultation services are provided to obtain prescriptions, and prescribe therapeutic modalities to achieve the child's individual service and support plan goals.

(B) There must be at least one program staff who has completed First Aid and CPR training on duty at all times.

(c) ITS providers must ensure that the following services and supports are available and accessible through direct service, contract or by referral:

(A) Active psychiatric treatment and education services must be functionally integrated in a therapeutic environment designed of reflect and promote achievement of the intended outcomes of each child's ISSP;

(B) When treatment services interrupt the child's day to day educational environment, the program must provide or make arrangements for the continuity of the child's education;

(C) Family therapy must be provided by a QMHP. The family therapist to child ratio must be at least one family therapist for each 12 children;

(D) Psychiatric services;

(E) Individual, group and family therapies provided by a QMHP. There must be no less than one family therapist available for each 12 children;

(F) Medication evaluation, management and monitoring;

(G) Pre-vocational or vocational rehabilitation;

(H) Therapies supporting speech, language and hearing rehabilitation;

(I) Individual and group psychosocial skills development;

(J) Activity and recreational therapies;

(K) Nutrition;

(L) Physical health care services or coordination;

(M) Recreational and social activities consistent with individual strengths and interests;

(N) Educational services coordination and advocacy; and

(O) Behavior support services, consistent with OAR 309-032-1540(8) of these rules.

(7) Program Specific Requirements for ITS Providers: In addition to the general requirements for all ITS providers listed in OAR 309-032-1540(6), the following program-specific requirements must be met:

(a) Psychiatric Residential Treatment Facilities (PRTF):

(A) Children must either have or be screened for an Individual Education Plan, Personal Education Plan, or an Individual Family Service Plan;

(B) Psychiatric Residential Treatment Facilities must maintain one or more linkages with acute care hospitals or MHOs to coordinate necessary inpatient care;

(C) Psychiatric residential clinical care and treatment must be under the direction of a psychiatrist and delivered by an interdisciplinary team of board-certified or board-eligible child and adolescent psychiatrists, registered nurses, psychologists, other qualified mental health professionals, and other relevant program staff. A psychiatrist must be available to the unit 24-hours per day, seven days per week; and

(D) Psychiatric Residential Treatment Facilities must be staffed at a clinical staffing ratio of not less than one program staff for three children during the day and evening shifts. At least one program staff for every three program staff members during the day and evening shifts must be a QMHP or QMHA. For overnight program staff there must be a staffing ratio of at least one program staff for six children; at least one of the overnight program staff must be a QMHA. For units that by this ratio have only one overnight program staff, there must be additional program staff immediately available within the facility or on the premises. At least one QMHP must be on site or on call at all times. At least one program staff with designated clinical leadership responsibilities must be on site at all times.

(b) SCIP and SAIP: Programs providing SCIP and SAIP Services must meet the requirements for PRTFs listed in 7(a) of this subsection. They must also establish policies and practices to meet the following:

(A) The staffing model must allow for the child's frequent contact with the child psychiatrist a minimum of one hour per week;

(B) Psychiatric nursing staff must be provided in the program 24 hours per day;

(C) A psychologist, psychiatric social worker, rehabilitation therapist and psychologist with documented training in forensic evaluations must be available 24 hours per day as appropriate; and

(D)Program staff with specialized training in SCIP or SAIP must be available 24 hours per day;

(E) The program must provide all medically appropriate psychiatric services necessary to meet the child's psychiatric care needs;

(F) The program must provide secure psychiatric treatment services in a manner that ensures public safety to youth who are under the care and custody of the Oregon Youth Authority, court ordered for the purpose of psychiatric evaluation, or admitted by the authority of the JPSRB; and

(G) The program must not rely on external entities such as law enforcement or acute hospital care to assist in the management of the SCIP or SAIP setting.

(c) Sub-Acute Psychiatric Care: In addition to the services provided as indicated by the assessment and specified in the ISSP, Sub-Acute Psychiatric Care providers must:

(A) Provide psychiatric nursing staffing at least 16 hours per day;

(B) Provide nursing supervision and monitoring and psychiatric supervision at least once per week; and

(C) Work actively with the child and family team and multi-disciplinary community partners, to plan for the long-term emotional, behavioral, physical and social needs of the child to be met in the most integrated setting in the community.

(d) Psychiatric Day Treatment Services (PDTS):

(A) PDTS must be provided to children who remain at home with a parent, guardian or foster parent by qualified mental health professionals and qualified mental health associates in consultation with a psychiatrist;

(B) An education program must be provided and children must either have or be screened for an Individual Education Plan, Personal Education Plan or Individual Family Service Plan; and

(C) Psychiatric Day Treatment programs must be staffed at a clinical staffing ratio of at least one QMHP or QMHA for three children.

(8) Behavior Support Services: Behavior support services must be proactive, recovery-oriented, individualized, and designed to facilitate positive alternatives to challenging behavior, as well as to assist the individual in developing adaptive and functional living skills. Behavior support services are required in ITS, ICTS and ECS Services. Providers of these services must:

(a) Develop and implement individual behavior support strategies, based on a functional or other clinically appropriate assessment of challenging behavior;

(b) Document the behavior support strategies and measures for tracking progress as a behavior support plan in the ISSP;

(c) Establish a framework which assures individualized positive behavior support practices throughout the program and articulates a rationale consistent with the philosophies supported by the Division, including the Division's Trauma-informed Services Policy;

(d) Obtain informed consent from the parent or guardian, when applicable, in the use of behavior support strategies and communicate both verbally and in writing the information to the individual and guardian in a language understood by the individual and in a developmentally appropriate manner;

(e) Establish outcome-based tracking methods to measure the effectiveness of behavior support strategies in:

(A) Reducing or eliminating the use of emergency safety interventions ; and

(B) Increasing positive behavior.

(f) Require all program staff to receive annual training in Collaborative Problem Solving, Positive Behavior Support or other Evidence-based Practice to promote positive behavior support; and

(g) Review and update behavior support policies, procedures, and practices annually.

(9) Emergency Safety Interventions in ITS Programs: Providers of ITS services must:

(a) Adopt policies and procedures for Emergency safety interventions as part of a Crisis Prevention and Intervention Policy. The policy must be consistent with the provider's trauma-informed services policies and procedures.

(b) Inform the individual and his or her parent or guardian of the provider's policy regarding the use of personal restraint and seclusion during an emergency safety situation by both furnishing a written copy of the policy and providing an explanation in the individual's primary language that is developmentally appropriate.

(c) Obtain a written acknowledgment from the parent or guardian that he or she has been informed of the provider's policies and procedures regarding the use of personal restraint and seclusion.

(d) Prohibit the use of mechanical restraint and chemical restraint as defined in these rules.

(e) Establish an Emergency Safety Interventions Committee or designate this function to an already established Quality Assessment and Performance Improvement Committee. Committee membership must minimally include a program staff with designated clinical leadership responsibilities, the person responsible for staff training in crisis intervention procedures and other clinical personnel not directly responsible for authorizing the use of emergency safety interventions. The committee must:

(A) Monitor the use of emergency safety interventions to assure that individuals are safeguarded and their rights are always protected;

(B) Meet at least monthly and must report in writing to the provider's Quality Assessment and Performance Improvement Committee at least quarterly regarding the committee's activities, findings and recommendations;

(C) Analyze emergency safety interventions to determine opportunities to prevent their use, increase the use of alternatives, improve the quality of care and safety of individuals receiving services and recommend whether follow up action is needed;

(D) Review and update emergency safety interventions policies and procedures annually;

(E) Conduct individual and aggregate review of all incidents of personal restraint and seclusion; and

(F) Report the aggregate number of personal restraints and incidents of seclusion to the Division within 30 days of the end of each calendar quarter.

(f) Providers must meet the following general conditions of personal restraint and seclusion:

(A) Personal restraint and seclusion must only be used in an emergency safety situation to prevent immediate injury to an individual who is in danger of physically harming him or herself or others in situations such as the occurrence of, or serious threat of violence, personal injury or attempted suicide;

(B) Any use of personal restraint or seclusion must respect the dignity and civil rights of the individual;

(C) The use of personal restraint or seclusion must be directly related to the immediate risk related to the behavior of the individual and must not be used as punishment, discipline, or for the convenience of staff;

(D) Personal restraint or seclusion must only be used for the length of time necessary for the individual to resume self-control and prevent harm to the individual or others, even if the order for seclusion or personal restraint has not expired, and must under no circumstances, exceed 4 hours for individuals ages 18 to 21, 2 hours for individuals ages 9 to 17, or 1 hour for individuals under age 9;

(E) An order for personal restraint or seclusion must not be written as a standing order or on an as needed basis;

(F) Personal restraint and seclusion must not be used simultaneously;

(G) Providers must notify the individual's parent or guardian of any incident of seclusion or personal restraint as soon as possible;

(H) If incidents of personal restraint or seclusion used with an individual cumulatively exceed five interventions over a period of five days, or a single episode of one hour within 24 hours, the psychiatrist, or designee, must convene, by phone or in person, program staff with designated clinical leadership responsibilities to:

(i) Discuss the emergency safety situation that required the intervention, including the precipitating factors that led up to the intervention and any alternative strategies that might have prevented the use of the personal restraint or seclusion;

(ii) Discuss the procedures, if any, to be implemented to prevent any recurrence of the use of personal restraint or seclusion;

(iii) Discuss the outcome of the intervention including any injuries that may have resulted; and

(iv) Review the individual's ISSP, making the necessary revisions, and document the discussion and any resulting changes to the individual's ISSP in the Individual Service Record.

(g) Personal Restraint:

(A) Each personal restraint must require an immediate documented order by a physician, licensed practitioner, or, in accordance with OAR 309-034-0400 through 309-034-0490, a licensed CESIS;

(B) The order must include:

(i) Name of the person authorized to order the personal restraint;

(ii) Date and time the order was obtained; and

(iii) Length of time for which the intervention was authorized.

(C) Each personal restraint must be conducted by program staff that have completed and use Division-approved crisis intervention training. If in the event of an emergency a non Division-approved crisis intervention technique is used, the provider's on-call administrator must immediately review the intervention and document the review in an incident report to be provided to the Division within 24 hours;

(D) At least one program staff trained in the use of emergency safety interventions must be physically present, continually assessing and monitoring the physical and psychological well-being of the individual and the safe use of the personal restraint throughout the duration of the personal restraint;

(E) Within one hour of the initiation of a personal restraint, a psychiatrist, licensed practitioner, or CESIS must conduct a face-to-face assessment of the physical and psychological well being of the individual;

(F) A designated program staff with clinical leadership responsibilities must review all personal restraint documentation prior to the end of the shift in which the intervention occurred; and

(G) Each incident of personal restraint must be documented in the individual service record. The documentation must specify:

(i) Behavior support strategies and less restrictive interventions attempted prior to the personal restraint;

(ii) Required authorization;

(iii) Events precipitating the personal restraint;

(iv) Length of time the personal restraint was used;

(v) Assessment of appropriateness of the personal restraint based on threat of harm to self or others;

(vi) Assessment of physical injury; and

(vii) Individuals response to the emergency safety intervention.

(h) Seclusion: Providers must be approved by the Division for the use of seclusion.

(A) Authorization for seclusion must be obtained by a psychiatrist, licensed practitioner or CESIS prior to, or immediately after the initiation of seclusion. Written orders for seclusion must be completed for each instance of seclusion and must include:

(i) Name of the person authorized to order seclusion;

(ii) Date and time the order was obtained; and

(iii) Length of time for which the intervention was authorized.

(B) Program staff trained in the use of emergency safety interventions must be physically present continually assessing and monitoring the physical and psychological well-being of the individual throughout the duration of the seclusion;

(C) Visual monitoring of the individual in seclusion must occur continuously and be documented at least every fifteen minutes or more often as clinically indicated;

(D) Within one hour of the initiation of seclusion a psychiatrist or CESIS must conduct a face-to-face assessment of the physical and psychological well being of the individual;

(E) The individual must have regular meals, bathing, and use of the bathroom during seclusion and the provision of these must be documented in the individual service record; and

(F) Each incident of seclusion must be documented in the individual service record. The documentation must specify:

(i) The behavior support strategies and less restrictive interventions attempted prior to the use of seclusion;

(ii) The required authorization for the use of seclusion;

(iii) The events precipitating the use of seclusion;

(iv) The length of time seclusion was used;

(v) An assessment of the appropriateness of seclusion based on threat of harm to self or others;

(vi) An assessment of physical injury to the individual, if any; and

(vii) The individual's response to the emergency safety intervention.

(i) Any room specifically designated for the use of seclusion or time out must be approved by the Division.

(j) If the use of seclusion occurs in a room with a locking door, the program must be authorized by the Division for this purpose and must meet the following requirements:

(A) A facility or program seeking authorization for the use of seclusion must submit a written application to the Division;

(B) Application must include a comprehensive plan for the need for and use of seclusion of children in the program and copies of the facility's policies and procedures for the utilization and monitoring of seclusion including a statistical analysis of the facility's actual use of seclusion, physical space, staff training, staff authorization, record keeping and quality assessment practices;

(C) The Division must review the application and, after a determination that the written application is complete and satisfies all applicable requirements, must provide for a review of the facility by authorized Division staff;

(D) The Division must have access to all records including individual service records, the physical plant of the facility, the employees of the facility, the professional credentials and training records for all program staff, and must have the opportunity to fully observe the treatment and seclusion practices employed by the facility;

(E) After the review, the Deputy Director of the Division or their designee must approve or disapprove the facility's application and upon approval must certify the facility based on the determination of the facility's compliance with all applicable requirements for the seclusion of children;

(F) If disapproved, the facility must be provided with specific recommendations and have the right of appeal to the Division; and

(G) Certification of a facility must be effective for a maximum of three years and may be renewed thereafter upon approval of a renewal application.

(k) Structural and physical requirements for seclusion: An ITS provider seeking this certification under these rules must have available at least one room that meets the following specifications and requirements:

(A) The room must be of adequate size to permit three adults to move freely and allows for one adult to lie down. Any newly constructed room must be no less than 64 square feet;

(B) The room must not be isolated from regular program staff of the facility, and must be equipped with adequate locking devices on all doors and windows;

(C) The door must open outward and contain a port of shatterproof glass or plastic through which the entire room may be viewed from outside;

(D) The room must contain no protruding, exposed, or sharp objects;

(E) The room must contain no furniture. A fireproof mattress or mat must be available for comfort;

(F) Any windows must be made of unbreakable or shatterproof glass or plastic. Non-shatterproof glass must be protected by adequate climb-proof screening;

(G) There must be no exposed pipes or electrical wiring in the room. Electrical outlets must be permanently capped or covered with a metal shield secured by tamper-proof screws. Ceiling and wall lights must be recessed and covered with safety glass or unbreakable plastic. Any cover, cap or shield must be secured by tamper-proof screws;

(H) The room must meet State Fire Marshal fire, safety, and health standards. If sprinklers are installed, they must be recessed and covered with fine mesh screening. If pop-down type, sprinklers must have break-away strength of under 80 pounds. In lieu of sprinklers, combined smoke and heat detector must be used with similar protective design or installation;

(I) The room must be ventilated, kept at a temperature no less than 64°F and no more than 85°F. Heating and cooling vents must be secure and out of reach;

(J) The room must be designed and equipped in a manner that would not allow a child to climb off the ground;

(K) Walls, floor and ceiling must be solidly and smoothly constructed, to be cleaned easily, and have no rough or jagged portions; and

(L) Adequate and safe bathrooms must be available.

(10) Outpatient Problem Gambling Treatment Services: These services include group, individual and family treatment consistent with the following requirements:

(a) The first offered service appointment must be five business days or less from the date of request for services;

(b) Service sessions must address the challenges of the individual as they relate, directly or indirectly, to the problem gambling behavior;

(c) Telephone counseling: Providers may provide telephone counseling when person-to-person contact would involve an unwise delay, as follows:

(A) Individual must be currently enrolled in the problem gambling treatment program;

(B) Phone counseling must be provided by a qualified provider within their scope of practice;

(C) Individual service notes must follow the same criteria as face-to-face counseling and identify the session was conducted by phone and the clinical rationale for the phone session;

(D) Telephone counseling must meet HIPAA and 42 CFR standards for privacy; and

(E) There must be an agreement of informed consent for phone counseling that is discussed with the individual and documented in the individual's service record.

(d) Family Counseling: Family counseling includes face-to-face or non face-to-face service sessions between a program staff member delivering the service and a family member whose life has been negatively impacted by gambling.

(A) Service sessions must address the problems of the family member as they relate directly or indirectly to the problem gambling behavior; and

(B) Services to the family must be offered even if the individual identified as a problem gambler is unwilling, or unavailable to accept services.

(e) 24-hour crisis response accomplished through agreement with other crisis services, on-call program staff or other arrangement acceptable to the Division.

(11) Residential Problem Gambling Treatment Services: Providers of this service must comply with OAR 309-032-1545 of these rules.

(a) When problem gambling treatment services are provided in a psychiatric health facility, providers must have Division approved written policies and procedures for operating this service, and must be licensed in accordance with OAR 309-035-0100 through 309-035-0460.

(b) When problem gambling treatment services are provided in an alcohol and other drug residential treatment facility providers of this service must have Division approved written policies and procedures for operating this service and have a current license issued by the Division in accordance with OAR 415-012-0000 through 415-012-0090.

(c) Providers must coordinate services and make appropriate referrals to other formal and informal service systems to insure continuity of care, including, but not limited to, mental health, self-help support groups, financial consultants, legal advice, medical, crisis management, cultural issues, housing and vocational. All referral and follow-up actions must be documented in the individual service record.

(12) Alcohol and Other Drug Treatment and Recovery Services:

(a) Interim Referral and Information Services: Pregnant women or other individuals using substances intravenously, whose services are funded by the SAPT Block Grant, must receive interim referrals and information prior to entry, to reduce the adverse health effects of alcohol and other drug use, promote the health of the individual, and reduce the risk of transmission of disease. At a minimum, interim referral and informational services must include:

(A) Counseling and education about blood borne pathogens including Hepatitis, HIV, STDs and Tuberculosis (TB); the risks of needle and paraphernalia sharing and the likelihood of transmission to sexual partners and infants;

(B) Counseling and education about steps that can decrease the likelihood of Hepatitis, HIV, STD, and TB transmission;

(C) Referral for Hepatitis, HIV, STD and TB testing, vaccine or care services if necessary; and

(D) For pregnant women, counseling on the likelihood of blood borne pathogen transmission as well as the effects of alcohol, tobacco and other drug use on the fetus and referral for prenatal care.

(b) Culturally Specific Services: Programs approved and designated as culturally specific programs must meet the following criteria:

(A) Serve a majority of individuals representing the culturally specific population; and

(B) Governing Board: Develop and maintain a governing or advisory board that must:

(i) Have a majority representation of the culturally specific group being served;

(ii) Receive training concerning the significance of culturally relevant services and supports;

(iii) Include at least 20% representation of individuals, as defined in these rules, or family members of individuals; and

(iv) Meet at least quarterly.

(C) Maintain accessibility to culturally specific populations including:

(i) The physical location of the program must be within close proximity to the culturally specific populations;

(ii) Where available, public transportation must be within close proximity to the program; and

(iii) Hours of service, telephone contact, and other accessibility issues must be appropriate for the population; and

(D) The physical facility within which the culturally specific services are delivered must be psychologically comfortable for the group including:

(i) Materials displayed must be culturally relevant;

(ii) Mass media programming (radio, television, etc.) must be sensitive to cultural background; and

(iii) Other cultural differences must be considered and accommodated when possible, such as the need or desire to bring family members to the facility, play areas for small children and related accommodations.

(c) Adolescent Treatment Services: Programs approved to provide adolescent alcohol and other drug treatment services or those with adolescent-designated service funding must meet the following standards:

(A) Residential programs providing services to individuals defined as children for purposes of this rule must, in addition to the applicable requirements of this rule, be licensed by the Department of Human Services (DHS) in cooperation with the Division.

(B) Development of ISSPs and case management services must include participation of parents, other family members, schools, children's services agencies, and juvenile corrections, as appropriate;

(C) Services, or appropriate referrals, must include:

(i) Family service;

(ii) Recreation and leisure time consistent with the individual's interests;

(iii) Community and social skills training;

(iv) Academic education services or referral; and

(v) Smoking cessation service.

(D) Continuing care services must be of appropriate duration, consistent with ASAM PPC-2R criteria, and designed to maximize recovery opportunities. The services must include:

(i) Reintegration services and coordination with family and schools;

(ii) Youth dominated self-help groups where available;

(iii) Linkage to emancipation services when appropriate; and

(iv) Linkage to physical or sexual abuse counseling and support services when appropriate.

(E) There must be a sufficient number of qualified program staff to ensure a ratio of at least one treatment staff per eight adolescents at all times.

(F) Program staff coverage must be provided 24 hours per day, seven days per week.

(d) Women's Treatment Services: Programs approved and designated to provide alcohol and other drug treatment services primarily to women must meet the following standards:

(A) The Assessment must contain an evaluation that identifies and assesses needs specific to women's issues in service such as social isolation, self-reliance, parenting issues, domestic violence, women's physical health, housing and financial considerations;

(B) The Individual Service and Support Plan must address all areas identified in (12)(d)(A) of this subsection as well as alcohol and other drug use and any other applicable service coordination details;

(C) The program must provide or coordinate services and supports that meet the special access needs of women such as childcare, mental health services, and transportation, as indicated;

(D) The program must provide, or coordinate, the following services and supports unless clinically contraindicated:

(i) Gender-specific services and supports;

(ii) Family services, including therapeutic services for children in the custody of women in treatment;

(iii) Reintegration with family;

(iv) Peer delivered supports;

(v) Smoking cessation;

(vi) Housing; and

(vii) Transportation.

(E) Individual Service and Support Planning and treatment must include the participation of family and other agencies as appropriate, such as social service, child welfare, or corrections agencies;

(F) Referral Services: The program must coordinate services with the following, if indicated:

(i) Agencies providing services to women who have experienced physical abuse, sexual abuse or other types of domestic violence; and

(ii) Parenting training; and

(G) Continuing care treatment services must be consistent with the ASAM PPC-2R and must include referrals to female dominated support groups where available; and

(H) Programs that receive SAPT Block Grant funding must provide or coordinate the following services for pregnant women and women with dependent children, including women who are attempting to regain custody of their children:

(i) Primary medical care for women, including referral for prenatal care and, while the women are receiving such services, child care;

(ii) Primary pediatric care, including immunizations for their children;

(iii) Gender specific substance abuse treatment and other therapeutic interventions for women which may include, but are not limited to:

(I) Relationship issues;

(II) Sexual and physical abuse;

(III) Parenting; and

(IV) Access to child care while the women are receiving these services; and

(iv) Therapeutic interventions for children in the custody of women in treatment which may include, but are not limited to:

(I) Their developmental needs; and

(II) Any issues concerning sexual and physical abuse, and neglect; and

(III) Sufficient case management and transportation to ensure that women and their children have access to services.

(e) Specialized Alcohol and Other Drug Community-based Programs for Individuals in the Criminal Justice System: These services and supports are for individuals who are under the supervision of a probation officer or on parole or post-prison supervision or participating in a drug treatment court program or otherwise under the direct supervision of the court.

(A) Services and supports must incorporate interventions and strategies that target criminogenic risk factors and include:

(i) Cognitive behavioral interventions;

(ii) Motivational interventions;

(iii) Relapse prevention; and

(iv) Healthy relationships education;

(B) Providers must demonstrate coordination of services with criminal justice partners through written protocols, program staff activities, and individual record documentation;

(C) Program Directors or clinical supervisors must have experience in community-based offender treatment programs and have specific training and experience applying effective, evidence-based clinical strategies and services for individuals receiving community-based alcohol and other drug treatment services to individuals in the criminal justice system;

(D) Within the first six months of hire, program staff must receive training on effective principles of evidenced-based practices for individuals with criminogenic risk factors; and

(E) Within six months of hire, program staff must have documented knowledge, skills, and abilities demonstrating treatment strategies for individuals with criminogenic risk factors.

(f) DUII Alcohol and Other Drug Rehabilitation Programs: In addition to the general standards for alcohol and other drug treatment programs, those programs approved to provide DUII rehabilitation services must meet the following standards:

(A) DUII rehabilitation programs must assess individuals referred for treatment by the evaluation specialist. Placement, continued stay and transfer of individuals must be based on the criteria described in the ASAM PPC-2R, subject to the following additional terms and conditions:

(i) Abstinence: Individuals must demonstrate continuous abstinence for a minimum of 90 days prior to completion as documented by urinalysis tests and other evidence;

(ii) Treatment Completion: Only DUII rehabilitation programs may certify treatment completion;

(iii) Residential Treatment: Using the ASAM PPC-2R, the DUII program's assessment may indicate that the individual requires treatment in a residential program. It is the responsibility of the DUII program to:

(I) Monitor the case carefully while the individual is in residential treatment;

(II) Provide or monitor outpatient and follow-up services when the individual is transferred from the residential program; and

(III) Verify completion of residential treatment and follow-up outpatient treatment.

(iv) Urinalysis Testing: A minimum of one urinalysis sample per month must be collected during the period of service deemed necessary by an individual's DUII rehabilitation program:

(I) Using the process defined in these rules, the samples must be tested for at least five controlled drugs;

(II) At least one of the samples is to be collected and tested in the first two weeks of the program and at least one is to be collected and tested in the last two weeks of the program;

(III) If the first sample is positive, two or more samples must be collected and tested, including one sample within the last two weeks before completion; and

(IV) Programs may use methods of testing for the presence of alcohol and other drugs in the individual's body other than urinalysis tests if they have obtained the prior review and approval of such methods by the Division.

(v) Reporting: The program must report:

(I) To the Division on forms prescribed by the Division;

(II) To the evaluation specialist within 30 days from the date of the referral by the specialist. Subsequent reports must be provided within 30 days of completion or within 10 days of the time that the individual enters noncompliant status; and

(III) To the appropriate evaluation specialist, case manager, court, or other agency as required when requested concerning individual cooperation, attendance, treatment progress, utilized modalities, and fee payment.

(vi) Certifying Completion: The program must send a numbered Certificate of Completion to the Department of Motor Vehicles to verify the completion of convicted individuals. Payment for treatment may be considered in determining completion. A certificate of completion must not be issued until the individual has satisfied the abstinence requirements of 309-032-1540(f)(A)(i).

(vii) Records: The DUII rehabilitation program must maintain in the permanent Individual Service Record, urinalysis results and all information necessary to determine whether the program is being, or has been, successfully completed.

(viii) Separation of Evaluation and Rehabilitation Functions: Without the approval of the Director , no agency or person may provide DUII rehabilitation to an individual who has also been referred by a Judge to the same agency or person for a DUII evaluation. Failure to comply with this rule will be considered a violation of ORS chapter 813. If the Director finds such a violation, the Director may deny, suspend, revoke, or refuse to renew a letter of approval.

(13) Medical Protocols in Alcohol and Other Drug Treatment Programs: Medical protocols must be approved by a medical director under contract with a program or written reciprocal agreement with a medical practitioner under managed care. The protocols must:

(a) Require, but not be limited to a medical history, as described in the Assessment;

(b) Designate those medical symptoms that, when found, require further investigation, physical examinations, service, or laboratory testing;

(c) Require that individuals admitted to the program who are currently injecting or intravenously using a drug, or have injected or intravenously used a drug within the past 30 days, or who are at risk of withdrawal from a drug, or who may be pregnant, must be referred for a physical examination and appropriate lab testing within 30 days of entry to the program. This requirement may be waived by the medical director if these services have been received within the past 90 days and documentation is provided;

(d) Require pregnant women be referred for prenatal care within two weeks of entry to the program;

(e) Require that the program provide HIV and AIDS, TB, sexually transmitted disease, Hepatitis and other infectious disease information and risk assessment, including any needed referral, within 30 days of entry; and

(f) Specify the steps for follow up and coordination with physical health care providers in the event the individual is found to have an infectious disease or other major medical problem.

(14) Administration of Medications: The following guidelines must be followed in policies on administration of medications in residential programs:

(a) Medications prescribed for one individual must not be administered to or self-administered by another individual or program staff;

(b) When an individual self-administers medication in a residential program, self-administration must be approved in writing by a physician and closely monitored by the residential program staff;

(c) No unused, outdated, or recalled drugs must be kept in a program. On a monthly basis any unused, outdated, or recalled drugs must be disposed of in a manner that assures they cannot be retrieved;

(d) Disposal of prescription drugs in a residential program: A written record of all disposals of drugs must be maintained in the program and must include:

(A) A description of the drug, including the amount;
(B) The individual for whom the medication was prescribed;
(C) The reason for disposal; and
(D) The method of disposal.
(e) Storage of Prescription Drugs in residential programs: All prescription drugs stored in the residential program must be kept in a locked stationary container. Medications requiring refrigeration must be stored in a refrigerator using a locked container; and
(f) Written documentation of medications prescribed for the individual by a LMP must be maintained in the Individual Service Record. Documentation for each medication prescribed must include the following:
(A) A copy or detailed written description of the signed prescription order;
(B) The name of the medication prescribed;
(C) The prescribed dosage and method of administration;
(D) The date medications were prescribed, reviewed, or renewed;
(E) The date, the signature and credentials of program staff administering or prescribing medications; and
(F) Medication records which contain:
(i) Observed side effects including laboratory findings; and
(ii) Medication allergies and adverse reaction.
(15) Building Requirements for Alcohol and Other Drug Programs: Each alcohol and other drug treatment program must provide facilities that:
(a) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes;
(b) Maintain up-to-date documentation verifying that they meet applicable local business license, zoning and building codes and federal, state and local fire and safety regulations. It is the responsibility of the program to check with local government to make sure all applicable local codes have been met;
(c) Provide space for services including but not limited to intake, assessment, counseling and telephone conversations that assures the privacy and confidentiality of individuals and is furnished in an adequate and comfortable fashion including plumbing, sanitation, heating, and cooling;
(d) Provide rest rooms for individuals, visitors, and staff that are accessible to persons with disabilities pursuant to Title II of the Americans with Disabilities Act if the program receives any public funds or Title III of the Act if no public funds are received;
(e) Adopt and implement emergency policies and procedures, including an evacuation plan and emergency plan in case of fire, explosion, accident, death or other emergency. The policies and procedures and emergency plans must be current and posted in a conspicuous area; and
(f) Tobacco Use: Outpatient programs must not allow tobacco use in program facilities and on program grounds. Effective July 1, 2012, residential programs both licensed and funded by AMH must not allow tobacco use in program facilities and on program grounds.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12; MHS 3-2013(Temp), f. & cert. ef. 2-11-13 thru 8-9-13

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Oregon Health Authority, Division of Medical Assistance Programs
Chapter 410

Rule Caption: Align with OAR chapter 461, division 155 medical eligibility rules
Adm. Order No.: DMAP 3-2013(Temp)
Filed with Sec. of State: 1-30-2013
Certified to be Effective: 1-30-13 thru 6-29-13
Notice Publication Date:
Rules Amended: 410-120-0006
Rules Suspended: 410-120-0006(T)
Subject: The General Rules Program administrative rules govern the Division's payments for services provided to clients, and medical assistance eligibility determinations made by the Oregon Health Authority. In coordination with the Department of Human Services' (Department) temporary revision of medical eligibility rules in chapter 461, the Division is temporarily amending OAR 410-120-0006 to assure that the Division's medical eligibility rule aligns with and reflects information found in the Department's medical eligibility rules. In OAR 410-120-0006, the Division adopts in rule by reference Department eligibility rules and must update OAR 410-120-0006 in conjunction. The Division intends to file this rule permanently on or before June 29, 2013.
Rules Coordinator: Cheryl Peters—(503) 945-6527

410-120-0006
Medical Eligibility Standards

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedure consistent with applicable law. As outlined in 943-001-0020, the Authority, and the Department of Human Services (Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

(1) The Authority adopts and incorporates by reference the rules established in OAR chapter 461, and in effect January 30, 2013, for all medical eligibility requirements for medical assistance when the Authority conducts eligibility determinations.

(2) Any reference to OAR chapter 461 in Oregon Administrative Rules or contracts of the Authority are deemed to be references to the requirements of this rule, and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

(4) Effective on or after July 1, 2011 the Authority shall conduct medical eligibility determinations using the OAR chapter 461 rules which are in effect on the date the Authority makes the medical eligibility determination.

(5) A request for a hearing resulting from a determination under this rule, made by the Authority shall be handled pursuant to the hearing procedures set out in division 25 of OAR Chapter 461. References to "the Administrator" in division 25 of chapter 461 or "the Department" are hereby incorporated as references to the" Authority."

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042 & 414.065
Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. e.f 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; Administrative correction 8-1-12; DMAP 35-2012(Temp), f. & cert. ef. 7-20-12 thru 1-16-13; DMAP 45-2012(Temp), f. & cert. ef. 10-5-12 thru 1-19-13; DMAP 50-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 53-2012(Temp), f. & cert. ef. 11-1-12 thru 4-29-13; DMAP 56-2012(Temp), f. 11-30-12, cert. ef. 12-1-12 thru 4-1-13; DMAP 60-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 65-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 2-2013(Temp), f. & cert. e.f 1-8-13 thru 6-29-13; DMAP 3-2013(Temp), f. & cert. ef. 1-30-13 thru 6-29-13

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Rule Caption: Correct the Authority's intent to exempt newly eligible third trimester women from mandatory enrollment.
Adm. Order No.: DMAP 4-2013(Temp)
Filed with Sec. of State: 2-7-2013
Certified to be Effective: 2-7-13 thru 6-29-13
Notice Publication Date:
Rules Amended: 410-141-3060
Rules Suspended: 410-141-3060(T)
Subject: This rule establishes a process for the Authority to allow exemptions to enrollment for newly eligible women in their third trimester of pregnancy. CCOs will improve health, increase the quality, reliability, availability and continuity of care, as well as to reduce costs. CCOs will provide medical assistance recipients with health care services that are supported by alternative payment methodologies that focus on prevention and that use patient-centered primary care homes, evidence-based practices and health information technology to improve health and reduce health disparities. The Authority needs to amend these rules to ensure the Authority's intent for member choice when reaching the third trimester of pregnancy. This rule change needs to be in effect January 1, 2013, the start date of the current requirement for mandatory enrollment post 60 days from birth.
Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-3060
Enrollment Requirements in a CCO

(1) A client who is eligible for or receiving health services must enroll in a CCO as required by ORS 414.631, except as provided in 414.631(2), (3), (4), and (5) and 414.632(2) or exempted by this rule.

(2) If, upon application or redetermination, a client does not select a CCO, the Authority shall enroll the client and the client's household in a CCO that has adequate health care access and capacity.

(3) For existing members of a PHP that has transitioned to a CCO, the Authority shall enroll those members in the CCO when the Authority certifies and contracts with the CCO. The Authority shall provide notice to the enrollees 30 days before the effective date.

(4) Existing members of a PHP that is on the path to becoming a CCO shall retain those members. The Authority shall enroll those members in the CCO when certification and contracting are complete. The Authority shall provide notice to the clients 30 days before the effective date.

(5) Unless otherwise exempted by sections (17) and (18) of this rule, existing clients receiving their physical health care services on a fee-for-service basis shall enroll in a CCO serving their area that has adequate health care access and capacity. They must enroll by November 1, 2012. The Authority shall send a notice to the clients 30 days before the effective date.

(6) The following apply to clients receiving health care services on a fee-for-service basis but behavioral health services in a MHO:

(a) The Authority shall enroll the client in a CCO that is serving the client's area before November 1, 2012;

(b) The client shall receive their behavioral health care services from that CCO;

(c) The client shall continue to receive their physical health care services on a fee-for-service basis; and

(d) On or after November 1, 2012, the Authority shall enroll the client in a CCO for both physical health and behavioral health care services, unless otherwise exempted by sections (17) and (18) of this rule.

(7) The following apply to clients enrolled in Medicare:

(a) A client may enroll in a CCO regardless of whether they are enrolled in Medicare Advantage;

(b) A client enrolled in Medicare Advantage, whether or not they pay their own premium, may enroll in a CCO, even if the CCO does not have a corresponding Medicare Advantage plan.

(c) A client may enroll with a CCO, even if the client withdrew from that CCO's Medicare Advantage plan. The CCO shall accept the client's enrollment if the CCO has adequate health access and capacity;

(d) A client may enroll with a CCO, even if the client is enrolled in Medicare Advantage with another entity.

(8) From August 1, 2012, until November 1, 2012, enrollment is required in service areas with adequate health care access and capacity to provide health care services through a CCO or PHP. The following outlines the priority of enrollment during this period in service areas where enrollment is required:

(a) Priority 1: The client must enroll in a CCO that serves that area and has adequate health care access and capacity;

(b) Priority 2: The client must enroll in a PHP if:

(A) A PHP serves an area that a CCO does not serve; or

(B) A PHP serves an area that a CCO serves, but the CCO has inadequate health care access and capacity to accept new members;

(c) Priority 3: The client shall receive services on a fee-for-service basis.

(9) From August 1, 2012, until November 1, 2012, enrollment is voluntary in service areas without adequate access and capacity to provide health care services through a CCO or PHP. If a client decides to enroll in a CCO or PHP, the priority of enrollment in section (8) applies.

(10) On or after November 1, 2012, CCO enrollment is required in all areas. The following outlines the priority of options to enroll in all service areas:

(a) Priority 1: The client must enroll in a CCO that serves that area and has adequate health care access and capacity;

(b) Priority 2: The client must enroll in a PHP on the path to becoming a CCO if:

(A) The PHP serves an area that a CCO does not serve; or

(B) The PHP serves an area that a CCO serves, but the CCO has inadequate health care services capacity to accept new members;

(c) Priority 3: The client must enroll in a PHP that is not on the path to becoming a CCO if:

(A) The PHP serves an area that a CCO does not serve; or

(B) The PHP serves an area that a CCO serves, but the CCO has inadequate health care access or capacity to accept new members;

(d) Priority 4: The client shall receive services on a fee-for-service basis.

(11) A client must enroll in a dental care organization (DCO) in a service area where a DCO has adequate dental care access and capacity, and a DCO is open to enrollment.

(12) A client may enroll in a DCO in a service area where a DCO has inadequate dental care access and capacity. In these service areas, a client may:

(a) Select any DCO open for enrollment; or

(b) Obtain dental services on a FFS basis.

(13) If a client receives physical health care through a PHP, PCM or on a fee-for-service basis, under circumstances allowed by this rule, the client must enroll in a mental (behavioral) health organization (MHO) in a service area where MHO enrollment is required. The following determines if a service area requires MHO enrollment:

(a) The service area has adequate behavioral health care access and capacity;

(b) A CCO does not serve in the area; or

(c) A CCO serves the area, but the CCO has inadequate health care access and capacity to accept new members:

(14) From August 1, 2012, until November 1, 2012, if a service area changes from required enrollment to voluntary enrollment, the member shall remain with the PHP for the remainder of their eligibility period or until the Authority or Department redetermines eligibility, whichever comes sooner, unless otherwise eligible to disenroll pursuant to OAR 410-041-3080.

(15) At the time of application or recertification, the primary person in the household shall select the CCO on behalf of all household members on the same household case. If the client is not able to choose a CCO, the client's representative shall make the selection.

(16) The Department or OYA shall select the CCO for a child in the legal custody of the Department or OYA, except for children in subsidized adoptions.

(17) The following populations are exempt from CCO enrollment:

(a) Populations expressly exempted by ORS 414.631(2)(a), (b) and (c), which includes:

(A) Persons who are non-citizens who are eligible for labor and delivery services and emergency treatment services;

(B) Persons who are American Indian and Alaskan Native beneficiaries; and

(C) Persons who are dually eligible for Medicare and Medicaid and enrolled in a program of all-inclusive care for the elderly.

(b) Newly eligible clients are exempt from enrollment with a CCO if the client became eligible when admitted as an inpatient in a hospital. The client shall receive health care services on a fee-for-service basis only until the hospital discharges the client. The client is not exempt from enrollment in a DCO.

(c) Children in the legal custody of the Department or OYA where the child is expected to be in a substitute care placement for less than 30 calendar days, unless:

(A) Access to health care on a fee-for-service basis is not available; or

(B) Enrollment would preserve continuity of care.

(d) Clients with major medical health insurance coverage, also known as third party liability, except as provided in OAR 410-141-3050;

(e) Clients receiving prenatal services through the Citizen/Alien Waivered-Emergency Medical program; and

(f) Clients receiving premium assistance through the Specified Low-Income Medicare Beneficiary, Qualified Individuals, Qualified Disabled Working Individuals and Qualified Medicare Beneficiary programs.

(18) The following populations are exempt from CCO enrollment until specified below:

(a) From August 1, 2012, until November 1, 2012, children under 19 years of age who are medically fragile and who have special health care needs. Beginning November 1, 2012, the Authority may enroll these children in CCOs on a case-by-case basis;

(b) Women who are in their third trimester of pregnancy when first determined eligible for OHP or at re-determination may qualify as identified below to receive OHP benefits on a Fee-for-Service (FFS) basis until 60 days after the birth of her child. After the 60 day period the OHP member must enroll in a CCO. In order to qualify for the FFS third trimester exemption the member must:

(A) Not have been enrolled with a service area CCO, FCHP or PCO during the three months preceding re-determination;

(B) Have an established relationship with a licensed qualified practitioner who is not a participating provider with the service area CCO, FCHP or PCO and wishes to continue obtaining maternity services from the non-participating provider on a FFS basis; and

(C) Make a request to change to FFS prior to the date of the delivery if enrolled with a CCO, FCHP or PCO.

(c) From August 1, 2012 until November 1, 2012, clients receiving health care services through the Breast and Cervical Cancer Program are exempt. Beginning November 1, 2012, enrollment is required;

(d) Existing clients who had organ transplants are exempt until the Authority enrolls them in a CCO on a case-by-case basis; and

(e) From August 1, 2012, until November 1, 2012, clients with end-stage renal disease. Beginning November 1, 2012, enrollment is required.

(19) The following clients who are exempt from CCO enrollment and who receive services on a fee-for-service basis may enroll in a CCO:

(a) Clients who are eligible for both Medicare and Medicaid;

(b) Clients who are American Indian and Alaskan Native beneficiaries;

(20) The Authority may exempt clients or temporarily exempt clients for other just causes as determined by the Authority through medical review. The Authority may set an exemption period on a case-by-case basis. Other just causes include the considerations:

(a) Enrollment would pose a serious health risk; and

(b) The Authority finds no reasonable alternatives.

(21) The following pertains to the effective date of the enrollment. If the enrollment occurs:

(a) On or before Wednesday, the date of enrollment shall be the following Monday; or

(b) After Wednesday, the date of enrollment shall be one week from the following Monday.

(22) Coordinated care services shall begin on the first day of enrollment with the CCO except for:

(a) A newborn's date of birth when the mother was a member of a CCO at the time of birth;

(b) For members who are re-enrolled within 30 calendar days of disenrollment, the date of enrollment shall be the date specified by the Authority that may be retroactive to the date of disenrollment;

(c) For adopted children or children placed in an adoptive placement, the date of enrollment shall be the date specified by the Authority.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 414.685 & 2011 OL Ch. 602 Sec. 13, 14, 16, 17, 62, 64(2) & 65 (HB 3650)
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 62-2012(Temp), f. 12-27-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 4-2013(Temp), f. & cert. ef. 2-7-13 thru 6-29-13

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Oregon Health Authority, Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Prohibition against identifying individuals in public use data sets.
Adm. Order No.: OHP 1-2013
Filed with Sec. of State: 1-24-2013
Certified to be Effective: 2-1-13
Notice Publication Date: 1-1-2013
Rules Amended: 409-021-0130
Subject: The Office for Oregon Health Policy and Research (OHPR) needs to amend these rules in order to improve privacy protections for APAC public use data sets. The amendment prohibits users of APAC public use data from attempting to ascertain the identity of individuals.
Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-021-0130
Requests to Obtain Copies of Public Use Health Data Files

(1) Any requestor who wishes to obtain copies of public use health data files maintained by the Office shall provide all of the following:

(a) Form D-1 (Research Data Request).

(b) Form D-2 (Data Order Form).

(c) Form D-3 (Data Use Agreement).

(d) Full payment of fees.

(2) All requests for public use health data files require the written approval of the Research and Data Manager.

(3) Upon approval and receipt of full payment of fees, one copy of the requested public use health data file will be provided to the requestor.

(4) The Office shall respond to public use health data file requests within a reasonable period of time, except that the Office's response may be delayed so that critical operations and activities are not unduly disrupted. The Office shall notify the requestor in writing if an extensive delay is anticipated.

(5) This rule shall not apply to health data that the Office routinely makes available for direct download from the Office's web site.

(6) The public use files may not be used to identify any individual, including but not limited to patients, physicians, and other health care providers. The requestor may not use outside information to attempt to ascertain the identity of particular individuals who are the subject of public use files.

[ED. NOTE: Forms referred are available from the agency.]
Stat. Auth.: ORS 192.440 & 442.420(3)(d)
Stats. Implemented: ORS 192.410 - 192.440, 192.496, 192.501 & 442.420(3)(d)
Hist.: SHPD 5-1986, f. & ef. 1-24-86; HP 2-1988, f. & cert. ef. 3-25-88; HP 2-1992, f. & cert. ef. 10-19-92; HP 2-1994, f. & cert. ef. 4-22-94; HP 1-1996, f. & cert. ef. 1-2-96; OHP 1-1997, f. & cert. ef. 8-25-97; OHP 1-2002, f. & cert. ef. 1-2-02; Renumbered from 409-021-0015, OHP 1-2007, f. 1-29-07, cert. ef. 2-1-07; OHP 1-2013, f. 1-24-13, cert. ef. 2-1-13

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Rule Caption: Prohibition against identifying individuals in public use data sets.
Adm. Order No.: OHP 2-2013
Filed with Sec. of State: 1-24-2013
Certified to be Effective: 2-1-13
Notice Publication Date: 1-1-2013
Rules Amended: 409-025-0160
Subject: The Office for Oregon Health Policy and Research (OHPR) needs to amend these rules in order to improve privacy protections for APAC public use data sets. The amendment prohibits users of APAC public use data from attempting to ascertain the identity of individuals.
Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-025-0160
Limited and Public Use Data Sets

(1) Public use data sets.

(a) OHPR shall maintain an approved list of data elements, described in Appendix F, that may be included in APAC public use data sets. Appendix F shall comply with applicable Authority policies and state and federal rules, regulations, and statutes.

(b) Requesters seeking access to data from the APAC Public Use Data Sets shall complete an Application for Public Use Data Sets Form (APAC-4) and comply with the application procedures for public use data sets outlined on the APAC website.

(c) OHPR shall approve or deny the completed request and provide written notification to the requester within 30 calendar days of receipt of the request.

(d) OHPR shall deny the completed request for reasons which include, but are not limited to:

(A) Requester or any person who will have access to the data has previously violated a data use agreement with the Authority.

(B) The Administrator finds that the general purpose of the study does not serve the public interest.

(C) The Administrator finds that the specific details of the request do not sufficiently explain the proposed use.

(D) The Administrator finds that the specific details of the request violate any state or federal rule, regulation, or statute.

(E) The Administrator finds that the specific details of the request violate form APAC-4, Section 3: Data Use Agreement.

(F) The Administrator finds that the administrative, technical, and physical safeguards specified in the request do not sufficiently protect the data set.

(G) Full payment is not included with the application.

(e) If OHPR denies the Application for Public Use Data Sets:

(A) OHPR shall provide written notification stating the reason for the denial; and

(B) The requester may appeal the denial by requesting a contested case hearing. The appeal must be filed within 30 business days of the denial. The appeal process is conducted pursuant to ORS chapter 183 and the Attorney General's Uniform and Model Rules of Procedure, OAR 137-003-0501 to 137-003-0700. The requester shall have the burden to prove that OHPR unreasonably denied the application.

(C) The public use files may not be used to identify any individual, including but not limited to patients, physicians, and other health care

providers. The requestor may not use outside information to attempt to ascertain the identity of particular individuals who are the subject of public use files.

(2) Limited data sets.

(a) OHPR shall maintain an approved list of data elements, described in Appendix G, that may be included in APAC limited data sets.

(b) APAC limited data sets may be disclosed for research or to a public health authority for public health purposes.

(c) Researchers seeking access to the APAC Limited Data Sets shall complete an Application for Limited Data Sets Form (APAC-5) and comply with the application procedures for limited data sets outlined on the APAC website.

(d) OHPR shall review all applications for completeness and provide requesters written notification of completeness within 30 calendar days of receipt of the request.

(e) If OHPR determines that the application is incomplete, the requester shall have 30 calendar days from notification of incompleteness to complete the application. Incomplete applications that are not completed shall be discarded without further notification to the requester.

(f) Completed applications shall be made available for public inspection and written comment for no fewer than 14 days.

(g) OHPR shall convene a Privacy and Security Advisory Board to evaluate completed applications for limited data sets.

(A) The Privacy and Security Advisory Board shall include:

(i) Authority's privacy officer or designee;

(ii) One representative of the Division of Medical Assistance Programs;

(iii) One representative of the Addictions and Mental Health Division;

(iv) One representative of the Public Health Division;

(v) One representative of the Director's Office;

(vi) One representative of an insurer licensed to transact health insurance in Oregon;

(vii) One representative of a Coordinated Care Organization;

(viii) One representative of a hospital;

(ix) One representative of an ambulatory clinic;

(x) One academic researcher;

(xi) One other interested person not represented above; and

(xii) One non-voting chair, appointed by the Administrator.

(B) OHPR may accept nominations for and make appointments to the Privacy and Security Advisory Board.

(C) The Privacy and Security Advisory Board's review shall include, but is not limited to:

(i) Whether submitted IRB documentation is sufficient.

(ii) Whether the proposed disclosure serves the public interest.

(iii) Whether the proposed disclosure supports the mission and aims of the Authority.

(iv) Whether the proposed privacy and security protections are sufficient.

(v) Whether additional clarification is needed to complete the review.

(vi) Public comments about the completed application.

(D) When reviewing applications for limited data sets, the Privacy and Security Advisory Board may request any expert testimony that it deems necessary and appropriate.

(h) OHPR shall publish a Privacy and Security Advisory Board meeting schedule on its website and periodically update the number of completed applications scheduled to be reviewed during each meeting.

(i) OHPR shall schedule completed applications for limited data sets for review by the Privacy and Security Advisory Board on a first-come-first-served basis.

(j) The Privacy and Security Advisory Board shall recommend that OHPR approve the application, deny the application, defer action pending expert testimony, or defer action pending clarification from the requester.

(k) OHPR shall accept or reject the Privacy and Security Advisory Board's recommendation and notify the requester within ten business days of the review.

(l) OHPR shall deny a completed application for reasons which include, but are not limited to:

(A) Requester or any person who will have access to the data has previously violated a data use agreement with the Authority.

(B) Full payment is not included with the application.

(m) If the Privacy and Security Advisory Board requests clarification, the requester shall have 30 calendar days to provide the requested information to OHPR. After 30 calendar days, applications with incomplete requests for clarification shall be discarded without further notification to the requester.

(n) Upon receipt of the requested clarification OHPR shall schedule re-evaluation with the Privacy and Security Advisory Board on a first-come-first-served basis.

(o) If OHPR denies the application:

(A) OHPR shall provide written notification stating the reason for the denial.

(B) The requester may appeal the denial by requesting a contested case hearing. The appeal must be filed within 30 business days of the denial. The appeal process is conducted pursuant to ORS Chapter 183 and the Attorney General's Uniform and Model rules of Procedure, OAR 137-003-0501 to 137-003-0700. The requester shall have the burden to prove that OHPR unreasonably denied the application.

Stat. Auth.: ORS 442.466
Stats. Implemented: ORS 442.464 & 442.466
Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12; OHP 2-2013, f. 1-24-13, cert. ef. 2-1-13

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Rule Caption: Amendment to the Physician VISA Waiver Program
Adm. Order No.: OHP 3-2013
Filed with Sec. of State: 1-24-2013
Certified to be Effective: 2-1-13
Notice Publication Date: 1-1-2013
Rules Amended: 409-035-0020
Subject: The Office for Oregon Health Policy and Research needs to amend OAR 409-035-0020 to allow Federally-Qualified Health Centers (FHQCs) with a HPSA score at or above the requirements of 22 CFR 41.63 to apply for a J-1 Waiver through the Authority.
Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-035-0020
Health Care Facility Participation Requirements

(1) Federally Qualified Health Centers with a:

(a) HPSA score at or above the requirements of 22 CFR 41.63 shall apply for a J-1 Waiver either through the Authority or through the United State Department of Health and Human Services (see: http://www.global-health.gov/global-programs-and-initiatives/exchange-visitor-program);

(b) HPSA score below the requirements of 22 CFR 41.63 shall apply for a J-1 Waiver through the Authority.

(2) If a health care facility is located in a Medically Underserved Area (MUA) or Medically Underserved Population (MUP) that is not a Health Professional Shortage Area (HPSA), or if the request is for a flex option, then the facility must obtain prior approval from the Authority and provide documentation substantiating the area's need for a physician.

(3) In order to qualify for the Oregon Physician Visa Waiver Program the health care facility must:

(a) Identify the nature of the business entity seeking to employ the physician, including but not limited to domestic or foreign professional corporation, domestic or foreign private corporation, LLC, or partnership, and provide a certificate of existence or proof of authorization to do business in Oregon;

(b) Have provided care for a minimum of six months in Oregon, or supply evidence of stability such as HRSA funding, prior to submitting an application;

(c) Currently serve Medicare, Medicaid, and low income uninsured patients that are members of the population of the local HRSA designation. A minimum of 20% of the total current patient visits must be Medicaid, Medicare, or other low-income patients. At least half of the 20% requirement, i.e. 10%, must be Medicaid and low income uninsured patients, excluding Medicare.

(d) Post a sliding fee schedule in the primary languages of the population being served;

(e) Document attempts to actively recruit an American doctor for at least six months prior to submission of the application;

(f) Execute an employment contract with the physician that includes the following provisions:

(A) Duration of at least three years;

(B) Wages and working conditions comparable to those for a graduate from an American medical school;

(C) A signed U.S. Department of Labor Prevailing Wage Form (ETA-9035);

(D) May not include a non-compete clause or restrictive covenant that prevents or discourages the physician from continuing to practice in any designated area after the term of the contract expires;

(E) Specifies the geographic shortage area within Oregon in which the physician will practice or, if requesting a flex option, the shortage area or areas where prospective patients live;

(F) The physician shall treat all patients regardless of their ability to pay;

(G) The physician shall provide patient care on a full-time basis, a minimum of 40 hours per week;

(4) The health care facility shall submit to the Authority a fee of $2,000 and two original copies of the application packet for each waiver requested.

Stat. Auth.: ORS 413.248
Stats. Implemented: ORS 413.248
Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04; PH 11-2004, f. 3-25-04, cert. ef. 3-29-04; Renumbered from 333-005-0020 by OHP 7-2010, f. 12-29-10, cert. ef. 1-1-11; OHP 3-2013, f. 1-24-13, cert. ef. 2-1-13

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Rule Caption: Health Evidence Review Commission Process for Evidence-based Reports
Adm. Order No.: OHP 4-2013
Filed with Sec. of State: 2-1-2013
Certified to be Effective: 2-1-13
Notice Publication Date: 1-1-2013
Rules Adopted: 409-060-0100, 409-060-0110, 409-060-0120, 409-060-0130, 409-060-0140, 409-060-0150
Subject: The Office for Oregon Research and Development needs to adopt rules to document the process the Health Evidence Review Commission (HERC) will follow in developing medical technology assessments and other evidence based reports based on comparative effectiveness research so that the public and interested stakeholders understand what to expect from the Commission and know how to best provide input into the process.
Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-060-0100
Scope

(1) These rules (OAR 409-060-0100 to 409-060-0150) define criteria and processes that the Health Evidence Review Commission shall use to develop evidence-based reports, including medical technology assessments, evidence-based guidelines and coverage guidances. These rules apply to evidence-based reports and revisions to approved evidence-based reports whose development commences on or after February 1, 2013.

(2) The Commission may consider evidence relating to prescription drugs that is relevant to an evidence-based report but may not conduct a drug class evidence review or evidence-based report solely of a prescription drug.

Stat. Auth.: ORS 414.695 & 413.042
Stats. Implemented: 414.695 & 414.698
Hist.: OHP 4-2013, f. & cert. ef. 2-1-13

409-060-0110
Definitions

The following definitions apply to OAR 409-060-0100 to 409-060-0150:

(1) "Ad hoc expert" means an individual identified by the Commission as having particular expertise in a technology or its application.

(2) "Commission" means the Health Evidence Review Commission.

(3) "Coverage guidance" means a report approved by the Commission on a health service or technology which makes coverage recommendations for insurers and health care purchasers in furthering the use of evidence-based healthcare.

(4) "Evidence-based guideline" means an evidence-based report on a health service or technology, for use by health care providers in encouraging the use of the safest and most effective care possible.

(5) "Evidence-based report" means a medical technology assessment, evidence-based guideline or coverage guidance which includes conclusions and recommendations based on the information in the source documents, and which incorporates the clinical context necessary for the information to be properly interpreted by policymakers.

(6) "EbGS" means the Evidence-based Guidelines Subcommittee.

(7) "HTAS" means the Health Technology Assessment Subcommittee

(8) "Medical technology" or "technology" means medical equipment and devices, medical or surgical procedures and other techniques used or prescribed by health care providers in delivering health care to individuals, and the organizational or supportive systems within which health care is delivered.

(9) "Medical technology assessment" means an evidence-based report on the use, clinical effectiveness and risks, and cost of a technology in comparison with its alternatives.

(10) "OHPR" means the Office for Oregon Health Policy and Research.

(11) "Subcommittee" means a subcommittee established by the Commission.

(12) "Trusted source" means a source designated by the Commission for use in developing an evidence-based report.

Stat. Auth.: ORS 414.695 & 413.042
Stats. Implemented: 414.695 & 414.698
Hist.: OHP 4-2013, f. & cert. ef. 2-1-13

409-060-0120
Health Evidence Review Commission Process for Evidence-based Reports

(1) The Commission shall develop evidence-based reports or may direct a Subcommittee to prepare these reports. The Commission shall identify reports from trusted sources to serve as the basis for these reports. Meetings shall be public and conducted in a manner consistent with the Commission's policies and procedures.

(2) Topics for review shall be publicly identified at least 30 days prior to the initial Subcommittee meeting at which a draft evidence-based report is reviewed. In this notice, the Subcommittee shall make publicly available the primary evidence source documents to be used in creating the initial draft report, except when source documents are proprietary. If additional sources are added to the initial draft report after this notice, the Subcommittee shall publicly identify them no later than 14 days prior to the Subcommittee meeting where they will be discussed. In lieu of proprietary source documents, the Subcommittee shall make publicly available a citation of the evidence source. In the case of a proprietary evidence source, a full listing of citations from the proprietary source shall be made available when allowed by the source. If providing the citations is not allowed or not otherwise feasible, a summary of the evidence findings will be provided at least 14 days in advance of the meeting at which the initial draft report will be discussed.

(3) When developing an evidence-based report, the Commission or its designated Subcommittee shall consult with two or more ad hoc experts on the subject matter of the evidence-based report. Subcommittee shall publicly solicit ad hoc experts at least 30 days prior to the meeting at which it reviews the initial draft evidence-based report. One of the ad hoc experts must be a provider who manages patients who would potentially receive the treatment, service or device in question. Candidates wishing to serve as ad hoc experts shall disclose conflicts of interest according to HERC bylaws. The OHPR Administrator shall appoint ad hoc experts that best meet the needs of the state, considering any conflicts of interest, and shall not be limited to those who have volunteered to serve.

(4) After the Subcommittee reviews the initial draft report, the subcommittee may revise the initial draft report. The Subcommittee shall then solicit public comment on this version of the draft report over a 30-day period. Draft reports posted for comment shall include citations for all sources used in developing the report and a summary of evidence findings. The Subcommittee shall publicly disclose written comments received during the 30-day period, draft responses and additional revisions(if any) to the draft report at least seven days before the Subcommittee meeting at which the Subcommittee reviews public comments. After discussing the available evidence and considering public comment, including additional verbal testimony, the Subcommittee shall make conclusions as to the overall importance of beneficial effects versus potential harms and approve its final draft evidence-based report reflecting these conclusions.

(5) Before an evidence-based report is reviewed at a Commission meeting, a final draft report approved by the Subcommittee, along with all written public comments received during the public comment period and the Subcommittee's responses to these public comments shall be made publicly available for a period of at least 14 days. At the meeting, the Commission shall consider the Subcommittee's approved draft report and accept further public comment.

(6) After evaluating the report and public comments the Commission may take one of three actions:

(a) Accept the report as written.

(b) Make edits to the report and accept as modified.

(c) Return the report to the Subcommittee with recommendations for further work.

(7) The Commission or its Subcommittees may revise evidence-based reports when additional information relevant to the report becomes available or if the findings of one or more of the source reports change. The Commission or its Subcommittees may initiate a review at the request of interested parties who provide information or interpretations not considered in developing an existing evidence-based report. At a minimum, the HERC or one of its Subcommittees shall review the need to update each report within two years after its adoption or most recent revision.

Stat. Auth.: ORS 414.695 & 413.042
Stats. Implemented: 414.695 & 414.698
Hist.: OHP 4-2013, f. & cert. ef. 2-1-13

409-060-0130
Medical Technology Assessments

Medical technology assessments undertaken by the Commission shall be developed by HTAS and may include any technologies listed in the definition in ORS 414.695 and 414.698(1). Medical technology assessments shall be performed in cases where technology assessments from trusted sources do not exist or require the consideration of additional evidence. Medical Technology Assessments shall include a new search of the current peer-reviewed research on the topic. Assessments shall be developed according to the process described in OAR 409-060-0120 except as described in this section.

Stat. Auth.: ORS 414.695 & 413.042
Stats. Implemented: 414.695 & 414.698
Hist.: OHP 4-2013, f. & cert. ef. 2-1-13

409-060-0140
Evidence-based Guidelines

The EbGS shall develop evidence based guidelines based on one or more existing guideline from trusted sources, which may involve the consideration of additional research. Evidence-based guidelines shall be developed according to the process described in OAR 409-060-0120 except as described in this section.

Stat. Auth.: ORS 414.695 & 413.042
Stats. Implemented: 414.695 & 414.698
Hist.: OHP 4-2013, f. & cert. ef. 2-1-13

409-060-0150
Coverage Guidances

(1) A Subcommittee shall develop coverage guidances which shall be based on reports developed by trusted sources, and may cite supplemental evidence which is more recent or beyond the scope of the report. Coverage Guidances shall be developed according to the process described in OAR 409-060-0120 except as described in this section.

(2) OAR 409-060-0120(3) does not apply to this section. Instead, if the Subcommittee responsible for development of the report determines that it lacks sufficient expertise in the relevant field, or a request is received from an interested outside party, the Subcommittee shall solicit an ad hoc expert to provide additional information. Requests from interested parties to appoint ad hoc experts must be submitted within fourteen days after the public notice announcing the subcommittee's first review of the initial draft coverage guidance. The subcommittee may solicit ad hoc experts at any time thereafter if the committee determines such expertise is necessary. Candidates wishing to serve as ad hoc experts shall disclose conflicts of interest according to HERC bylaws. Ad hoc experts, if needed, shall be appointed by the OHPR Administrator. The OHPR administrator shall select experts that best meet the needs of the state, considering any conflicts of interest, and shall not be limited to those who have volunteered to serve. Ad hoc experts shall answer technical questions and provide clinical context during the review of the evidence.

Stat. Auth.: ORS 414.695 & 413.042
Stats. Implemented: 414.695 & 414.698
Hist.: OHP 4-2013, f. & cert. ef. 2-1-13

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Oregon Health Authority, Public Health Division
Chapter 333

Rule Caption: Update of rules pertaining to Emergency Medical Services Providers, Ambulance Service Licensing, and Ambulance Licensing
Adm. Order No.: PH 1-2013
Filed with Sec. of State: 1-25-2013
Certified to be Effective: 1-25-13
Notice Publication Date: 12-1-2012
Rules Adopted: 333-250-0031, 333-265-0011, 333-265-0024
Rules Amended: 333-250-0010, 333-250-0020, 333-250-0030, 333-250-0040, 333-250-0041, 333-250-0042, 333-250-0043, 333-250-0044, 333-250-0045, 333-250-0047, 333-250-0048, 333-250-0050, 333-250-0060, 333-250-0070, 333-250-0080, 333-250-0100, 333-255-0000, 333-255-0010, 333-255-0020, 333-255-0030, 333-255-0040, 333-255-0050, 333-255-0060, 333-255-0070, 333-255-0071, 333-255-0072, 333-255-0073, 333-255-0079, 333-255-0080, 333-255-0081, 333-255-0082, 333-255-0090, 333-255-0091, 333-255-0092, 333-255-0093, 333-265-0000, 333-265-0010, 333-265-0014, 333-265-0015, 333-265-0023, 333-265-0025, 333-265-0050, 333-265-0060, 333-265-0085, 333-265-0105, 333-265-0110, 333-265-0160
Rules Repealed: 333-265-0190
Subject: The Oregon Health Authority, Public Health Division, Emergency Medical Services and Trauma Systems Program is making changes in Oregon Administrative Rules, chapter 333, divisions 250, 255, and 265, to streamline and clarify rules, address requirements for training, testing and licensure of emergency medical services providers, to comply with SB 234 passed during the 2011 legislative session, and to implement upcoming curriculum changes. The program is also making amendments to add definition and variance stipulations for rural ambulance agencies.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-250-0010
Definitions

(1) "Advertise" means to communicate information to the public, or to any person concerned, by any oral, written, or graphic means including, but not limited to, handbills, newspapers, television, billboards, radio, Internet and telephone directories.

(2) "Agent" means a medical or osteopathic physician licensed under ORS chapter 677, actively registered and in good standing with the Oregon Medical Board, a resident of or actively participating in the area in which the emergency service is located, designated by the supervising physician to provide direction of the medical services of EMS providers as specified in OAR chapter 847.

(3) "Ambulance" or "Ambulance Vehicle" means any privately or publicly owned motor vehicle, aircraft, or watercraft that is regularly provided or offered to be provided for the emergency transportation of persons who are ill or injured or who have disabilities.

(4) "Ambulance Based Clinician" means a registered nurse, physician, or physician assistant who:

(a) Has an active license in Oregon and is in good standing with the Oregon Board of Nursing or the Oregon Medical Board; and

(b) Staffs an ambulance for a licensed ambulance service.

(5) "Ambulance Service" means any person, governmental unit, corporation, partnership, sole proprietorship, or other entity that operates ambulances and that holds itself out as providing prehospital care or medical transportation to persons who are ill or injured or who have disabilities.

(6) "Ambulance Service Area (ASA)" means a geographic area served by one ground ambulance service provider, and may include all or portion of a county, or all or portions of two or more contiguous counties.

(7) "Authority" means the Emergency Medical Services and Trauma Systems Program, within the Oregon Health Authority.

(8) "Business Day" means Monday through Friday when the Authority is open for business, excluding holidays.

(9) "Emergency Care" means the performance of acts or procedures under emergency conditions in the observation, care and counsel of the ill, injured or disabled; in the administration of care or medications as prescribed by a licensed physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. However, "emergency care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

(10) "EMS" means Emergency Medical Services.

(11) "EMS Medical Director" has the same meaning as "Supervising Physician" in ORS 682.025.

(12) "Emergency Medical Services Provider (EMS Provider)" means a person who has received formal training in prehospital and emergency care and is state-licensed to attend to any ill, injured or disabled person. Police officers, fire fighters, funeral home employees and other personnel serving in a dual capacity, one of which meets the definition of "emergency

medical services provider" are "emergency medical services providers" within the meaning of ORS chapter 682.

(13) "EMT-Paramedic" has the same meaning as Paramedic.

(14) "Employee" means any full-time paid or part-time paid person acting within the scope of his or her duties and for or on behalf of an ambulance service.

(15) "Fraud or Deception" means the intentional misrepresentation or misstatement of a material fact, concealment of or failure to make known any material fact or any other means by which misinformation or false impression is knowingly given.

(16) "License" means the documents issued by the Authority to the owner of an ambulance service when the service and its ambulance are found to be in compliance with ORS chapter 682, OAR chapter 333, division 255 and OAR chapter 333, division 250.

(17) "Non-emergency Care" means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24-hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a physician licensed under ORS chapter 677, insofar as any of those acts are based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board in the course of providing prehospital care as defined by this rule.

(18) "Owner" means the person having all the incidents of ownership in an ambulance service or an ambulance or, where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle or operation of an ambulance service under a security agreement or a lease for a term of 10 or more successive days.

(19) "Paramedic" means a person who is licensed by the Authority as a Paramedic.

(20) "Patient" means a person who is ill or injured or who has a disability and who is transported in an ambulance.

(21) "Person" means any individual, corporation, association, firm, partnership, joint stock company, group of individuals acting together for a common purpose, or organization of any kind and includes any receiver, trustee, assignee, or other similar representative thereof.

(22) "Physician" means a person licensed under ORS chapter 677, actively registered and in good standing with the Oregon Medical Board as a Medical Doctor (MD) or Doctor of Osteopathic Medicine (DO).

(23) "Prehospital Care" means that care rendered by EMS providers as an incident of the operation of an ambulance as defined by ORS chapter 682 and that care rendered by EMS providers as incidents of other public or private safety duties, and includes, but is not limited to "emergency care" as defined by ORS chapter 682.

(24) "Prehospital Care Report Form (PCRF)" means an Authority-approved form or electronic field data format that is completed for all patients receiving prehospital assessment, care or transportation to a medical facility.

(25) "Procedure" means a written, dated and signed course of action to carry out a directive. A procedure must be able to answer the questions; who, what, why, when and where.

(26) "Qualified Driver" means someone who is not licensed by the Authority and who meets Authority requirements to operate a ground ambulance.

(27) "Volunteer" means a person who is working without wages and is acting within the scope of his or her duties for an ambulance service, but who may receive reimbursement for personal expenses incurred.

Stat. Auth.: ORS 682.017

Stats. Implemented: ORS 682.017 - 682.117, 682.991

Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0020

Application Process to Obtain an Ambulance Service License

(1) Every person who furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the provision of ambulance service must apply for and receive an ambulance service license from the Authority before offering such service to the public.

(2) The applicant for an ambulance service license must possess at least one ambulance, facilities, equipment, and a communications system meeting the requirements of ORS chapter 682 and OAR chapter 333, division 250. In addition, an applicant must have a sufficient number of EMS providers, a number approved by the Authority, to appropriately staff each ambulance.

(3) An applicant for an ambulance service license must submit an application to the Authority on a form specified by the Authority. A completed application form must contain, at a minimum:

(a) The name and address of the person or public entity owning the ambulance service;

(b) If other than the applicant's true name, the name under which the applicant is doing business;

(c) If for a corporation, a limited partnership, or a limited liability company, attach to the application:

(A) A written statement from the Oregon Secretary of State's Corporation Division that the ambulance service is registered in accordance with the requirements of the Secretary of State's Corporation Division and that the ambulance service is in good standing and has filed all its annual reports, together with filing fees;

(B) The name of the registered agent of the ambulance service that is on file with the Secretary of State's Corporation Division; and

(C) All trade names recorded with the Secretary of State's Corporation Division for this business entity, and if this business entity is a subsidiary, all trade names or names of all other subsidiaries recorded with the Secretary of State's Corporation Division.

(d) If for a public agency, documentation from local city or county authorizing operation as an ambulance service;

(e) A copy of a signed signature authorization form or a power of attorney;

(f) The name of the principal contact person that the ambulance service wants contacted regarding official communications with the Authority, if different than identified in subsection (3)(a) of this rule;

(g) The mailing and actual street address of the principal place of business of the ambulance service and the actual street address of all fixed locations where an ambulance is parked when not in operation;

(h) Proof of financial responsibility as specified in ORS 682.105. Proof must be in the form of a certificate of insurance;

(i) Copies of all licenses issued by the Federal Communications Commission (FCC) for the operation of the ambulance service's communications equipment and radio configuration data as required by the Authority or written authorization from a FCC license holder to use the license holder's frequencies;

(j) If laboratory tests are conducted that require a license, a copy of that license;

(k) A copy of the operator's Air Carrier Operating Certificate, if the service will be operating an air ambulance;

(l) A copy of the operator's US Coast Guard Certificate of Compliance, if the service will be operating a marine ambulance;

(m) Copies of all telephone book yellow pages and the website addresses, where ambulance service advertising appears;

(n) A copy of a Prehospital Care Report Form or electronic field data format, which must be approved by the Authority, if not using the Authority's Prehospital Care Report Form;

(o) Name of the approved EMS medical director;

(p) A roster of all EMS providers, ambulance based clinicians, and qualified drivers in alphabetical order, who shall either operate an ambulance or attend to patients, or both, along with the following information for each employee and volunteer:

(A) The full legal name;

(B) The employment status as either full-time paid, part-time paid or volunteer;

(C) The level of professional license held; and

(D) License numbers, including EMS provider license numbers, driver and pilot license numbers for those persons operating the ambulance.

(q) A list of all ambulances to be operated by the ambulance service under the ambulance service license along with the information required for an ambulance license pursuant to ORS chapter 682 and these rules;

(r) A statement under the penalties of perjury that certifies the following:

(A) There has been no attempt to knowingly and willfully falsify, conceal, or omit a material fact, or make any false, fictitious, incomplete or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry for the purpose of obtaining or attempting to obtain an ambulance service license to operate in the State of Oregon. Where an applicant relies on documents submitted by employees, volunteers or agents, the applicant has made a reasonable effort to verify the validity of those documents;

(B) The applicant authorizes any persons or entities, including but not limited to hospitals, institutions, organizations, or governmental entities to

release to the Authority any information, files, or records requested by the Authority in connection with the processing of an application; and

(C) Upon receiving an ambulance service license, the licensee authorizes disclosure of information by insurance companies, physicians, health care facilities, including but not limited to hospitals, nursing homes, or free standing medical centers, to the Authority relating to service provided by the ambulance service to those facilities or to patients being taken from or to those facilities.

(s) The completed application must contain the signature(s) of the person(s) having the lawful responsibility for the overall operation of an ambulance service or the person having the power of attorney, or the authorized person empowered to sign on behalf of the ambulance service; and

(t) Such other information as the Authority may reasonably require.

(4) If the applicant's primary ambulance service business office is located in another state, the applicant must:

(a) Meet requirements listed in sections (1) through (3)(t) of this rule; and

(b) Attach copies of their current ambulance service and ambulance license(s) for that state to the application.

(5) The completed application to license an ambulance service must be accompanied by a nonrefundable licensing fee of:

(a) $75, when the service has a maximum of four full-time paid positions; or

(b) $250, when the service has five or more full-time paid positions.

(6) Upon review of the completed initial application and nonrefundable fee, the Authority shall schedule an inspection of the applicant's facilities, records and ambulances. The applicant must successfully complete the inspection to be issued an ambulance service license. A license shall be issued within 10 business days of successful inspection.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0030
Issuance of License to Operate an Ambulance Service

(1) When the completed ambulance service license application with the appropriate nonrefundable licensing fee has been received by the Authority, and if it is found that the submitted data, facilities and records comply with the requirements of ORS chapter 682 and these rules, the Authority shall issue an ambulance service license for the specified ambulance service.

(2) The ambulance service license:

(a) Shall be valid until June 30 of each year, unless sooner revoked or suspended. The initial licensing period may not exceed 15 months;

(b) Shall expire on June 30 of the following year, if a license is applied for and issued between April 1 and June 30; and

(c) Must be conspicuously displayed in the main business office of the ambulance service, or otherwise as directed by the Authority.

(3) Except when specifically exempted by ORS 682.035, an out-of-state ambulance service that operates or advertises in Oregon must be licensed by the Authority. An out-of-state ambulance service is not required to obtain an ambulance service license and ambulance license for the following situations:

(a) Transporting a patient through the state;

(b) Delivering a patient to a medical facility or other location within the state, if the beginning of the transport originated outside of the state;

(c) Picking up a patient at a medical facility or airport within the state for the purpose of transporting the patient to a medical facility or other location outside of the state, unless prohibited by the county's Ambulance Service Area plan; or

(d) In the event of a man-made or natural disaster declared by federal, state or local officials and resulting in the need to utilize all available resources to provide patient care and transportation in the affected area.

(4) If an ambulance service license becomes lost, damaged or destroyed, the licensee must apply for a replacement license. The licensee must submit, to the Authority, the completed application with a $10 nonrefundable fee for each replacement license.

(5) An ambulance service license is not transferable to a new owner of a purchased ambulance service.

(6) When an ambulance service is found to be in non-compliance with ORS chapter 682 or these rules, the Authority may deny, suspend or revoke an ambulance service license or place the ambulance service on probation.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0031
Ambulance Service Requirements with Use of Qualified Drivers

(1) If a licensee is using a driver of a ground ambulance who is not licensed as an EMS provider by the Authority, a licensee must ensure the driver has:

(a) A valid driver's license;

(b) Emergency ground ambulance operator's training that meets Authority standards;

(c) Current healthcare provider cardiopulmonary resuscitation (CPR) card or proof of course completion that meets or exceeds the 2010 American Heart Association Emergency Cardiovascular Care (ECC) guidelines or equivalent standards approved by the Authority;

(d) Bloodborne pathogen and infectious disease training that meets or exceeds standards found in OAR chapter 437;

(e) Hazardous materials awareness training that meets or exceeds the Oregon Occupational Safety and Health Division standards found in OAR chapter 437; and

(f) A signed statement by a driver not certified or licensed through the Authority that he or she is:

(A) Not addicted to alcohol or controlled substances and is free from any physical or mental condition that might impair the ability to operate or staff an ambulance; and

(B) Physically capable of assisting in the extrication, lifting and moving of a patient at the direction of an EMS provider.

(2) A licensee must have a certified copy of the qualified driver's license check done through the Oregon Department of Motor Vehicles Automated Reporting System Program or equivalent reporting program as approved by the Authority. If the driver has an out-of-state driver's license, the licensee must obtain an equivalent certified copy from that state, if available and if not available, conduct an annual driving record check. The latest copy must be kept in the driver's personnel file.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: PH 1-2013, f. & cert. ef. 1-25-13

333-250-0040
Ambulance Service Operational Requirements

(1) The licensee must ensure that the service, employees, volunteers and agents:

(a) Comply with all of the requirements of ORS chapter 682, ORS 820.300 through 820.380 and other applicable federal, state and local laws and regulations governing the operation of a licensed ambulance service;

(b) Notify the Authority, upon making initial application or within 14-days of the date of registration, of any new "trading as", "division of", or "doing business as" names utilized by the licensee; and

(c) Transport only patients for which it has the resources to provide appropriate medical care and transportation unless in transfers between medical facilities, the sending or receiving facility has provided medically appropriate life support measures, personnel, and equipment to sustain the patient during the transfer.

(2) The licensee shall document that each employee or volunteer:

(a) Is provided an initial orientation program that addresses, at a minimum, the ambulance service standing orders, ambulance service policies and procedures, driving and operating requirements for ambulance vehicles, and operations of equipment. The initial orientation program must be completed prior to the employee or volunteer being allowed to staff an ambulance; and

(b) Has access to current copies of these rules, and the documents referred to within these rules that are incorporated by reference.

(3) The licensee must have written procedures to carry out daily ambulance service operations. Procedures must include, but are not limited to:

(a) Bloodborne pathogen procedures that are in compliance with OAR chapter 437;

(b) The storage of medications including controlled substances if authorized by the EMS medical director. This procedure must meet Oregon Board of Pharmacy requirements in OAR chapter 855 and US Drug Enforcement Administration requirements found in 21 CFR 1301.75(b);

(c) The destruction of outdated medications including controlled substances if authorized by the EMS medical director. This procedure must meet Oregon Board of Pharmacy Requirements found in OAR chapter 855 and US Drug Enforcement Administration requirements found in 21 CFR 1307.21;

(d) A procedure for notifying the licensee when an employee is impaired by excessive fatigue, illness, injury or other factors that may reasonably be anticipated to constitute a threat to the health and safety of patients or the public;

(e) The reporting of suspected child abuse as required in ORS 419B.005 through 419.B.050; and

(f) The reporting of suspected elderly abuse as required in ORS 124.050 through 124.095.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0041
Ambulance Service Personnel Educational Requirements and Quality Improvement

(1) The licensee shall provide, coordinate, and document the following:

(a) An orientation program for all new EMS providers, ambulance based clinicians and qualified drivers. The initial orientation program must include but is not limited to the subjects listed in OAR 333-250-0040(2)(a); and

(b) The training of all EMS providers and ambulance based clinicians on the proper use of any new equipment, procedure or medication prior to being placed into operation on an ambulance.

(2) Before the licensee permits a person to staff an ambulance, the licensee shall ensure that the person has current training that includes but is not limited to:

(a) Bloodborne pathogen and infectious disease training that meets or exceeds standards found in OAR chapter 437;

(b) Hazardous materials awareness training that meets or exceeds the Oregon Occupational Safety and Health Division standards found in OAR chapter 437;

(c) Emergency ground ambulance operator's training that meets Authority standards when operating a ground ambulance;

(d) Air medical crew training that meets Authority standards when operating an air ambulance; and

(e) Marine crew training that meets Authority standards when operating a marine ambulance.

(3) The licensee shall ensure that there is verifiable written documentation placed in the employee's or volunteer's training file that the employee or volunteer has completed the training and the documentation shall include when and where the training was obtained.

(4) Any EMS related or required continuing education offered by the licensee or designee must be documented as follows:

(a) A class roster that contains:

(A) Name of the ambulance service;

(B) Full name of the instructor;

(C) Full name of the person attending the class;

(D) Class date;

(E) Class subject; and

(F) Class length; or

(b) A computer-generated printout history of an individual's continuing education record that contains:

(A) The full name of the person attending the class;

(B) Name of the ambulance service;

(C) Class dates;

(D) Class subjects; and

(E) Class lengths.

(5) Documentation required in section (4) of this rule must be maintained in a secure manner with limited access for a minimum of four years.

(6) The licensee must establish a procedure to release copies of all records of continuing education completed by an EMS provider or employee through the service in a verifiable format to the requesting party within five business days of being requested.

(7) The licensee must have a written quality improvement program that is approved by the EMS medical director.

(8) To assist the licensee and the EMS medical director in determining if appropriate and timely emergency medical care was rendered, the ambulance service designated official may request the following information from the hospital receiving the patient as authorized by ORS 682.056:

(a) Patient admit status and unit admitted to;

(b) Any procedure listed in section D04_04 of the National Highway Transportation Safety Administration dataset dictionary, version 2.2.1, and performed on the patient within the first hour of being admitted;

(c) Any medication administered to the patient within the first hour of being admitted; and

(d) Trauma system entry by emergency department staff.

(9) Information provided under section (8) of this rule is considered confidential pursuant to ORS 682.056. Any employee or volunteer participating in a quality improvement session must have a signed confidentiality statement in their personnel file.

(10) If the licensee accepts students for Paramedic internships from an accredited teaching institution, the licensee must:

(a) Have a signed and dated contract with each teaching institution providing internship students; and

(b) Use qualified preceptors, as defined by OAR 333-265-0000, who will be assigned to supervise, document and evaluate the Paramedic interns.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0042
Ambulance Operational Requirements

(1) The licensee must ensure that the service, employees, volunteers and agents providing ground ambulance service:

(a) Comply with all applicable statutes in the 2007-2008 Oregon Motor Vehicle Codes relating to motor vehicle and emergency vehicle operations, ORS 820.300 through 820.380 and ORS chapter 445.

(b) Successfully complete an emergency vehicle operator's course of instruction prior to independently operating an ambulance. The course must meet or be equivalent to the National Safety Council for Emergency Vehicle Operators Course (CEVO 2 or 3) or National Fire Protection Agency (NFPA) Driver.

(c) Comply with the licensee's procedures.

(2) A licensee shall have a procedure:

(a) Detailing the operation of an ambulance for both emergency and non-emergency situations;

(b) To remove an ambulance from service when the mechanical condition of an ambulance is sufficiently unreliable so as to endanger or potentially endanger the health, safety, or welfare of a patient or crew member;

(c) To handle a mechanical breakdown and to repair or replace a damaged tire or wheel when the ambulance is in operation; and

(d) Detailing what steps are to be followed when an ambulance is involved in an accident. The procedure must include the submission of a legible copy of the Department of Motor Vehicles Accident Report to the Authority within 10 business days of the accident.

(3) The licensee must ensure that the service, employees, volunteers and agents providing air ambulance service:

(a) Comply with the Federal Acquisition Regulation (FAR), 14 CFR Part 135 of the Operating requirements; Commuter and on demand operations and rules governing persons on board such aircraft; and

(b) Successfully complete the 2004 Association of Air Medical Services (AAMS) Guidelines or equivalent. There must also be an annual review of the Air Medical Crew course material, the length of which must be established by the EMS medical director.

(4) A licensee may only utilize an ambulance for the provision of providing ambulance service that has been issued a license by the Authority and that complies with all requirements of ORS chapter 682, OAR chapter 333, division 255, and these rules.

(5) A licensee must not allow or schedule an employee or volunteer to serve on an ambulance who is impaired by excessive fatigue, illness, injury or other factors that may reasonably be anticipated to constitute a threat to the health and safety of patients or the public.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0043
Ambulance Service Personnel Record Keeping and Reporting Requirements

(1) The licensee must:

(a) Maintain a complete and current personnel file, training file, and medical file for each employee and volunteer, including but not limited to:

(A) Full name;

(B) Current home mailing address;

(C) Affiliation status, listed as either an employee full-time paid, employee part-time paid, volunteer, or agent;

(D) Copies of:

(i) Reportable actions forms as required under OAR 333-250-0043(5);

(ii) Applicable professional certificates or licenses;

(iii) A current driver's license;

(iv) A current pilot's license if the employee or volunteer operates an air ambulance;

(v) A certified court printout of initial driver's license check done through the Oregon Department of Motor Vehicles Automated Reporting System Program or equivalent reporting program as approved by the Authority, and any subsequent reported convictions, accidents or license suspensions. If the driver has an out-of-state driver's license, the licensee must participate in a similar program for that state, if available and if not available, conduct an annual driving record check; and

(vi) Current healthcare provider CPR card or proof of course completion that meets or exceeds the 2010 American Heart Association ECC guidelines or equivalent standards approved by the Authority.

(b) If the licensee contracts with or employs ambulance based clinicians for the purpose of providing advanced level care, the licensee shall ensure that the clinicians:

(A) Meet all of the applicable requirements in OAR chapter 333, division 250;

(B) Have documentation of a current Advanced Cardiac Life Support course or other Authority-approved equivalent course completion;

(C) Have documentation of current Pediatric Advanced Life Support or other Authority-approved equivalent course completion; and

(D) Have documentation of completing a current Prehospital Trauma Life Support, Basic Trauma Life Support, Trauma Emergency Assessment Management or Trauma Nurse Core Course. The Trauma Emergency Assessment Management and Trauma Nurse Core Course must include a supplemental prehospital rapid extrication training session.

(c) Documentation that an employee or volunteer has completed:

(A) An ambulance service initial orientation program that includes requirements set forth in OAR 333-250-0040(2)(a) and (b);

(B) A bloodborne pathogen and infectious disease training course that meets standards found in OAR 437-002-0360 and 437-002-1030 and an annual refresher training course;

(C) A Hazardous Materials Awareness training course that meets or exceeds the Oregon Occupational Safety and Health Division standards found in OAR chapter 437 and an annual refresher training course;

(D) An Authority-approved emergency vehicle operator's course for ground ambulance drivers only. The course must meet or be equivalent to the standards of the National Safety Council for Emergency Vehicle Operators Course, (CEVO II-IIIAMB) or NFPA Driver;

(E) The US Department of Transportation's Air Medical Crew National Standard Curriculum course or equivalent and annual refresher training for persons staffing air ambulances only;

(F) Initial Tuberculosis (TB) screening and any subsequent TB screenings;

(G) Hepatitis-B immunizations or a signed statement of declination;

(H) A signed statement by a driver not certified or licensed through the Authority that they are:

(i) Not addicted to alcohol or controlled substances and are free from any physical or mental condition that might impair the ability to operate or staff an ambulance; and

(ii) Physically capable of assisting in the extrication, lifting and moving of a patient.

(2) A licensee shall have documentation of items listed in section (1) of this rule prior to the employee or volunteer being allowed to independently staff an ambulance. Note: an employee or volunteer must begin the Hepatitis-B immunization series or have a signed statement of declination prior to independently staffing an ambulance.

(3) All records relating to an ambulance service's operations must be retained by the licensee or the licensee's successors or assigns for not less than seven years from the date of implementation, purchase, dispatch, creation or longer if so required by law or regulation. The record keeping mechanism may be in any permanent form including paper or on magnetic media provided that the information can be made readily available for inspection by the Authority.

(4) The licensee must promptly submit to the Authority such information, including survey information that the Authority may reasonably require.

(5) The licensee must submit a completed reportable action form to the Authority, within the times specified, for any of the following actions:

(a) Hiring a new employee or volunteer, within 14 business days;

(b) Terminating or suspending an employee or volunteer for cause, within 14 business days; and

(c) Disciplinary action taken by the licensee or the EMS medical director for unprofessional conduct as listed in OAR 333-265-0000, within 14 business days.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 682.017

Stats. Implemented: ORS 682.017 - 682.117, 682.991

Hist.: OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0044

Prehospital Care Report Form or Electronic Field Data Format Completion Requirements

(1) The licensee must complete a PCRF in each instance where an ambulance arrives on the scene and patient contact is initiated.

(2) A complete PCRF or electronic field data format as specified by the Authority must be prepared by ambulance personnel and delivered to appropriate hospital staff at the time patient care is transferred, unless the PCRF is provided electronically under section (3) of this rule.

(3) If a PCRF is provided via electronic format, a licensee shall ensure that personnel verbally relay pertinent patient care information to hospital staff prior to leaving the hospital. A completed electronic report must be submitted to the hospital at a location designated by the hospital within 12 hours of the patient being transported to the hospital.

(4) If the ambulance crew is unable to complete the PCRF at the time patient care is transferred, the ambulance crew may depart after receiving verbal verification from an emergency department employee involved with providing patient care that sufficient patient information has been transferred to support safe and timely continuation of patient care.

(5) The licensee must return the ambulance crew to the hospital when requested by the attending physician for the purpose of obtaining the completed PCRF or additional patient care information. If acceptable to the attending physician, a completed PCRF can be faxed or electronically sent to the hospital;

(6) A licensee must ensure that a PCRF or electronic field data form contains data points as defined by version 2.2.1 of the National Highway Transportation Safety Administration Uniform Pre-Hospital Emergency Medical Services Dataset; and

(a) For any patient meeting the criteria for trauma patient as defined in OAR 333-200-0010(26):

(A) Trauma band number; and

(B) Triage criteria as defined in OAR 333-200-0010, Exhibit 2.

(7) Notwithstanding the requirements in this rule, a completed PCRF or electronic field data form is not required when there is a disaster or a multiple patient incident consisting of more than five patients or the number of patients prescribed in the county's ASA plan, and which results in a single ambulance transporting two stretcher patients at the same time or when an ambulance is required to make more than one trip to and from the incident site. In those situations, a completed triage tag that includes listing of the trauma systems identification bracelet number, recording of the times and results of all vital signs taken and the times, name and dosage of any medication given is acceptable patient care documentation. However, every reasonable attempt must be made by the ambulance personnel or ambulance based clinicians to complete an approved PCRF or electronic field data form for each patient at the conclusion of the incident.

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

Stat. Auth.: ORS 682.017

Stats. Implemented: ORS 682.017 - 682.117, 682.991

Hist.: OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0045

Storage, Release and Destruction of Prehospital Care Report Form Requirements

(1) The licensee is responsible for:

(a) Providing secure storage of PCRFs, with limited access to the PCRFs by office and ambulance personnel;

(b) Providing that the PCRFs are organized in a manner that will allow an authorized ambulance service representative to locate a PCRF within a reasonable amount of time, given a patient's name and the date and time of the ambulance call;

(c) Establishing a procedure for when a copy of the PCRF may be released to a medical facility receiving the patient, the patient, the patient's family, the patient's legal guardian, an insurance company, an attorney, a law enforcement officer, or a law enforcement agency;

(d) Protecting the confidentiality of patient information during quality improvement sessions by limiting access to the PCRF and having all persons having access to PCRFs sign a confidentiality statement; and

(e) Establishing a procedure for the method and verification of the destruction of a PCRF:

(A) An ambulance service may not destroy a medical record or report about a patient for 10 years after the record or report is made, or longer if so required by law or regulation unless the patient is notified.

(B) In the case of a minor patient, a medical record or report may not be destroyed until the patient attains the age of majority plus three years or for 10 years after the record or report is made, whichever is later, unless the parent or guardian of the minor patient is notified.

(i) Notification of a minor patient or the parent or guardian of the minor patient of the potential destruction of a prehospital care report must:

(I) Be made by first class mail to the last known address of the patient;

(II) Include the date on which the record of the patient shall be destroyed; and

(III) Include a statement that the record or synopsis of the record, if wanted, must be retrieved at a designated location within 30 days of the proposed date of destruction.

(2) Under no circumstances shall an employee, volunteer or agent make a copy of a PCRF for their own personal record or remove the original or a copy of a completed PCRF from the licensee's files or facilities without having written approval of the licensee.

(3) All PCRFs must be made available for inspection and duplication when requested by the Authority as authorized by ORS 41.675 and 41.685.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0047
Ambulance Service EMS Medical Director Operational Requirements

(1) The licensee must have a single EMS medical director except:

(a) When the licensee operates in non-contiguous counties, then the licensee may have one EMS medical director in each non-contiguous county of operation; or

(b) Where a county or regional EMS system prescribes that multiple agencies within a county or region must have a governmentally appointed EMS medical director, that agency may have a different EMS medical director in contiguous counties. In this event, the signed agreement or contract may be between the EMS medical director and the county or regional EMS system.

(2) The licensee must ensure that the EMS medical director:

(a) Meets the requirements and duties as prescribed in OAR 847-035-0020 through 847-035-0030;

(b) Has a written set of treatment protocols for each level of service offered by the licensee; and

(c) Has a signed and dated agreement or contract with the licensee.

(3) When an EMS medical director authorizes the administration of controlled substances, the EMS medical director must have on file with the licensee:

(a) A US Drug Enforcement Administration License listing the name of the ambulance service and address where the controlled substances are stored when not on an ambulance; and

(b) A signed and dated procedure as to the amount stored on the ambulance and how controlled substances will be stored, accessed, recorded, administered, destroyed and secured. It is the responsibility of the EMS medical director to ensure that the procedure meets the minimum US Drug Enforcement Administration requirements found in 21 CFR 1301.75(b).

(4) The licensee must notify the Authority in writing of:

(a) The denial, suspension, or voluntary surrender of an EMS medical director's medical license or US Drug Enforcement Administration license within 72 hours; and

(b) A change in the EMS medical director, 21 days prior to the change.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0048
Ambulance Service Ambulance Personnel Operational Requirements

(1) The licensee must ensure that the service, employees, volunteers and agents meet the personnel requirements as prescribed in these rules.

(2) The licensee must not schedule or allow an employee or volunteer to serve on an ambulance who is impaired by excessive fatigue, illness, injury or other factors that may reasonably be anticipated to constitute a threat to the health and safety of patients or the public.

(3) The licensee shall require each person staffing an ambulance or providing prehospital emergency or non-emergency care to display his or her level of licensure on the outermost garment of his or her usual work uniform at all times while staffing an ambulance or rendering patient care, and shall make reasonable efforts to display this information under other circumstances.

(4) The licensee shall ensure that any EMS providers, ambulance based clinicians or qualified drivers:

(a) Are trained to properly operate all ambulances and equipment that he or she is authorized to use; and

(b) Are physically capable and have the ability to lift and move patients and assist in extrication of patients when necessary.

(5) The licensee shall not permit employees or volunteers to operate an ambulance, equipment, or have patient contact if:

(a) They are taking any medications that could impair safe operation and handling of the ambulance, equipment, or patient; or

(b) The employee or volunteer has consumed any alcoholic beverages within the last eight hours.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0050
Request for Variance from Standards

(1) The licensee may request a variance from the standards established in ORS 820.330 to 820.380, ORS chapter 682 and these rules when:

(a) The licensee believes that compliance with a rule is inappropriate because of special circumstances which would render compliance unreasonable, burdensome, or impractical due to special conditions or causes, or because compliance would result in substantial curtailment of necessary ambulance service; and

(b) A city ordinance or county ASA plan exists, and the licensee has presented his or her request for a variance to the local city or county governing body and that body has given their approval for the proposed variance.

(2) A written request for a variance must be made to the Authority. The Authority may not grant a variance that may cause danger or harm to the public or to persons operating or staffing the ambulance. A written variance request must include:

(a) Justification for the variance request; and

(b) A detailed and realistic plan to resolve the need for a future variance.

(3) The request for variance may be presented to the State Emergency Medical Service Committee at a regularly scheduled meeting. The Public Health Director or designee, after considering the Committee's recommendation, when requested, may grant a variance:

(a) A variance shall be granted for a period of time as prescribed by the Authority; and

(b) A subsequent variance may only be granted when the licensee has demonstrated to the Authority, insofar as possible, adequate progress in resolving the need for the initial variance as described in the plan.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0060
Right of Entry and Inspection of an Ambulance Service and Ambulance

(1) The Authority may conduct an inspection for the purpose of evaluating the eligibility of an ambulance service or an ambulance to receive or retain a license and to ensure the health, safety, and welfare of the persons who utilize ambulances. Ambulance services that acquire and maintain current status with a nationally recognized EMS service program accreditation entity that meets or exceeds Oregon requirements may be exempted from the inspection process. A copy of the inspection report from the nationally recognized EMS service program accreditation entity must be filed with the Authority for approval.

(2) Routine inspections of an ambulance service or an ambulance must be scheduled with the management of the ambulance service at least 72 hours in advance of the inspection unless otherwise mutually agreed upon by the Authority and the ambulance service representative.

(3) Investigative inspections for the purpose of ensuring continued compliance with ORS chapter 682 and these rules do not require giving advanced notice to the licensee.

(4) In conducting an inspection or interview, the Authority representative must:

(a) Identify him or herself by presenting the Authority identification to the owner, manager, or ranking employee or volunteer present at the site of an inspection or interview;

(b) Inform the ambulance service representative of the purpose for the inspection or interview; and

(c) Inform the ambulance service representative when the inspection or interview has been completed and the results of the inspection only.

(5) The Authority may make photographic or video-graphic documentation as part of an inspection for or an investigation of non-compliance with ORS chapter 682 and these rules.

(6) Failure of the licensee to produce records for inspection or to permit examination of equipment and facilities by the Authority shall be grounds for the denial, suspension or revocation of an ambulance service or ambulance license.

(7) The Authority may accept local city or county governing body inspections that meet or exceed requirements outlined in ORS chapter 682 and OAR chapter 333, divisions 250 and 255 in lieu of an inspection by the Authority.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 7-2001, f. & cert. ef. 4-24-011: PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0070
Denial, Suspension, or Revocation of an Ambulance Service License or Placing an Ambulance Service on Probation

(1) Conduct subjecting an ambulance service to discipline means conduct unbecoming a person who is either applying for or holds an ambulance service license and is detrimental to the best interest of the public and includes, but is not limited to the conduct listed in this rule.

(2) The Authority may, in accordance with the provisions of ORS chapter 183, deny, suspend, or revoke an ambulance service license or ambulance license. The Authority may also place an ambulance service on probation, the terms of which shall be established by the Authority. In addition to or in lieu of probation, suspension or revocation, the Authority may cite an ambulance service for a violation and request corrective action.

(3) An individual, firm, partnership, limited liability company, corporation, association, or organization shall be considered in violation of ORS chapter 682 and these rules if the Authority determines that the individual, firm, partnership, limited liability company, corporation, association, or organization has done any of the following:

(a) Been convicted of a crime, including conviction of Medicare or Medicaid fraud, relating adversely to the person's capability of owning or operating an ambulance service;

(b) Violated ORS chapter 682 or any of these rules, which poses a significant threat to the health and safety of the public;

(c) Made a material omission or misrepresentation of facts on an application for a license or waiver, or in response to an inquiry or investigation. This includes fraud or deceit in obtaining or attempting to obtain a license or waiver or in any other transaction with the Authority;

(d) Failed to employ or contract for an approved EMS medical director, or to operate under the direction of an EMS medical director appointed by an appropriate governmental authority;

(e) Failed to have medical equipment and supplies required for operation at the highest level of service provided;

(f) Lent a license, borrowed, or used the license of another, or knowingly aided or abetted the improper granting of a license;

(g) Defaced, altered, removed or obliterated any portion of any official entry upon a license, licensing decal, or waiver issued by the Authority;

(h) Refused to respond to or render prehospital emergency care as required by protocol because of a patient's race, sex, creed, national origin, sexual preference, age, handicap, medical problem, or financial inability to pay;

(i) Failed to promptly notify the Authority of a change of ownership, or to report any matter the reporting of which is required by ORS 682.220(4);

(j) Disclosed medical or other confidential information;

(k) Altered or inappropriately destroyed medical records;

(l) Willfully prepared or filed false reports or records, or induced another to do so;

(m) Engaged in a pattern of any of the following:

(A) Incompetence, negligence or misconduct in operating the ambulance service or in providing emergency medical care and transportation to patients;

(B) Abuse or abandonment of patients;

(C) Failure to comply with the county ASA plan, area trauma plan, or other lawfully promulgated policies, plans, or procedures;

(D) Failure to meet response time standards as prescribed by the county ASA plan or if no ASA plan is in effect, the area trauma plan;

(E) Misuse or misappropriation of medications or medical materials; and

(F) Other conduct determined by the Authority to pose a significant threat to the public health and safety and the well being of ambulance patients.

(n) Failed to comply with the minimum personnel requirements or failed to have the required equipment in working order on an ambulance as prescribed in these rules;

(o) Had a continuing pattern of violations over a period of two or more years;

(p) Failed to submit a reasonable timetable to correct the violations cited by the Authority;

(q) Interfered with the performance of the Authority's duties; and

(r) Failed to pay all applicable licensing fees or civil penalties set by the Authority.

(4) Upon receipt of a sufficient written or verbal complaint describing specific violations of ORS chapter 682 or any other relevant statute or rule, the Authority shall initiate an investigation of the allegations. The Authority does not have jurisdiction over and shall not take action on complaints that relate solely to rates charged a patient by an ambulance service.

(5) When an ambulance, upon inspection by the Authority, manifests evidence of a mechanical or equipment deficiency, which poses a significant threat to the health or safety of patients or crew, the Authority shall immediately suspend that ambulance from operation. No ambulance that has been suspended from operation may be operated until the licensee has certified and the Authority has confirmed that all of the violations have been corrected.

(6) The Authority shall confirm by inspection or other appropriate means that all violations have been corrected within 48 hours of notification by the licensee. The licensee must notify the Authority of corrections by personal telephone contact (voice mail messages will suffice), or facsimile, or in person during normal business hours. Notifications received by facsimile outside of business hours will be considered received the next business day. Telephonic notifications shall be deemed received at the time actual voice contact between the licensee and the Authority's ambulance service licensing program representative or designee is established.

(7) In the event that a license is suspended or revoked, the licensee must cease ambulance service operations and no person except the Authority may permit or cause the service to continue.

(8) The licensee must return all indications of licensing, including certificates and the remains of ambulance license decals to the Authority by registered mail, posted within 48 hours of either receipt of notification of suspension or revocation or the effective date of revocation, whichever is later.

(9) The Authority shall notify applicable local government, county ASA administrator, and supervising physician of the suspension or revocation of an ambulance service license, or the placing of a service on probation.

(10) The Authority may assess civil penalties up to $5000 per violation against any entity or person licensed under these rules or subject to licensure under these rules for a violation of ORS chapter 682 or these rules.

(11) If a principal owner of an ambulance service has had its ambulance service license revoked, following the opportunity for a hearing as provided by ORS chapter 183, that person may not be eligible to apply for or hold an ambulance service license for a period of two years from the date of revocation as specified in ORS chapter 682.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 11-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0080
Surrender of License to Operate an Ambulance Service

(1) An ambulance service license is non-transferable.

(2) When the owner sells or closes an ambulance service, the owner must:

(a) Provide a minimum 30-days written notice of the intent to cease operation to the Authority;

(b) Provide the required notice as prescribed in the county ASA plan to the county health department and the ASA authority in which the ambulance service operates; and

(c) Take such other actions as may be determined to be necessary by the Authority or the county health, or the ASA authority to assure the smooth transition to a new ambulance service provider, including but not limited to permitting the continued operation of the existing provider for more than the required period of legal notice or making equipment and supplies available to an interim ambulance service provider.

(3) Within 10 days of final closing of the ambulance service sale, the owner must return the ambulance service license to the Authority.

(4) An owner may not terminate the ambulance service business or otherwise cease operations in contravention of any provisions, rules or ordinances established under the provision of ORS chapter 682.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-250-0100
Advertising of an Ambulance Service

(1) The licensee may advertise only when the ambulance service and ambulance meets the requirements of ORS chapter 682 and these rules.

(2) If the licensee does not provide the level of service advertised, the license may be denied, suspended or revoked in accordance with the provisions of ORS chapter 183 for failure to comply.

(3) No licensee shall advertise or promote the use of any telephone number other than "9-1-1" for emergency ambulance service.

(4) A licensee which offers non-emergency service may advertise its non-emergency or business telephone number for other than emergency use, provided that in any print, audio or video advertising the phrase "FOR EMERGENCIES — CALL 9-1-1" is provided. When using the phrase "FOR EMERGENCIES — CALL 9-1-1" in print, it must be in bold-faced type at least one and one-half times the point size in which the non-emergency or business telephone number is displayed.

(5) Contents of ambulance service advertising must include:

(a) The legal name of the ambulance service indicated on the license issued by the Authority;

(b) If the licensee advertises 24-hours-a-day operation, the ambulance service must provide uninterrupted service 24-hours-a-day, 7 days-a-week, 365 days-a-year; and

(c) If the licensee provides service for only a portion of a 24-hour day or week, any advertising must specify the hours and days of operation.

(6) Advertising materials disclosure upon request. The licensee must maintain copies of all print, audio, video, and all other types of advertisements for one year after use and distribution have ceased, and must make those copies available to the Authority upon request.

(7) Novelty or promotional items which are not distributed to the general public do not meet the definition of advertisement.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 18-1994, f. 6-30-94, cert. ef. 7-1-9; OHD 7-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0000
Definitions

(1) "Advanced Emergency Medical Technician (AEMT)" means a person who is licensed by the Authority as an Advanced Emergency Medical Technician.

(2) "Ambulance" or "Ambulance Vehicle" means any privately or publicly owned motor vehicle, aircraft, or watercraft that is regularly provided or offered to be provided for the emergency transportation of persons who are ill or injured or who have disabilities.

(3) "Ambulance Based Clinician" means a Registered Nurse, Physician, or Physician Assistant who:

(a) Has an active license in Oregon and is in good standing with the Oregon Board of Nursing or the Oregon Medical Board; and

(b) Staffs an ambulance for a licensed ambulance service.

(4) "Ambulance Service" means any person, governmental unit, corporation, partnership, sole proprietorship, or other entity that operates ambulances and that holds itself out as providing prehospital or medical transportation to persons who are ill or injured or who have disabilities.

(5) "Ambulance Service Area (ASA)" means a geographic area served by one ground ambulance service provider, and may include all or portion of a county, or all or portions of two or more contiguous counties.

(6) "Authority" means the Emergency Medical Services and Trauma Systems Program, within the Oregon Health Authority.

(7) "Business day" means Monday through Friday when the Authority is open for business, excluding holidays.

(8) "Emergency Care" means the performance of acts or procedures under emergency conditions in the observation, care and counsel of the ill, injured or disabled; in the administration of care or medications as prescribed by a licensed physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. However, "emergency care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

(9) "EMS" means Emergency Medical Services.

(10) "EMS Medical Director" has the same meaning as "Supervising Physician" in ORS 682.025.

(11) "Emergency Medical Responder (EMR)" means a person who is licensed by the Authority as an Emergency Medical Responder.

(12) "Emergency Medical Services Provider (EMS Provider)" means a person who has received formal training in prehospital and emergency care and is state-licensed to attend to any ill, injured or disabled person. Police officers, fire fighters, funeral home employees and other personnel serving in a dual capacity, one of which meets the definition of "emergency medical services provider" are "emergency medical services providers" within the meaning of ORS chapter 682.

(13) "Emergency Medical Technician (EMT)" means a person who is licensed by the Authority as an Emergency Medical Technician.

(14) "EMT-Basic" has the same meaning as Emergency Medical Technician.

(15) "EMT-Intermediate" means a person who is licensed by the Authority as an EMT-Intermediate.

(16) "EMT-Paramedic" has the same meaning as Paramedic.

(17) "In Operation" means the time beginning with the initial response of the ambulance and ending when the ambulance is available to respond to another request for service. An ambulance that transports a patient becomes available to respond when the care of the patient has been transferred.

(18) "License" means the documents issued by the Authority to the owner of an ambulance service when the service and its ambulances are found to be in compliance with ORS chapter 682, OAR chapter 333, division 250 and OAR chapter 333, division 255.

(19) "Non-emergency Care" means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24-hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a physician licensed under ORS chapter 677, insofar as any of those acts are based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board in the course of providing prehospital care as defined by this rule.

(20) "Owner" means the person having all the incidents of ownership in an ambulance service or an ambulance or, where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle or operation of an ambulance service under a security agreement of a lease for a term of 10 or more successive days.

(21) "Paramedic" means a person who is licensed by the Authority as a Paramedic.

(22) "Patient" means a person who is ill or injured or who has a disability and who is transported in an ambulance.

(23) "Person" means any individual, corporation, association, firm, partnership, joint stock company, group of individuals acting together for a common purpose, or organization of any kind and includes any receiver, trustee, assignee, or other similar representatives thereof.

(24) "Physician" means a person licensed under ORS chapter 677, actively registered and in good standing with the Oregon Medical Board as a Medical Doctor (MD) or Doctor of Osteopathic Medicine (DO).

(25) "Physician Assistant (PA)" means a person licensed under ORS chapter 677, actively registered and in good standing with the Oregon Medical Board.

(26) "Prehospital Care" means that care rendered by EMS providers as an incident of the operation of an ambulance as defined by ORS chapter 682 and that care rendered by EMS providers as incidents of other public or private safety duties, and includes, but is not limited to "emergency care" as defined by ORS chapter 682.

(27) "Prehospital Care Report Form (PCRF)" means an Authority-approved form or electronic field data format that is completed for all patients receiving prehospital assessment, care or transportation to a medical facility.

(28) "Qualified Driver" means someone who is not licensed by the Authority and who meets Authority requirements to operate a ground ambulance.

(29) "Registered Nurse (RN)" means a person licensed under ORS chapter 678, actively registered and in good standing with the Oregon Board of Nursing.

(30) "Rural Ambulance Service" means ambulance service located in an area where all geographic areas are 10 or more miles from the centroid of a population center of 40,000 or more.

(31) "Sanitary" means being free from all body fluids, dirt, dust, grease or other extraneous matter.

(32) "Scope of Practice" means the maximum level of emergency or non-emergency care that an emergency medical technician may provide.

(33) "Specialty Care Transport (SCT)" means interfacility transportation of a critically injured or ill beneficiary by a ground ambulance vehicle, including medically necessary supplies and service, at a level of service beyond the scope of the Paramedic. SCT is necessary when a beneficiary's condition requires ongoing care that must be furnished by one or more health professionals in an appropriate specialty area, for example nursing, emergency medicine, respiratory care, cardiovascular care, or a Paramedic with additional training. Any skill or medication in addition to or not found in the Department of Transportation curriculum for Paramedics would be defined as additional training and is defined by the EMS medical director.

(34) "Standing Orders" means the written detailed procedures for medical or trauma emergencies issued by the EMS medical director to be performed by appropriate certificate holders or licensees in conformance with the scope of practice and level of licensure.

Stat. Auth.: ORS 682.017

Stats. Implemented: ORS 682.017 - 682.117, 682.991

Hist.: HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0600; HD 19-1984, f. & ef. 9-10-84; HD 16-1986, f. & ef. 9-9-86; HD 9-1987, f. & ef. 7-21-87; HD 19-1991, f. & cert. ef. 10-18-91; HD 8-1993, f. 6-22-93, cert. ef. 7-1-93; HD 18-1994, f. 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0000; OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0010

Application Process to Obtain an Ambulance License

(1) An ambulance service owner that wishes to obtain an ambulance license must apply for and receive an ambulance license from the Authority before placing an ambulance into operation.

(2) The Authority shall issue an ambulance license to the owner of an ambulance service that is not subject to disqualification from licensure for any reason specified in ORS Chapter 682, OAR chapter 333, division 250 or these rules. The ambulance service owner must:

(a) Have a current ambulance service license;

(b) Have paid the fees required by ORS chapter 682 and these rules;

(c) Agree to comply with all applicable federal, state and local laws and regulations governing the operation of a licensed ambulance; and

(d) Submit a completed application in a form specified by the Authority in accordance with ORS 682.045 and these rules.

(3) An application for an air ambulance license must be made on an Authority-approved form containing at a minimum:

(a) The name and address of the person or public entity owning the aircraft;

(b) If other than the applicant's true name, the name under which the applicant is doing business;

(c) The description of the ambulance:

(A) Indication if the aircraft was purchased from an ambulance service in Oregon;

(B) Type of aircraft:

(i) Fixed-wing; or

(ii) Rotary-wing.

(C) Number of engines;

(D) Make of aircraft;

(E) Model of aircraft;

(F) Year of manufacture;

(G) Federal Aviation Authority (FAA) registration number;

(H) Whether a major repair or alteration has been made to the aircraft, and if so, a FAA Form 337 must be on file in the licensee's office for each repair or alteration made;

(I) Aircraft colors:

(i) Fuselage;

(ii) Stripe; and

(iii) Lettering.

(J) Insigne name, monogram or other distinguishing characteristics. A photo of the air ambulance may be submitted to show these characteristics.

(4) An application for a ground ambulance must be made on an Authority-approved form containing at a minimum:

(a) The name and address of the person or public entity owning the ambulance;

(b) If other than the applicant's true name, the name under which the applicant is doing business;

(c) The description of the ambulance:

(A) Whether the ground ambulance was purchased from an ambulance service in Oregon;

(B) Make of vehicle;

(C) Model type of vehicle;

(D) Year of manufacture;

(E) Whether the vehicle is a remounted chassis;

(F) Conversion manufacturer;

(G) Vehicle Identification Number;

(H) Vehicle license plate number;

(I) Mileage at the time of licensing;

(J) Ambulance colors:

(i) Body;

(ii) Stripe; and

(iii) Lettering.

(K) Insigne name, monogram or other distinguishing characteristics. A photo of the ground ambulance may be submitted to show these characteristics.

(d) A copy of the ground ambulance manufacturers authenticated Star-of-Life certificate or Final Stage Vehicle Manufacturing Certification of compliance;

(A) A previously owned ambulance must have, at a minimum, a January 1, 1995, Star-of-Life certificate; or

(B) A newly constructed ambulance must have at a minimum a Star-of-Life certificate or a Final Stage Vehicle Manufacturing Certificate of compliance.

(5) A completed application for the licensing of a marine ambulance must contain, at a minimum:

(a) The name and address of the person or public entity owning the ambulance;

(b) If other than the applicant's true name, the name under which the applicant is doing business;

(c) The description of the ambulance:

(A) Whether the marine craft was purchased from an ambulance service in Oregon;

(B) Whether the patient-care area is covered or uncovered;

(C) Number of engines;

(D) Type of engines:

(i) Inboard;

(ii) Outboard; or

(iii) Both inboard and outboard.

(E) Make of marine craft;

(F) Model of marine craft;

(G) Year of manufacture;

(H) Marine craft registration number;

(I) Marine craft license plate number;

(J) Ambulance colors:

(i) Hull;

(ii) Stripe; and

(iii) Lettering.

(K) Insigne name, monogram or other distinguishing characteristics. A photo of the marine ambulance may be submitted to show these characteristics.

(d) A signed and dated statement that the application contains truthful information.

(6) The completed ambulance license application must be submitted to the Authority with a nonrefundable ambulance licensing fee of:

(a) $45, when the service has a maximum of four full-time paid positions; and

(b) $80, when the service has five or more full-time paid positions.

Stat. Auth.: ORS 682.017

Stats. Implemented: ORS 682.017 - 682.117, 682.991

Hist. HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0020
Issuance of License to Operate an Ambulance

(1) When the completed ambulance license application with a nonrefundable ambulance license fee as specified in OAR 333-255-0010(6)(a) or (6)(b) has been received by the Authority and if it is found that the submitted data complies with the requirements of ORS chapter 682 and these rules, the Authority shall issue an ambulance license for the specified ambulance within 10 business days.

(2) The ambulance license:

(a) Shall be valid until June 30 of each year, unless sooner revoked or suspended. The initial licensing period may not exceed 15 months;

(b) If issued between April 1 and June 30, shall expire on June 30 of the following year; and

(c) Must be conspicuously displayed in the operator's or patient compartment of the ambulance, or otherwise as directed by the Authority.

(3) Except when specifically exempted by ORS 682.035 and OAR 333-250-0030(3)(a) through (3)(d), an out-of-state licensed ambulance that operates in Oregon must be licensed by the Authority:

(a) An ambulance license shall be granted when the ambulance is currently licensed in another state, the standards of which meet or exceed those of Oregon; and

(b) The owner submits to the Authority:

(A) A completed Oregon ambulance license application;

(B) A non-refundable ambulance licensing fee as specified in OAR 333-255-0010(6)(a) or (6)(b); and

(C) A copy of the current home-state ambulance license.

(4) An ambulance license is not transferable to a replacement ambulance or to a new owner.

(5) An ambulance license shall be issued to an owner of an ambulance used as a reserve, so long as the ambulance meets all construction and mechanical requirements at the time of manufacture. A reserve ambulance shall not be required to have patient care equipment on-board at all times. However, when the ambulance is placed in operation, it must meet all ambulance licensing requirements.

(6) If an ambulance license becomes lost, damaged or destroyed, the licensee must obtain an application for a replacement license from the Authority. The licensee must submit the completed application with a nonrefundable fee of $10 to the Authority for each replacement license and shall receive a replacement license within 10 business days.

(7) When an ambulance is found to be in non-compliance with ORS chapter 682 or these rules, the Authority may deny, suspend or revoke the ambulance license as authorized by ORS 682.220.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist. HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0605; HD 19-1984, f. & ef. 9-10-84; HD 16-1986, f. & ef. 9-9-86; HD 19-1991, f. & cert. ef. 10-18-91; HD 18-1994, f. 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0005; OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0030
Denial, Suspension or Revocation of an Ambulance License

(1) The Authority may, in compliance with proper administrative procedures as prescribed in ORS chapter 183, deny, suspend, or revoke an ambulance license issued under these rules, or an ambulance service license issued under OAR 333-250-0030, if the Authority determines:

(a) A violation of ORS chapter 682 or of these rules has occurred that poses a significant threat to the health and safety of the public or an applicant does not meet the requirements of ORS chapter 682 or these rules;

(b) The ambulance owner makes a material omission or misrepresentation of facts on an application for a license or waiver, or in response to an inquiry or investigation. This includes the intentional misrepresentation or misstatement of a material fact, concealment of or failure to make known any material fact or any other means by which misinformation or false impression is knowingly given or deceit in obtaining or attempting to obtain a license or waiver or in any other transaction with the Authority;

(c) Defacing, altering, removing or obliterating any portion of any official entry upon a license, licensing decal, or waiver issued by the Authority;

(d) Failure to have the appropriate personnel, medical equipment and supplies required for operation at the highest level of service provided when the ambulance is in operation as prescribed by these rules;

(e) When an ambulance, upon inspection by the Authority, manifests evidence of a mechanical or equipment deficiency that poses a significant threat to the health or safety of patients or crew, the Authority shall immediately suspend that ambulance from operation. No ambulance that has been suspended from operation may be operated as an ambulance until the licensee has certified and the Authority has confirmed that the deficiency has been corrected; and

(f) Other reasons determined by the Authority to pose a significant threat to the Authority and safety and the well being of patients.

(2) The licensee must return all indications of licensing, including certificates and the remains of ambulance license decals to the Authority by registered mail, posted within 48 hours of either receipt of notification of suspension or revocation or the effective date of revocation, whichever is later.

(3) The Authority must provide appropriate public notification of the suspension or revocation of an ambulance license.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist. HD 19-1991, f. & cert. ef. 10-18-91; HD 18-1994, f. 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0006; OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0040
Surrender of License to Operate an Ambulance

(1) The ambulance license in the owner's possession must be surrendered to the Authority immediately upon notification by the Authority of the suspension or revocation of an ambulance service or ambulance license, or upon the sale of an ambulance, or upon the termination of operations.

(2) An ambulance license is non-transferable. When the owner sells, trades, or donates an ambulance, or terminates the business, the licensee must notify the Authority within 10 days of the transaction by listing the date that the sale was completed and the full name and address of the purchaser of the ambulance on the back of the ambulance license and surrendering all ambulance licenses for that ambulance to the Authority.

(3) When an ambulance is decommissioned and not sold to another licensed ambulance service, the owner of the ambulance shall be responsible for the removal of the ambulance license decals. Ambulance license decals shall be returned to the Authority within 10 business days. In addition to the removal of the ambulance license decals, the owner of the vehicle shall remove any emblems or markings as defined in OAR 333-255-0060(5) identifying the vehicle as an ambulance.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist. HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0610; HD 19-1984, f. & ef. 9-10-84; HD 16-1986, f. & ef. 9-9-86; HD 19-1991, f. & cert. ef. 10-18-91; HD 18-1994, f. 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0010; OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0050
Right of Entry and Inspection of an Ambulance

(1) The Authority may conduct an inspection of an ambulance vehicle for the purpose of evaluating the eligibility of an ambulance service to receive or retain an ambulance license and to ensure the health, safety, and welfare of the persons who utilize ambulances. The ambulance service may be exempted from the inspection process if;

(a) The ambulance service is accredited by a nationally recognized EMS service program accreditation entity that meets or exceeds Oregon requirements. A copy of the inspection report from the nationally recognized EMS service program accreditation entity must be filed with the Authority for approval; or

(b) The ambulance service and ambulance has undergone inspections from a governmental agency or state designee. A copy of the inspection report from the governmental agency or state designee must be filed with the Authority for approval.

(2) Initial and routine inspections of an ambulance must be scheduled with the management of the ambulance service at least 72 hours in advance of the inspection unless otherwise mutually agreed upon by the Authority and ambulance service representative.

(3) Inspections for the purpose of investigating a complaint do not require giving advanced notice to the licensee. Unless the Authority gives written approval, no person may give advanced notice of an unannounced inspection.

(4) Upon request of the Authority, an ambulance service owner, manager, employee, volunteer or agent must, at a reasonable time and without delay, permit entry by the Authority onto all premises housing an ambulance for the purpose of an ambulance inspection. No one, including but not limited to, the owner, the manager, employees, volunteers, and agents, may impede the Authority in conducting a lawful inspection of an ambulance to evaluate compliance with ORS Chapter 682 and these rules.

(5) In conducting an inspection, the Authority must:

(a) Identify him or herself by presenting Authority identification to the owner, manager, ranking employee, or volunteer present at the site of an inspection;

(b) Inform the ambulance service representative of the purpose for the inspection; and

(c) Inform the ambulance service representative when the inspection has been completed and the results of the inspection.

(6) The Authority may inspect an ambulance at any reasonable time including, but not limited to, whenever the ambulance is present at the ambulance service office or any satellite-office location.

(7) The Authority shall conduct an inspection without impeding patient care or unreasonably delaying patient transport unless, in the judgment of the Authority, the lack of properly operating patient care equipment, the safety condition of the ambulance, or the patient care being rendered is detrimental or is reasonably likely to be detrimental to the patient's health, safety, or welfare.

(8) When an ambulance is found to be in violation with ORS Chapter 682 or these rules, and requires a second or subsequent on-site inspection, the Authority may impose a civil penalty as authorized in ORS 682.224:

(a) A subsequent on-site inspection must be conducted and passed on the same day as the initial inspection if the ambulance is to remain available for operation;

(b) If the subsequent on-site inspection reveals that all violations have not been corrected and those violations constitute an immediate danger or threat to the public, the Authority may immediately suspend the ambulance license. The suspension shall remain in force until all violations have been corrected;

(c) The Authority shall immediately notify the county health department and the administrator of the county ASA plan of any ambulance license suspension; and

(d) A copy of the completed inspection form shall be given to a representative of the ambulance service and one copy each shall be sent to the county health department and administrator of the county ASA plan.

(9) An Authority representative may accompany an ambulance crew on a call for the purpose of evaluating compliance with the requirements of ORS Chapter 682 and these rules.

(10) The Authority shall have the authority to make photographic or video-graphic documentation as part of an inspection for or investigation of non-compliance with ORS Chapter 682 and these rules.

(11) Failure of the licensee to produce records for inspection or to permit examination of an ambulance or patient care equipment by the Authority shall be grounds for the denial, suspension or revocation of an ambulance license.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist. HD 18-1994, f. 6-30-94, cert. ef. 7-1-94; OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0060
Ground Ambulance Construction Criteria

(1) The construction criteria for a new ground ambulance shall comply with June 1, 2008 Federal Specifications for the Star-of-Life Ambulance Certification. Copies of the specifications are available through the Authority.

(2) The construction criteria for a previously owned ambulance must comply with the November 1, 1994 Federal Specifications for the Star-of-Life Ambulance Certification, or standards as defined by the Final Stage Vehicle Manufacturing Certification of compliance. Copies of the specifications are available through the Authority.

(3) The construction criteria for remounting a Type I or Type III ambulance is:

(a) The patient compartment must have been built after November 1, 1994; and

(b) The remounting must be done by a recognized ambulance manufacturer, a recognized vehicle modifier, a remount center, or licensee with an established in-house remount program. The agency doing the remounting must utilize current nationally recognized vehicle modification techniques and industry standard parts and components. The agency doing remounting shall provide a notarized statement that the structural integrity of the specific patient compartment was not compromised during the remounting, and the remounting has not invalidated the Star-of-Life Certification or Final Stage Vehicle Manufacturing Certificate of compliance.

(4) A licensee may establish an in-house remount program by obtaining the necessary training, appropriate equipment and facilities to remount a vehicle to the described standard.

(5) The owner of an ambulance must select an exterior color, emblems, and markings for the ambulance that will ensure the prompt recognition of that vehicle as an ambulance. All ambulance vehicles shall be clearly identified by appropriate emblems and markings on the front, side, roof, and rear of the vehicle.

(a) The size, number and locations of the "Star-of-Life" emblems are:

(A) Sides — a 12 to 16-inch emblem must be located on the left and right side panels.

(B) Roof — a 32-inch emblem must be located on the roof.

(b) The size, number and locations of the word "AMBULANCE" are:

(A) Front — centered, in block letters, not less than four inches high, must be in mirror image and centered above the grille;

(B) Rear — in block letters of not less than six inches in height and centered on the rear door panels or an approved alternative; and

(C) Acceptable alternatives for the word "AMBULANCE" includes generic terms that do not connote any particular level of service, limited to "MEDIC UNIT", "FIRE MEDIC UNIT", "EMERGENCY MEDICAL SERVICES", "EMS UNIT" or other phrases as the Authority, in its sole discretion, may permit.

(c) The locations of additional markings are:

(A) An ambulance shall display the service or organization name or logo on the vehicle;

(B) An ambulance may not display on its exterior any level of service which is not provided at all times when that ambulance is in operation.

(6) An ambulance in operation and a reserve ambulance must be reasonably equipped and maintained, and maintenance records must be kept and made available for inspection by the Authority. An ambulance must be equipped with the following items in satisfactory working condition:

(a) Audio/visual devices must be in compliance with the Star-of-Life Certification or the Final Stage Vehicle Manufacturing Certificate of compliance;

(b) An ambulance shall comply with Federal Motor Vehicle Safety Standards (FMVSS) and Department of Transportation (DOT) vehicle equipment standards for the ambulance at the time of manufacture;

(c) In case of dual batteries, batteries located in the engine compartment must have heat shields. If the batteries are located elsewhere, they must be sealed off from the occupants' compartment in a ventilated area.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0655; HD 16-1986, f. & ef. 9-9-86; HD 19-1991, f. & cert. ef. 10-18-91; HD 18-1994, f. 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0055; OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0070
Ground Ambulance Operating Requirements

(1) In order to operate a ground ambulance a licensee shall:

(a) Have a qualified driver that meets the qualifications in OAR chapter 333, division 250;

(b) Have EMS providers or other qualified licensed health care professionals staffing the ambulance, as required by OAR chapter 333, division 250.

(c) Ensure that the appropriate equipment is available and in satisfactory working condition, stored in a sanitary and secure manner that protects the viability and safe operation of medications and equipment, including but not limited to:

(A) Installed medical oxygen cylinder with a capacity of at least 3,000 liters and having not less than 500 psi:

(i) The installed medical oxygen cylinder must be located in a vented compartment; and

(ii) The compartment shall not be utilized for storage of any non-secured equipment. No combustible items shall be stored in the oxygen compartment.

(B) Oxygen pressure regulator:

(i) The oxygen must be delivered by a single-stage regulator which is set to at least 50 psi;

(ii) The pressure regulator controls must be accessible from inside the patient compartment; and

(iii) The pressure regulator or other display must be visible from inside the patient compartment.

(C) Oxygen flow meter, mounted — 2:

(i) The flow meter must be readable from the EMT seat and squad bench; and

(ii) The flow meter must be adjustable over a minimum range of 0 to 15 liters per minute.

(D) Portable medical oxygen cylinder with a capacity of at least 300 liters and having not less that 500 psi:

(i) The oxygen must be delivered by a yoke regulator with a pressure gauge and non-gravity-dependent flow meter that is visible and accessible to the medical personnel; and

(ii) The flow meter must be adjustable over a minimum range of 0 to 15 liters per minute.

(E) Spare portable oxygen cylinder that is full, tagged, sealed and securely mounted;

(F) Oxygen non-rebreathing masks with tubing:

(i) Pediatric — 2; and

(ii) Adult — 3.

(G) Oxygen nasal cannula with tubing that is transparent and disposable, adult — 3;

(H) Bag-valve-mask ventilation device with reservoir. The device must:

(i) Have a standard universal adapter;

(ii) Be operable with or without an oxygen supply;

(iii) Be manually operated and self-refilling; and

(iv) Have bag-valve-mask ventilation devices with reservoir that are transparent and semi-rigid in assorted sizes to include adult, child, and newborn/infant.

(I) Pharyngeal esophageal airway devices in assorted sizes with agency supervising physician approval;

(J) Oxygen Saturation Monitor;

(K) Endtidal CO2 detection device in assorted sizes;

(L) Oropharyngeal airways in assorted sizes to include adult, child, and newborn/infant;

(M) Nasopharyngeal airways in assorted sizes;

(N) Two suction apparatus. Suction apparatus:

(i) Shall be electrically powered or battery powered with pressure regulator.

(ii) If battery powered, shall have enough back-up batteries to maintain suction during routine transport.

(O) Adequate supply of wide-bore tubing, commercial rigid pharyngeal curved suction tips and flexible suction catheters sized from infant to adult;

(P) Collection canisters, either disposable or sealable liners, with adequate capacity.

(Q) Cardiac monitoring equipment including, at a minimum, a portable battery operated automatic external defibrillator (AED) or semi-automatic defibrillator with pediatric capabilities and sufficient pediatric accessories for proper operation on a pediatric patient.

(R) A wheeled stretcher:

(i) Capable of securely fastening to the ambulance body;

(ii) Having a minimum of three restraining devices and an upper torso (over the shoulder) restraint;

(iii) Containing a standard size waterproof foam mattress; and

(iv) Capable of having the head of the stretcher tilted upwards to a 60-degree semi-sitting position.

(S) At least one folding stretcher, the number required based on the stretcher-carrying capacity of the ambulance, or an additional long backboard:

(i) Capable of securely fastening to the squad bench when carrying a patient; and

(ii) Having a minimum of three restraining devices and an upper torso (over the shoulder) restraint.

(T) Fracture immobilization equipment, including but not limited to:

(i) Traction splints in assorted adult sizes or adult child combination;

(ii) Extremity splints in assorted sizes;

(iii) Extrication collars in assorted pediatric through adult sizes;

(iv) Scoop stretcher, folding or non-folding type with necessary restraining devices with sufficient supplies for head immobilization;

(v) Short backboard or equivalent with necessary restraining devices with sufficient supplies for head immobilization;

(vi) Long backboard with necessary restraining devices with sufficient supplies for head immobilization;

(vii) Pediatric backboard with necessary restraining straps with sufficient supplies for head immobilization;

(viii) Bandages and dressings in assorted sizes, sterile and non-sterile; and

(ix) Adhesive or hypo-allergenic tape in assorted sizes.

(U) Miscellaneous equipment, including but limited to:

(i) Emesis containers;

(ii) Stethoscope, pediatric and adult;

(iii) Aneroid sphygmomanometer in assorted sizes;

(iv) Bandage shears;

(v) Hypothermia thermometer;

(vi) Disposable obstetrical kit;

(vii) Chemical heat and cold packs assorted;

(viii) Urinals, female and male, one each;

(ix) Bedpan;

(x) Set of extremity restraining devices;

(xi) Blood glucose level testing kit or blood glucose level test strips;

(xii) Medications and fluids authorized for Basic Life Support (BLS) use as required by the EMS medical director; and

(xiii) Linen supplies and replacements sufficient to cover wheeled stretchers.

(V) Personal protection equipment sufficient for crew and patient(s), including but not limited to:

(i) Non-latex disposable gloves;

(ii) Disposable face masks;

(iii) Protective eyewear;

(iv) Disposable isolation gowns;

(v) Commercial antimicrobial hand cleanser;

(vi) Surface cleaning disinfectant;

(vii) Sharps container for the patient care compartment and a separate container for each kit that contains needles; and

(viii) Infectious waste disposal bags.

(W) Security and rescue equipment, including but not limited to:

(i) Fire extinguisher, 5lb. (2A-10BC type) — mounted and readily accessible in either the driver's or patient compartment;

(ii) Road flares, red colored chemical lights, the number and burning time to equal at least 180 minutes, or a minimum of six reflective triangles;

(iii) Flashlight;

(iv) Leather gloves sufficient for crew;

(v) Reflective vests for each crew member;

(vi) HEPA mask for each crew member; and

(vii) Adequate extrication equipment for agencies that provide initial response without the response of other rescue apparatus or equipment.

(X) The 2008 Department of Transportation Emergency Response Guidebook, (Initial Response to Hazardous Materials Incidents);

(Y) Triage tags — 25;

(Z) Oregon Trauma Systems Identification Bracelets — 5;

(AA) Prehospital Care Report Forms or electronic field data form;

(BB) A copy of BLS standing orders dated within one year and signed by the EMS medical director;

(CC) A universal "No Smoking" sign conspicuously displayed in the driver's and patient compartment; and

(DD) A universal "Fasten Seatbelt" sign conspicuously displayed in the driver's compartment.

(2) An ambulance shall have two-way radio communication equipment to provide reliable contact between the ambulance and central dispatch, the receiving hospital, and online medical direction.

Stat. Auth.: ORS 682.017

Stats. Implemented: ORS 682.017 - 682.117, 682.991

Hist. HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0650; HD 14-1981(Temp), f. & ef. 8-7-81; HD 19-1984, f. & ef. 9-10-84; HD 16-1986, f. & ef. 9-9-86; HD 9-1987, f. & ef. 7-21-87; HD 19-1991, f. & cert. ef. 10-18-91, Former 333-028-0050(3) Renumbered to 333-028-0051, former 333-028-0050(4) & (5) Renumbered to 333-028-0052; HD 8-1993, f. 6-22-93, cert. ef. 7-1-93; HD 18-1994, f. 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0050; OHD 5-2001, f. & cert. ef. 2-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 16-2010(Temp), f. & cert. ef. 7-16-10 thru 1-1-11; PH 1-2011, f. & cert. ef. 1-6-11; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0071

Ground Ambulance Operating Requirements When Providing Intermediate Level Care

(1) A ground ambulance in operation and providing intermediate life support care must have at a minimum the following staffing:

(a) A qualified driver, an EMT or above, and an advanced emergency medical technician or EMT-Intermediate; or

(b) A driver who is licensed at least at an EMT level and an advanced emergency medical technician.

(2) Notwithstanding section (1) of this rule a rural ambulance service as that term is defined in OAR 333-255-0000(30) is permitted to operate a ground ambulance providing intermediate level care with a qualified driver and one AEMT or an EMT-Intermediate if the rural ambulance service:

(a) Notifies the county responsible in writing for the applicable ASA of the reduced staffing and the county notifies the ambulance service in writing that it does not object to the reduced staffing;

(b) Notifies the licensee's supervising physician in writing of the reduced staffing and the supervising physician notifies the ambulance service in writing that he or she does not object to the reduced staffing; and

(c) Provides, to the Authority in writing by certified mail, the following:

(A) A description of efforts made to comply with the staffing requirements in section (1) of this rule; and

(B) A copy of the county's notice that it does not object.

(3) If a rural ambulance service is operating with reduced staffing pursuant to section (2) of this rule and the ambulance service responds to a call with reduced staffing, a copy of the PCHR must be sent to the Authority within 14 days of responding to the call.

(4) A rural ambulance service operating with reduced staffing pursuant to section (2) of this rule must make a continuous effort to attempt to comply with the staffing requirements in section (1) of this rule and comply with the requirements of section (2) of this rule annually.

(5) A ground ambulance must meet all requirements specified in OAR 333-255-0070.

(6) A ground ambulance in operation and providing intermediate level care must have the following items in satisfactory working condition, kept in a sanitary manner, stored in a secure manner and be readily accessible to the medical personnel:

(a) All items specified in OAR 333-255-0070;

(b) Cardiac Monitoring Equipment:

(A) A portable battery powered manual monitor defibrillator capable of recording ECG reading;

(B) ECG electrodes, adult and pediatric;

(C) Hands-free defibrillation patches, adult and pediatric or defibrillation paddles, adult and pediatric;

(D) Contact gel if using paddles;

(E) Patient cables — 2; and

(F) ECG paper.

(c) Any physiologic isotonic crystalloid solution or combinations thereof — 6000 cc in any size containers;

(d) Medications and fluids authorized for use by an AEMT or EMT-Intermediate as required by the EMS medical director. Storage of controlled substances in an ambulance must adhere to the signed and dated procedures as specified in OAR 333-250-0047(3)(a) and (b);

(e) Vascular access devices:

(A) Over-the-needle catheters in assorted sizes 24-gauge through 14-gauge; and

(B) Specifically-designed needles or device with needles for intraosseous infusions.

(f) A copy of standing orders for AEMTs and/or EMT-Intermediates dated within one year and signed by the EMS medical director.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2011, f. & cert. ef. 1-6-11; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0072
Ground Ambulance Operating Requirements When Providing Advanced Level Care

(1) A ground ambulance in operation and providing advanced life support care must have at a minimum the following staffing:

(a) A qualified driver, an EMT or above, and a Paramedic, RN, PA or physician who is trained in prehospital emergency medical care; or

(b) A driver who is licensed at least at an EMT level and a Paramedic.

(2) Notwithstanding section (1) of this rule a rural ambulance service as that term is defined in OAR 333-255-0000(30) is permitted to operate a ground ambulance providing advanced level care with a qualified driver and one Paramedic, RN, PA, or physician if the rural ambulance service:

(a) Notifies the county responsible in writing for the applicable ASA of the reduced staffing and the county notifies the ambulance service in writing that it does not object to the reduced staffing;

(b) Notifies the licensee's supervising physician in writing of the reduced staffing and the supervising physician notifies the ambulance service in writing that he or she does not object to the reduced staffing; and

(c) Provides, to the Authority in writing by certified mail, the following:

(A) A description of efforts made to comply with the staffing requirements in section (1) of this rule; and

(B) A copy of the county's notice that it does not object.

(3) If a rural ambulance service is operating with reduced staffing pursuant to section (2) of this rule and the ambulance service responds to a call with reduced staffing, a copy of the PCHR must be sent to the Authority within 14 days of responding to the call.

(4) A rural ambulance service operating with reduced staffing pursuant to section (2) of this rule must make a continuous effort to attempt to comply with the staffing requirements in section (1) of this rule and comply with the requirements of section (2) of this rule annually.

(5) A person who is at the Paramedic license level, or an RN, PA or physician who is trained in prehospital emergency medical care must be in the patient compartment when a patient is receiving advanced life support care.

(6) When a RN, PA or physician is staffing an ambulance in lieu of a Paramedic and providing advanced level life support care he or she must have:

(a) A current American Heart Association "Health Care Provider," American Red Cross "Basic Life Support for the Professional Rescuer" or other Authority-approved equivalent cardiopulmonary resuscitation (CPR) course completion document;

(b) A current Advanced Cardiac Life Support course or other Authority-approved equivalent completion document;

(c) A pediatric advanced life support course or other Authority-approved equivalent completion document;

(d) A Prehospital Trauma Life Support, Basic Trauma Life Support, Trauma Emergency Assessment Management or Trauma Nurse Core Course completion document. The Trauma Emergency Assessment Management and Trauma Nurse Core Course must include a supplemental prehospital rapid extrication training session;

(e) The ability to properly assist in extricating, lifting and moving a patient;

(f) Not consumed any alcoholic beverages in the eight hours prior to working on an ambulance; and

(g) Not be taking any medications that could impair the giving of proper patient care.

(7) A ground ambulance must meet all requirements specified in OAR 333-255-0070.

(8) Advanced life support patient care equipment. A ground ambulance in operation and providing advanced level care must have the following advanced life support equipment in satisfactory working condition, kept in a sanitary manner and which is readily accessible to medical personnel:

(a) All items specified in OAR 333-255-0070;

(b) Nasogastric tubes in assorted sizes;

(c) Cardiac monitoring equipment as specified in OAR 333-255-0071(2)(b);

(d) Advanced airway care equipment:

(A) Laryngoscope handle and assorted blade sizes, adult and pediatric;

(B) Spare dated batteries for the laryngoscope handle;

(C) Spare bulbs for the laryngoscope blades;

(D) Endotracheal tubes in assorted sizes, adult and pediatric;

(E) Magill Forceps — adult and child;

(F) Intubation stylettes — adult and child;

(G) Endtidal CO2 detection device;

(H) Oxygen saturation monitor; and

(I) Chest decompression equipment.

(e) Sterile intravenous agents and medications authorized by the EMS medical director;

(f) Vascular access devices:

(A) Over-the-needle catheters in assorted sizes 24-gauge through 14-gauge; and

(B) Specifically-designed needles or device designed for intraosseous infusions.

(g) Storage of controlled substances in an ambulance must adhere to the signed and dated procedures as specified in OAR 333-250-0047(3)(a) and (b); and

(h) A copy of standing orders for Paramedics or ambulance based clinicians dated within one year and signed by the EMS medical director.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2011, f. & cert. ef. 1-6-11; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0073
Ground Ambulance Operating Requirements When Providing Only Specialty Level Care

(1) A ground ambulance in operation and providing only specialty level care during inter-facility transfers must have a minimum staff of two

qualified persons as defined by the Center for Medicare Services or additional staff, the number and type, requested by the transferring physician:

(a) A qualified driver who complies with the requirements specified in OAR chapter 333, division 250; and

(b) A person who is at the Paramedic license level, RN, PA, physician or other qualified persons who have additional specialty care training and who must be in the patient compartment when a patient is receiving specialty level care.

(2) A ground ambulance must meet all requirements specified in OAR 333-255-0072.

(3) The Paramedics, RNs, PAs, physicians or other qualified persons must have the:

(a) Training to properly operate all patient care equipment carried on an ambulance, including specialty care equipment necessary to care for the patient during the transfer;

(b) Training to do titration of intravenous medications necessary to care for the patient during transfer; and

(c) Ability to properly assist in lifting and moving a patient.

(4) The personnel staffing an ambulance must not:

(a) Have consumed any alcoholic beverages in the eight hours prior to working on an ambulance; and

(b) Be taking any medications that could impair the giving of proper patient care.

(5) A ground ambulance in operation and providing only specialty level care must have the following patient care equipment in a satisfactory working condition, stored in a sanitary and secure manner, and be readily accessible to the medical personnel:

(a) All patient care equipment specified in OAR 333-255-0072; and

(b) Any other patient care equipment or supplies anticipated or required for patient care.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2011, f. & cert. ef. 1-6-11; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0079
Exception to the Two Person Staffing Requirement

(1) The Authority may, on application from any full volunteer or part volunteer ambulance service, authorize an exception to the two-person requirement as prescribed by ORS 682.068 and OAR 333-255-0070(1), 333-255-0071(1) or 333-255-0072(1) if provisions acceptable to the Authority have been made to assure timely arrival of the two-person crew as required by ORS 682.068 and OAR 333-255-0070(1), 333-255-0071(1) or 333-255-0072(1).

(2) A full volunteer or part volunteer ambulance service making application for an exception under this rule must submit an application to the Authority in a format prescribed by the Authority:

(a) The application must be approved by the EMS medical director of the ambulance service, the governing body of each municipality for which the exception is being requested and by the county ambulance service planning authority. The application must contain written approval of all such bodies prior to submission to the Authority;

(b) An application for an exception to this provision must provide for and include a description of:

(A) An alerting system which shall make known to the intended responders the location of the emergency and either two-way radio communication between responders such that response can be coordinated by responding personnel, or a fixed schedule of assigned personnel, with designation of the parties who are to respond directly to the scene of an emergency and parties who are to operate the ambulance;

(B) Personnel who respond directly to the scene of an emergency must be individually equipped with equipment necessary to provide initial patient care, including uniform or personal protective clothing, disposable gloves and a pocket ventilation mask or other appropriate ventilatory adjuncts;

(C) Copies of approved standard operating procedures or general orders which address the number of personnel to respond to the scene, organizational policies regarding the operation of motor vehicles by personnel responding to the scene and prohibiting entry into dangerous scenes; and

(D) A method of assuring that neither of the following shall be permitted to occur:

(i) An ambulance driven by a person not licensed as an EMT arrives at an emergency scene but an EMT or higher fails to arrive or arrives substantially later than the responding ambulance; or

(ii) An ambulance driven by an EMT or higher arrives at the scene but no other qualified driver, as specified by these rules, arrives at the scene to operate the ambulance.

(c) Whenever possible, an agency operating under an exception to the general rule granted pursuant to this rule must endeavor to assure that a qualified driver who is not licensed at least to the EMT level is trained to the EMR level and meets the requirements for a qualified driver as specified in OAR 333-250-0031.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0080
Air Ambulance Configuration and Survival Equipment Requirements

(1) An air ambulance in operation must be in compliance with all Federal Aviation Administration (FAA) regulations contained in Part 135, and ORS chapter 682, and must be maintained and maintenance records must be kept and made available for inspection by the Authority:

(a) The aircraft must have:

(A) A climate control system to prevent temperature extreme that would adversely affect patient care;

(B) Interior lighting, so that patient care can be given and patient status monitored without interfering with the pilot's vision. The cockpit must be sufficiently isolated, by protective barrier, to minimize in-flight distraction or interference;

(C) At least one outlet per patient and current for 110 volts (50/60 cycle) alternating current or other current which is capable of operating all electrically-powered medical equipment;

(D) A back-up source of electric current or batteries capable of operating all electrically-powered life support equipment for one-hour;

(E) An adequate door to allow loading and unloading of a patient without rotating the patient and stretcher more than 30 degrees about the longitudinal (roll) axis or 45 degrees about the lateral (pitch) axis;

(F) A configuration that allows the medical personnel access to the patient in order to begin and maintain treatment modalities. There must always be complete access to the patient's head and upper body for effective airway management;

(G) The stretcher and medical equipment placed in a manner that shall not impede rapid egress by personnel or patient from the aircraft;

(H) Communications equipment to ensure both internal crew and air-to-ground exchange of information between individuals and agencies appropriate to the mission. Scene response aircraft must be able to communicate with EMS and law enforcement personnel at the scene; and

(I) An installed self-activating emergency locator transmitter.

(b) The aircraft must have survival equipment for crew members and patient consisting of:

(A) Clothes for the season and area to be served;
(B) Thermal (space) blanket;
(C) Plastic tarp, at least 5' x 7';
(D) Signal mirror;
(E) Compass;
(F) Canned smoke signal, or flare pistol and flares or pencil-flares;
(G) Large flashlight;
(H) Orange signal banner;
(I) Noise maker (whistle);
(J) Drinkable water or intravenous fluid;
(K) Tea;
(L) Salt and sugar;
(M) Beef jerky or granola bars;
(N) Waterproof matches; and
(O) Fire extinguisher (ABC rating).

(2) The aircraft owner who does not own their medical equipment or employ their medical personnel, must have on file with the Authority a copy of the signed and dated agreement or contract with the agency that does provide either the medical personnel or medical equipment to be used on the air ambulance. The signed and dated agreement or contract must be filed annually or whenever substantive changes are made, whichever is more frequent.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0650; HD 14-1981(Temp), f. & ef. 8-7-81; HD 19-1984, f. & ef. 9-10-84; HD 16-1986, f. & ef. 9-9-86; HD 9-1987, f. & ef. 7-21-87; HD 19-1991, f. & cert. ef. 10-18-91, Renumbered from 333-028-0050(3); HD 18-1994, f. 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0051; OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0081

Air Ambulance Operating Requirements for Prearranged Inter-Facility Transfers

(1) Fixed-wing aircraft in operation and providing pre-arranged inter-facility transfers requiring basic level care must have a minimum staff of two persons:

(a) A pilot adhering to all regulations set forth in FAA Part 135 for air medical transport; and

(b) One Paramedic, RN, PA or physician having:

(A) Documentation that at least one member of the medical crew has successfully completed the 2004 Association of Air Medical Services (AAMS) Curriculum Guidelines or equivalent. The curriculum must include emergency care procedures, aircraft safety and altitude physiology. There must be written documentation of an annual review of the Air Medical Crew course material. The length and content of the review must be established by the EMS medical director and be kept on file with the ambulance service;

(B) A current American Heart Association "Health Care Provider", American Red Cross "Basic Life Support for the Professional Rescuer" or other Authority-approved equivalent CPR course completion document;

(C) The ability to properly assist in lifting and moving a patient; and

(D) The knowledge to properly operate all patient care equipment that may be used.

(2) Fixed or rotary-wing aircraft in operation and providing pre-arranged inter-facility transfers requiring advanced life support care must have a minimum staff of two persons:

(a) A pilot adhering to all regulations set forth in FAA Part 135 for air medical transport; and

(b) One Paramedic, RN, PA or physician meeting the requirements specified in paragraph (1)(b)(A) through (1)(b)(D) of this rule.

(3) Fixed or rotary-wing aircraft in operation and providing pre-arranged inter-facility transfers requiring specialty level care must have a minimum staff of two persons:

(a) A pilot adhering to all regulations set forth in FAA Part 135; and

(b) One Paramedic, RN, PA, physician or other qualified person(s), who must:

(A) Meet the requirements specified in paragraph (1)(b)(A) through (1)(b)(D) of this rule;

(B) Have documentation of completing additional specialty care training as defined by the EMS medical director;

(C) Have training to properly operate specialty care equipment necessary to care for the patient during the transfer; and

(D) Have training to do titration of intravenous medications necessary to care for the patient during the transfer.

(4) An air ambulance in operation and providing specialty level care must have the following patient care equipment in a satisfactory working condition, stored in a sanitary and secure manner, and be readily accessible to the medical personnel:

(a) All patient care equipment specified in subsection (7)(a) through (7)(k) of this rule;

(b) All patient care equipment specified in OAR 333-255-0082(2)(d) through (2)(i); and

(c) Any other patient care equipment required during the transfer.

(5) When an inter-facility transfer is requested, a representative from the ambulance service must contact the attending physician at the sending facility, prior to the transfer, to determine which type of aircraft; fixed-wing, rotary-wing, pressurized or non-pressurized, is needed based on the patient's medical condition and which additional equipment and personnel are required.

(6) Patient Care Equipment. The following patient care equipment, in satisfactory working condition and kept in a sanitary manner, is required on all air ambulance flights. The equipment may be kept separate from the aircraft in modular pre-packaged form, so as to be available for rapid loading, easy securing and easy access aboard the aircraft:

(a) Medical oxygen cylinders and regulators:

(A) Medical oxygen cylinder with a capability of at least 600 liters and having not less than 500psi:

(i) The oxygen cylinder(s) must be securely fastened to the aircraft while in flight;

(ii) The oxygen must be delivered by a yoke regulator with a pressure gauge and a non-gravity-dependent flow meter that is visible and accessible to the medical personnel; and

(iii) The flow meter must be adjustable over a minimum range of 0 to 15 liters per minute.

(B) A spare portable oxygen cylinder that is full, tagged, sealed, and securely mounted.

(b) Medical oxygen administration equipment:

(A) Oxygen non-rebreathing masks with tubing:

(i) Pediatric — 2; and

(ii) Adult — 2.

(B) Oxygen nasal cannula with tubing that is transparent and disposable, adult —2;

(C) Bag-valve-mask ventilation device with reservoir. The device must:

(i) Have a standard universal adapter (15 mm tracheal tube/22 mm mask);

(ii) Be operable with or without an oxygen supply;

(iii) Be manually operated and self-refilling;

(iv) Have valves that operate effectively at temperatures down to 0° F;

(v) Have bag-valve-mask ventilation devices with reservoir that are transparent and semi-rigid in assorted sizes to include adult, child, and newborn/infant.

(c) Airway maintenance devices:

(A) Pharyngeal esophageal airway devices in assorted sizes;

(B) Endtidal CO2 detection device in assorted sizes;

(C) Oropharyngeal airways in assorted sizes to include adult, child, and newborn/infant; and

(D) Nasal airways in assorted sizes.

(d) Suction equipment:

(A) Portable suction aspirator:

(i) The unit must be either a self-contained battery or oxygen-powered unit that can operate continuously for 20 minutes and is rechargeable or be a manually-powered unit;

(ii) The unit must be capable of developing a minimum vacuum of 300 mm Hg within four seconds after the suction tube is closed;

(iii) The unit must provide a free air flow of at least 20 liters per minute;

(iv) The unit must be adjustable for use on children and intubated patients;

(v) The unit must include at least a 300 ml collection bottle; and

(vi) A secondary suction apparatus.

(B) Suction connecting tubing and catheters:

(i) Suction connecting tubing that is at least one-quarter of an inch in diameter, translucent and will not kink or collapse under high suction — 2; and

(ii) Suction catheters in assorted sizes and types for adult, child, and newborn/infant.

(e) Stretcher. The stretcher must:

(A) Be securely fastened to the aircraft in accordance with FAA Part 135; and

(B) Have a minimum of three restraining devices and an upper torso (over the shoulder) restraint.

(f) Miscellaneous equipment:

(A) Emesis containers;

(B) Stethoscope, adult and pediatric;

(C) Aneroid sphygmomanometer in assorted sizes:

(D) Bandage shears;

(E) Hypothermia thermometer;

(F) Chemical heat and cold packs, assorted;

(G) Blood glucose level testing kit or blood glucose level test strips;

(H) Urinals, female and male, one each;

(I) Bed pan (Exempt from rotary-wing aircraft); and

(J) Set of extremity restraining devices.

(g) Personal protection equipment sufficient for crew and patient(s) including:

(A) Disposable gloves;

(B) Disposable face masks;

(C) Protective eyewear;

(D) Disposable isolation gowns;

(E) Hand cleaning solution or foam;

(F) Surface cleaning disinfectant;

(G) Sharps container for each kit that contains needles; and

(H) Infectious waste disposal bags.

(h) Linen supplies and replacements to cover stretcher;

(i) Prehospital Care Report Form or electronic field data form;

(j) A copy of standing orders for EMS providers, RNs and PAs dated within one year and signed by the EMS medical director; and

(k) A universal "No Smoking" sign must be conspicuously displayed in the cockpit and patient compartment.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0082
Air Ambulance Operating Requirements for Scene Response

(1) Rotary-wing aircraft in operation and providing scene response care must have a minimum staff of two persons:

(a) A pilot adhering to all regulations set forth in FAA Part 135; and

(b) One Paramedic, RN, PA, or physician having:

(A) Documentation that at least one member of the medical crew successfully completed the 2004 Association of Air Medical Services (AAMS) Curriculum Guidelines or equivalent. The curriculum must include emergency care procedures, aircraft safety and altitude physiology. There must be written documentation of an annual review of the Air Medical Crew course material. The length and content of the review must be established by the EMS medical director and be kept on file with the ambulance service;

(B) The ability to properly assist in extricating, lifting and moving a patient; and

(C) The knowledge to properly operate all patient care equipment that may be used.

(2) The following prehospital scene patient care equipment is required on all prehospital scene responses:

(a) All patient care equipment specified in OAR 333-255-0081(7)(a) through (7)(k);

(b) Fracture immobilization equipment:

(A) Traction splints in assorted adult or adult-child combination;

(B) Extremity splints in assorted sizes;

(C) Extrication collars in assorted pediatric through adult sizes;

(D) Short backboard or equivalent with necessary restraining devices with sufficient supplies for head immobilization;

(E) Long backboard with necessary restraining devices with sufficient supplies for head immobilization;

(F) Scoop stretcher with necessary restraining devices with sufficient supplies for head immobilization; and

(G) Pediatric backboard with necessary restraining devices with sufficient supplies for head immobilization.

(c) Bandages and dressings in assorted sizes, sterile and non-sterile;

(d) Adhesive or hypo-allergenic tape in assorted sizes;

(e) Cardiac monitoring equipment:

(A) Manual monitor/defibrillator;

(B) Monitoring electrodes, infant and adult;

(C) Patient cables — 2; and

(D) ECG paper.

(f) Advanced airway care equipment:

(A) Laryngoscope handle and assorted blade sizes, adult and pediatric;

(B) Spare dated batteries for the laryngoscope handle;

(C) Spare bulbs for the laryngoscope blades;

(D) Endotracheal tubes in assorted sizes, adult and pediatric;

(E) Magill Forceps, child and adult;

(F) Intubation stylettes, child and adult;

(G) Endtidal CO2 detection device;

(H) Oxygen saturation monitor; and

(I) Chest decompression kit.

(g) Sterile intravenous agents and medications authorized by the EMS medical director;

(h) Vascular access devices:

(A) Over-the-needle catheters in assorted sizes 24-gauge through 14-gauge; and

(B) Specifically-designed needles for intraosseous infusions.

(i) Nasogastric tubes in assorted sizes;

(j) Storage of controlled substances in an ambulance must adhere to the signed and dated procedures as specified in OAR 333-250-0047(3)(a) and (3)(b);

(k) Oregon Trauma System's Identification Bracelets — 5;

(l) Miscellaneous equipment:

(i) The 2008 Department of Transportation Emergency Response Guidebook (Initial Response to Hazardous Materials Incidents); and

(ii) A copy of standing orders for Paramedics, RNs and PAs dated within one year and signed by the EMS medical director.

(3) In a prehospital resuscitation, when no other practical means of transportation, including any other properly equipped license-holder, is reasonably available, a license-holder may deviate from the rules to the extent necessary to meet the rescue situation.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0090
Marine Ambulance Configuration and Survival/Rescue Equipment Requirements

(1) A marine ambulance in operation must be in compliance with all the requirements which relate to marine ambulances, any applicable federal navigation regulations, ORS chapter 682, and these rules. Maintenance records must be kept and made available for inspection by the Authority:

(2) Marine craft size and configuration. The marine craft must be of sufficient size to accommodate, at a minimum, the operator, two EMS providers, one patient, and the required supplies and equipment and be configured to allow full access to the patient. The marine craft must have:

(a) Adequate lighting, so that patient care can be given and patient status be monitored;

(b) At least one outlet per patient and current for 110 volts (50/60 cycle) alternating current or other current which is capable of operating all electrically-powered medical equipment;

(c) An adequate door or opening to allow loading and unloading of the patient without rotating the patient and stretcher more than 30 degrees about the longitudinal (roll) axis or 45 degrees about the lateral (pitch) axis;

(d) A configuration that allows the medical personnel access to the patient in order to begin and maintain treatment modalities. There must always be complete access to the patient's head and upper body for effective airway management; and

(e) The stretcher or litter and medical equipment placed in a manner that must not impede rapid egress by personnel or patient from the marine craft.

(3) Marine craft equipment. A marine craft ambulance must have the following items in good working condition:

(a) Anchor with line that is three times the maximum depth of water in areas of usual operation;

(b) Docking fenders — 2;

(c) Mooring lines — 2;

(d) Self or mechanical bailer;

(e) Search light with a minimum of 200,000 candle power of illumination;

(f) Swim harness and 75-foot tethering line;

(g) Waterproof flashlight, six volt minimum;

(h) Navigational charts for service area and navigational aids, including a compass;

(i) A cold water protection device for each crew member;

(j) Life jackets — 2 adult and 2 child; and

(k) Boat hook with minimum of 10 foot capability.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0650; HD 14-1981(Temp), f. & ef. 8-7-81; HD 19-1984, f. & ef. 9-10-84; HD 16-1986, f. & ef. 9-9-86; HD 9-1987, f. & ef. 7-21-87; HD 19-1991, f. & cert. ef. 10-18-91, Renumbered from 333-028-0050(4) & (5); HD 18-1994, f. 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0052; OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0091
Marine Ambulance Operating Requirements When Providing Basic Level Care

(1) A marine ambulance in operation and providing basic level care must have a staff of at least two persons:

(a) An operator, who:

(A) Has a valid US Coast Guard pilot's license;

(B) Operates the marine ambulance in compliance with any applicable marine craft statutes;

(C) Has not consumed any alcoholic beverages in the eight hours prior to operating an ambulance; and

(D) Is not taking any medications that could impair the safe operation of the ambulance.

(b) A person who is at or above the EMT license level who must be with the patient at all times. The person at or above the EMT level attending the patient must:

(A) Not have consumed any alcoholic beverages in the eight hours prior to working on an ambulance; and

(B) Not be taking any medications that could impair the giving of proper patient care.

(c) If the operator is not a licensed EMS provider, the operator must meet the requirements specified in paragraphs (1)(a)(A) through (1)(a)(D) of this rule and meet the requirements of a qualified driver specified in OAR 333-250-0031.

(2) Basic life support care equipment. A marine ambulance in operation and providing basic level care must have the following patient care equipment in a satisfactory working condition, kept in a sanitary manner, stored in a secure manner and be readily accessible to the medical personnel:

(a) Medical oxygen cylinders and regulators:

(A) Medical oxygen cylinder with a minimum capacity of 600 liters;

(i) The oxygen must be delivered by a yoke regulator with a pressure gauge and a non-gravity-dependent flow meter that is visible and accessible to the medical personnel; and

(ii) The flow meter must be adjustable over a minimum range of 0 to 15 liters per minute.

(B) A spare portable oxygen cylinder that is full, tagged, sealed and securely mounted.

(b) Medical oxygen administration equipment:

(A) Oxygen non-rebreathing masks with tubing:

(i) Pediatric — 2; and

(ii) Adult — 2.

(B) Oxygen nasal cannulas with tubing that are transparent and disposable, adult — 2;

(C) Bag-valve-mask ventilation device with reservoir. The device must:

(i) Have a standard universal adapter (15 mm tracheal tube/22 mm mask);

(ii) Be operable with or without an oxygen supply;

(iii) Be manually operated and self-refilling;

(iv) Have valves that operate effectively at temperatures down to 0° F; and

(v) Have bag-valve-mask ventilation devices with reservoir that are transparent and semi-rigid in assorted sizes to include adult, child, and newborn/infant.

(c) Airway maintenance devices:

(A) Pharyngeal esophageal airway devices in assorted sizes if the EMS medical director approved use;

(B) Endtidal CO2 detection device in assorted sizes;

(C) Oropharyngeal airways in assorted sizes to include adult, child and newborn/infant; and

(D) Nasal airways in assorted sizes.

(d) Suction equipment:

(A) Portable suction aspirator:

(i) The unit must be either a self-contained battery or oxygen-powered unit that can operate continuously for 20 minutes and is rechargeable or be a manually-powered unit;

(ii) The unit must be capable of developing a minimum vacuum of 300 mm Hg within four seconds after the suction tube is closed;

(iii) The unit must provide a free air flow of at least 20 liters per minute;

(iv) The unit must be adjustable for use on children and intubated patients;

(v) The unit, including at least a 300 ml collection bottle; and

(vi) A secondary suction apparatus.

(B) Suction connecting tubing and catheters:

(i) Suction connecting tubing that is at least one-quarter of an inch in diameter, translucent and will not kink or collapse under high suction — 2; and

(ii) Suction catheters that are in assorted sizes and types for adult, child and newborn/infant.

(e) Cardiac monitoring equipment: Automatic or semi-automatic defibrillator. The unit must be capable of operating independently of an electrical outlet, and delivering total defibrillation energy sufficient to meet the number of shocks and power settings prescribed in the EMS medical director's standing orders and be inclusive of the 2005 American Heart Association guidelines for emergency cardiac care or equivalent standards as approved by the Authority.

(f) Stretcher. The stretcher must:

(A) Be a plastic or metal basket stretcher with a four-point bridle;

(B) Have a locking mechanism which can be securely fastened to the craft below the gunwale level; and

(C) Have a minimum of four restraining devices, one of which shall be a torso (over the shoulder) restraint.

(g) Fracture immobilization equipment:

(A) Traction splints in assorted adult sizes or adult/child combination;

(B) Extremity splints in assorted sizes;

(C) Extrication collars in assorted pediatric through adult sizes;

(D) Short backboard or equivalent with necessary restraining devices with sufficient supplies for head immobilization;

(E) Long backboard with necessary restraining devices with sufficient supplies for head immobilization; and

(F) Pediatric backboard with necessary restraining devices with sufficient supplies for head immobilization.

(h) Bandages and dressings in assorted sizes, sterile and non-sterile;

(i) Adhesive or hypo-allergenic tape in assorted sizes;

(j) Miscellaneous equipment:

(A) Emesis containers;

(B) Stethoscope, pediatric and adult;

(C) Aneroid sphygmomanometer in assorted sizes:

(D) Bandage shears;

(E) Hypothermia thermometer;

(F) Disposable obstetrical kit;

(G) Chemical heat and cold packs assorted;

(H) Urinals, female and male, one each;

(I) Bed pan;

(J) Set of extremity restraining devices; and

(K) Blood glucose level testing kit or blood glucose level testing strips.

(k) Personal protection equipment sufficient for crew and patient(s) including:

(A) Disposable gloves;

(B) Disposable face masks;

(C) Protective eyewear;

(D) Disposable isolation gowns;

(E) Hand cleaning solution or foam;

(F) Surface cleaning disinfectant;

(G) Sharps container for the patient compartment and a separate container for each kit that contains needles;

(H) Infectious waste disposal bags; and

(I) The 2008 Department of Transportation — Emergency Response Guidebook (Initial Response to Hazardous Materials Incidents.)

(l) Medications and fluids authorized for use by an EMT as required by the EMS medical director;

(m) Linen supplies and replacements sufficient to cover stretchers;

(n) Communication equipment. Communications equipment must consist of a VHF/FM marine radio with at least 25 watts of power. In addition, the radio must have the capability to have reliable contact between the marine ambulance and a ground or air ambulance and with a hospital having online medical direction;

(o) Prehospital Care Report Form or electronic field data;

(p) Oregon Trauma System Identification Bracelets — 5;

(q) A copy of standing orders for EMTs dated within one year and signed by the EMS medical director; and

(r) A universal "No Smoking" sign conspicuously displayed in the pilot's and patient area.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117 & 682.991
Hist.: OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0092
Marine Ambulance Operating Requirements When Providing Intermediate Level Care

(1) A marine ambulance in operation and providing intermediate life support care must have a minimum staff of two persons:

(a) An operator who complies with the requirements specified in OAR 333-255-0091(1)(a)(A) through (1)(a)(D) or (1)(c)(A) through (1)(c)(D); and

(b) A person who is at or above the AEMT license level and who must be with the patient at all times. If the qualified driver is not a licensed EMT, then a second EMT must be available for patient care both in the marine ambulance or on scene.

(2) Intermediate life support care equipment. A marine ambulance in operation and providing intermediate level care must have the following patient care equipment in a satisfactory working condition, kept in a sanitary manner, stored in a secure manner and be readily accessible to the medical personnel:

(a) All of the items specified in OAR 333-255-0091(2)(a) through (2)(r);

(b) Any physiologic isotonic crystalloid solution or combinations thereof — 6000 cc in any size containers;

(c) Medications and fluids authorized for use by an AEMT or EMT-Intermediate as required by the EMS medical director;

(d) Vascular access devices:

(A) Over-the-needle catheters in assorted sizes 24 gauge through 14 gauge; and

(B) Specifically-designed needles for intraosseous infusions.

(e) A copy of standing orders for AEMTs and/or EMT-Intermediates dated within one year and signed by the EMS medical director.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 12-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2013, f. & cert. ef. 1-25-13

333-255-0093
Marine Ambulance Operating Requirements When Providing Advanced Level Care

(1) A marine ambulance in operation and providing advanced level care must have a minimum staff of two persons:

(a) An operator who complies with the requirements specified in OAR 333-255-0091(1)(a)(A) through (1)(a)(D) or (1)(c)(A) through (1)(c)(D); and

(b) A person who is at the Paramedic license level or an RN, PA or physician who is trained in prehospital emergency medical care must be attending to the patient when a patient is receiving advanced life support care. If the operator is not a licensed EMT, then a second EMT must be available for patient care both on the marine ambulance and on scene. The Paramedic, RN, PA, physician, or other qualified personnel must:

(A) Not have consumed any alcoholic beverages in the eight hours prior to working on an ambulance; and

(B) Not be taking any medications that could impair the giving of proper patient care.

(c) When a RN, PA or physician is staffing an ambulance in lieu of a Paramedic and is providing advanced level care he or she must have:

(A) A current American Heart Association "Health Care Provider", American Red Cross "Basic Life Support for the Professional Rescuer" or other Authority-approved equivalent CPR course completion document;

(B) A current Advanced Cardiac Life Support course or other Authority-approved equivalent completion document;

(C) A pediatric advanced life support course or other Authority-approved equivalent completion document;

(D) A Prehospital Trauma Life Support, Basic Trauma Life Support, Trauma Emergency Assessment Management or Trauma Nurse Core Course completion document. The Trauma Emergency Assessment Management and Trauma Nurse Core Course must include a supplemental prehospital rapid extrication training session;

(E) The ability to properly assist in extricating, lifting and moving a patient; and

(F) The knowledge to properly operate all patient care equipment that may be used.

(2) A marine ambulance in operation and providing advanced level care must have the following advanced life support patient care equipment in a satisfactory working condition, kept in a sanitary manner and which is readily accessible to medical personnel:

(a) All items specified in OAR 333-255-0091(2)(a) through (2)(r);

(b) Cardiac monitoring equipment:

(A) Manual monitor/defibrillator;

(B) Monitoring electrodes, infant and adult;

(C) Patient cables — 2; and

(D) ECG paper.

(c) Advanced airway care equipment:

(A) Laryngoscope handle and assorted blade sizes, adult and pediatric;

(B) Spare dated batteries for the laryngoscope handle;

(C) Spare bulbs for the laryngoscope blades;

(D) Endotracheal tubes in assorted sizes, adult and pediatric;

(E) Magill Forceps, adult and child;

(F) Intubation stylettes, adult and pediatric;

(G) Endtidal CO2 detection device; and

(H) Chest decompression equipment.

(d) Sterile intravenous agents and medications authorized by the EMS medical director;

(e) Vascular access devices:

(A) Over-the-needle catheters in assorted sizes 14-gauge through 24-gauges; and

(B) Specifically-designed needles for intraosseous infusions.

(f) Nasogastric tubes in assorted sizes;

(g) The storage of controlled substances in a marine ambulance must adhere to the procedure specified in OAR 333-250-0047(2)(a) and (b); and

(h) A copy of standing order for Paramedics, RNs and PAs dated within one-year and signed by the EMS medical director.

(3) The special equipment required for a marine ambulance may be kept separate from the craft in modular watertight and buoyant containers for rapid loading and easy access aboard the marine craft.

Stat. Auth.: ORS 682.017
Stats. Implemented: ORS 682.017 - 682.117, 682.991
Hist.: OHD 5-2001, f. & cert. ef. 4-24-01; PH 2-2007, f. & cert. ef. 2-1-07; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0000
Definitions

(1) "Advanced Emergency Medical Technician (AEMT or Advanced EMT)" means a person who is licensed by the Authority as an Advanced Emergency Medical Technician.

(2) "Ambulance Service" means any person, governmental unit, corporation, partnership, sole proprietorship, or other entity that operates ambulances and holds itself out as providing prehospital care or medical transportation to sick, injured or disabled persons.

(3) "Authority" means the Emergency Medical Services and Trauma Systems Program, within the Oregon Health Authority.

(4) "Business day" means Monday through Friday when the Authority is open for business, excluding holidays.

(5) "Candidate" means an applicant that has completed training in an emergency medical services provider course and has not yet been licensed by the Authority.

(6) "Clinical Experience (Clinical)" means those hours of the curriculum that synthesize cognitive and psychomotor skills and are performed under a preceptor.

(7) "Continuing Education" means education required as a condition of licensure under ORS chapter 682 to maintain the skills necessary for the provision of competent prehospital care. Continuing education does not include attending EMS related business meetings, EMS exhibits or trade shows.

(8) "Didactic Instruction" means the delivery of primarily cognitive material through lecture, video, discussion, and simulation by program faculty.

(9) "Direct Medical Oversight" means real-time direct communication by a physician who is providing direction to an emergency medical services provider during a patient encounter.

(10) "Direct Visual Supervision" means that a person qualified to supervise is at the patient's side to monitor the emergency medical services provider in training.

(11) "Emergency Care" means the performance of acts or procedures under emergency conditions in the observation, care and counsel of the ill, injured or disabled; in the administration of care or medications as prescribed by a licensed physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. However, "emergency care" does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

(12) "EMS" means Emergency Medical Services.

(13) "EMS Medical Director" has the same meaning as "Supervising Physician" in ORS 682.025.

(14) "Emergency Medical Responder (EMR)" means a person who is licensed by the Authority as an Emergency Medical Responder.

(15) "Emergency Medical Services (EMS) Agency" means any person, partnership, corporation, governmental agency or unit, sole proprietorship or other entity that utilizes emergency medical services providers to provide prehospital emergency or non-emergency care. An emergency medical services agency may be either an ambulance service or a nontransporting service.

(16) "Emergency Medical Services Provider (EMS Provider)" means a person who has received formal training in prehospital and emergency care and is state-licensed to attend to any ill, injured or disabled person. Police officers, fire fighters, funeral home employees and other personnel serving in a dual capacity, one of which meets the definition of "emergency medical services provider" are "emergency medical services providers" within the meaning of ORS chapter 682.

(17) "Emergency Medical Technician (EMT)" means a person who is licensed by the Authority as an Emergency Medical Technician.

(18) "EMT-Basic" has the same meaning as Emergency Medical Technician.

(19) "EMT-Intermediate" means a person who is licensed by the Authority as an EMT-Intermediate.

(20) "EMT-Paramedic" has the same meaning as Paramedic.

(21) "Exam Evaluator" is a person who attends an EMS provider practical examination and who objectively observes and records each student's performance consistent with the standards of the National Registry of EMTs.

(22) "First Responder" has the same meaning as Emergency Medical Responder.

(23) "In Good Standing" means a person who is currently licensed in Oregon, who does not have any restrictions placed on his or her license, or who is not on probation with the licensing agency for any reason.

(24) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(25) "Licensing Officer" is a person who is responsible for conducting an Emergency Medical Technician (EMT) or EMT-Intermediate practical examination in a manner consistent with the standards of the National Registry for EMTs and the Authority.

(26) "Non-Emergency Care" means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24-hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a physician licensed under ORS chapter 677, insofar as any of those acts are based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board in the course of providing prehospital care as defined by this rule.

(27) "Paramedic" means a person who is licensed by the Authority as a Paramedic.

(28) "Patient" means a person who is ill or injured or who has a disability and who is transported in an ambulance.

(29) "Person" means any individual, corporation, association, firm, partnership, joint stock company, group of individuals acting together for a common purpose, or organization of any kind and includes any receiver, trustee, assignee, or other similar representatives thereof.

(30) "Prehospital Care" means that care rendered by an EMS provider as an incident of the operation of an ambulance as defined by ORS chapter 682 and that care rendered by an EMS provider as an incident of other public or private safety duties, and includes, but is not limited to "emergency care" as defined by ORS chapter 682.

(31) "Preceptor" means a person approved by an accredited teaching institution and appointed by the EMS agency, who supervises and evaluates the performance of an EMS provider student during the clinical and field internship phases of an EMS provider course. A preceptor must be a physician, physician assistant, registered nurse, or EMS provider with at least two years field experience in good standing at or above the level for which the student is in training.

(32) "Protocols" has the same meaning as standing orders.

(33) "Reciprocity" means the manner in which a person may obtain Oregon EMS provider licensure when that person is licensed in another state and certified with the National Registry.

(34) "Scope of Practice" means the maximum level of emergency or non-emergency care that an EMS provider may provide that is set forth by the rules adopted by the Oregon Medical Board.

(35) "Skills Lab" means those hours of the curriculum that provides the student with the opportunity to develop the skills for the level of training obtained.

(36) "Standing Orders" means the written protocols that an EMS provider follows to treat patients when direct contact with a physician is not maintained.

(37) "Successful completion" means having attended 85 percent of the didactic and skills instruction hours (or makeup sessions) and 100 percent of the clinical and field internship hours, and completing all required clinical and internship skills and procedures and meeting or exceeding the academic standards for those skills and procedures.

(38) "Teaching Institution" means a two-year community college or four-year degree granting college or a licensed vocational school that is accredited by the Office of Career and Technical Education, or the Department of Community Colleges and Workforce Development/Oregon Department of Education.

(39) "Unprofessional Conduct" has the meaning given that term in ORS 682.025.

(40) "Volunteer" means a person who is not compensated for their time to staff an ambulance or rescue service, but who may receive reimbursement for personal expenses incurred.

Stat. Auth.: ORS 682.025 & 682.215

Stats. Implemented: ORS 682.017 - 682.991

Hist.: HD 18-1994, 6-30-94, cert. ef. 7-1-94; HD 8-1995, f. & cert. ef. 11-6-95; OHD 9-2001, f. & cert. ef. 4-24-01; PH 10-2008. f. & cert. ef. 6-16-08; PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0010

Application for Approval of EMT, AEMT, EMT-Intermediate, and Paramedic Courses

(1) The Authority is responsible for approving EMT, AEMT, and Paramedic courses.

(2) EMT, AEMT, and Paramedic courses must be offered by a teaching institution accredited by the Oregon Department of Education or the Oregon State Board of Higher Education and must meet the standards established by the Oregon Department of Education in OAR chapter 581, division 49.

(3) Notwithstanding section (2) of this rule, the Authority may allow a hospital to conduct an EMT course if there is no training available at a teaching institution in a rural part of the state. A hospital that wishes to conduct an EMT course in a rural area must send a request to the Authority in writing explaining why there is a need and why there is no training available in its area. The Authority will inform the hospital in writing whether it has permission to conduct the EMT course.

(4) EMT, AEMT, and Paramedic courses must meet the requirements prescribed by the Authority in OAR 333-265-0014.

(5) EMT, AEMT, and Paramedic courses must be taught by instructors that meet the requirements of OAR 333-265-0020.

(6) A teaching institution described in section (2) of this rule or a hospital approved by the Authority under section (3) of this rule must submit an application to the Authority on a form prescribed by the Authority that includes all the information necessary to determine whether the course meets the Authority's standards. The form must be received by the Authority at least 30 business days prior to the first day of class.

(7) The Authority will return an application that is incomplete to the applicant.

(8) The Authority will inform an applicant in writing whether the application has been denied or approved.

(9) No teaching institution shall conduct an EMT, AEMT, or Paramedic course until the Authority has approved the course.

(10) The Authority may deny or revoke the approval to conduct an EMT, AEMT, or Paramedic course in accordance with ORS 183.310 through 183.550 for failure to comply with OAR chapter 333, division 265.

Stat. Auth.: ORS 682.017, 682.208

Stats. Implemented: ORS 682.017, 682.208, 682.216

Hist.: HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0630; HD 19-1984, f. & ef. 9-10-84; HD 16-1986, f. & ef. 9-9-86; HD 19-1991, f. & cert. ef. 10-18-91; HD 8-1993, f. 6-22-93, cert. ef. 7-1-93; HD 18-1994, 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0030; HD 8-1995, f. & cert. ef. 11-6-95; OHD 9-2001, f. & cert. ef. 4-24-01; PH 10-2008. f. & cert. ef. 6-16-08; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0011

Applications for Approval of EMT-Intermediate Courses

(1) The Authority is responsible for approving EMT-Intermediate courses.

(2) EMT-Intermediate courses must be offered by an accredited teaching institution or an EMS agency.

(3) Notwithstanding section (2) of this rule, the Authority may allow a hospital to conduct an EMT-Intermediate course if there is no training available at a teaching institution or EMS agency in a rural part of the state. A hospital that wishes to conduct an EMT-Intermediate course in a rural area must send a request to the Authority in writing explaining why there is a need and why there is no training available in its area. The Authority will inform the hospital in writing whether it has permission to conduct the EMT-Intermediate course.

(4) EMT-Intermediate courses must meet the requirements prescribed by the Authority in OAR 333-265-0014.

(5) EMT-Intermediate courses must be taught by instructors that meet the requirements of OAR 333-265-0020.

(6) A teaching institution or EMS agency described in section (2) of this rule or a hospital approved by the Authority under section (3) of this rule must submit an application to the Authority on a form prescribed by the Authority that includes all the information necessary to determine whether the course meets the Authority's standards. The form must be received by the Authority at least 30 business days prior to the first day of class.

(7) The Authority will return an application that is incomplete to the applicant.

(8) The Authority will inform an applicant in writing whether the application has been denied or approved.

(9) No teaching institution, EMS agency, or approved hospital shall conduct an EMT-Intermediate course until the Authority has approved the course.

(10) The Authority may deny or revoke the approval to conduct an EMT-Intermediate course in accordance with ORS 183.310 through 183.550 for failure to comply with OAR chapter 333, division 265.

Stat. Auth.: ORS 682.017, 682.208

Stats. Implemented: ORS 682.017, 682.208, 682.216

Hist.: PH 1-2013, f. & cert. ef. 1-25-13

333-265-0014

EMS Provider Course Requirements

(1) All EMS provider courses must have a medical director. The EMS medical director must meet the qualifications of a supervising physician as defined in OAR 847-035-0020.

(2) All EMS provider courses must have a course director as defined in OAR 333-265-0020.

(3) An Oregon teaching institution conducting EMT, advanced EMT, or Paramedic courses must have program faculty consisting of a designated program director, course medical director, course directors, and may have guest instructors. The number of persons carrying out the responsibilities of conducting an EMT, AEMT, or Paramedic course may vary from program to program. One person, if qualified, may serve in multiple roles.

(4) An Oregon teaching institution, EMS agency, or approved hospital conducting EMT- Intermediate courses must have program faculty consisting of a designated program director, course medical director, course directors, and may have guest instructors. The number of persons carrying out the responsibilities of conducting an EMT-Intermediate course may vary from program to program. One person, if qualified, may serve in multiple roles.

(5) An EMR course must include:

(a) A curriculum that meets or exceeds the National Emergency Medical Services Education Standards published by the National Highway Traffic Safety Administration, January 2009 (DOT HS 811 077B);

(b) Didactic and skills instruction; and

(c) A practical and cognitive examination.

(6) An EMT course must include:

(a) A curriculum that meets or exceeds the National Emergency Medical Services Education Standards published by the National Highway Traffic Safety Administration, January 2009 (DOT HS 811 077B);

(b) Didactic and skills instruction;

(c) Clinical education of at least eight hours in a hospital or acute care department or other appropriate clinical or acute care medical facility where the skills within an EMT scope of practice are performed under the supervision of a preceptor; and

(d) Prehospital experience of at least eight hours under the supervision of an EMT or above where the skills within an EMT scope of practice are performed.

(7) An advanced EMT course must include:

(a) A curriculum that meets or exceeds the National Emergency Medical Services Education Standards published by the National Highway Traffic Safety Administration, January 2009 (DOT HS 811 077B);

(b) Didactic and skills instruction; and

(c) A field internship that is described in OAR 333-265-0015.

(8) An EMT-Intermediate course must include:

(a) The EMT-Intermediate curriculum as prescribed by the Authority;; and

(b) Didactic and skills instruction.

(9) A Paramedic course must include:

(a) Paramedic curriculum that meets or exceeds the National Emergency Medical Services Education Standards published by the National Highway Traffic Safety Administration, January 2009 (DOT HS 811 077B);

(b) Didactic and skills instruction;

(c) Clinical experience in hospital clinical areas where the skills within a Paramedic scope of practice are performed under the supervision of a preceptor; and

(d) A field internship that is described in OAR 333-265-0016.

(10) All EMS provider courses must include instructions on Oregon statutes and rules governing the EMS system, medical-legal issues, roles and responsibilities of EMS providers, and EMS professional ethics.

(11) The Authority may deny or revoke course approval in accordance with the provisions of ORS 183.310 through 185.550 for failure to comply with the requirements of this rule.

(12) A person must have a current Oregon EMT license or higher at the time of enrollment in an advanced EMT or Paramedic course.

(13) A person must have a current Oregon advanced EMT license at the time of enrollment in an Oregon EMT-Intermediate course.

(14) A person must maintain a current Oregon EMT license or higher throughout the interval of the advanced EMT or Paramedic cognitive and practical exams.

(15) A person must maintain a current Oregon advanced EMT license throughout the interval of the EMT-Intermediate cognitive and practical exams.

Stat. Auth.: ORS 682.017, 682.208

Stats. Implemented: ORS 682.017, 682.208, 682.216

Hist.: PH 10-2008, f. & cert. ef. 6-16-08; PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0015

Advanced Emergency Medical Technician Field Internships

(1) A field internship is required as part of an advanced EMT course and shall include:

(a) Clinical experience performed under the supervision of a preceptor of at least eight hours and 20 patient contacts in a hospital emergency department or medical clinic where the skills within an AEMT scope of practice are performed under the supervision of a preceptor; and

(b) Prehospital experience of at least eight hours under the supervision of an AEMT or above where the skills within the scope of practice of an AEMT are performed.

(2) A field internship must provide a student the opportunity to demonstrate the integration of didactic, psychomotor skills, and clinical education necessary to perform the duties of an entry-level AEMT.

(3) The student must successfully demonstrate a skill in the classroom lab or hospital clinical setting before that skill is performed and evaluated in a field internship.

(4) During a field internship a student must participate in providing care. All EMS calls shall be under the direct visual supervision of a preceptor. In order for a call to be accepted, the preceptor must document and verify satisfactory student performance, including application of specific assessment and treatment skills required of a licensed advanced EMT.

(5) For purposes of this section, "EMS call" means a prehospital emergency medical services response requiring patient care at the advanced life support level and "ambulance call" means an advanced life support prehospital emergency medical services response, which includes dispatch, scene response, patient care while riding in the patient compartment of an ambulance, and participating in specific assessment and treatment skills required of a licensed advanced EMT.

Stat. Auth.: ORS 682.017, 682.208

Stats. Implemented: ORS 682.017, 682.208, 682.216

Hist.: PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0023

EMS Provider Examinations

(1) In order to be an EMR, a candidate must take and pass a cognitive and practical licensure examination.

(2) The EMR cognitive and practical examinations must be administered by an entity approved by the Authority to conduct EMR courses. An approved entity must use an Authority-approved cognitive and practical exam. The National Registry of Emergency Medical Technicians cognitive examination for EMRs may also be used.

(3) EMT, advanced emergency medical technician and Paramedic candidates must complete the cognitive examination designated by the National Registry of EMTs. The fee for this exam must be paid directly to the National Registry of EMTs.

(4) The EMT examination for licensure will be administered by a licensing officer and hosted by a teaching institution that offers EMT courses.

(5) An advanced EMT and Paramedic practical examination is a National Registry of EMTs examination offered at various times during the

year by the Authority. An advanced EMT or Paramedic candidate may also take the appropriate practical examination in any state.

(6) The Authority or the National Registry of EMTs shall establish the passing scores of all cognitive and practical licensure examinations.

(7) An EMT candidate who fails:

(a) Not more than two skill stations of the EMT practical examination may retest those skill stations failed on the same day with no additional charge by the Authority.

(b) An EMT skill station a second time must submit a re-examination fee to the Authority and be scheduled through his or her teaching institution to retest any skill station failed.

(c) More than two skill stations of the EMT practical examination must schedule a retest for a separate day through his or her teaching institution, and submit a re-examination fee to the Authority.

(8) If a candidate fails either the cognitive or practical examination three times, the candidate must successfully complete an Authority-approved refresher course for that specific license level to become eligible to re-enter the licensure process. Following successful completion of a refresher course, a candidate must re-take and pass the examination.

(9) The passing results of the cognitive and practical licensure examinations for each level of licensure will remain valid for a 12-month period from the date the examination was successfully completed.

(10) A candidate must pass both the cognitive and practical examinations within 24 months after the completion of the required courses.

(11) A candidate who fails the cognitive or practical examination six times or does not complete the examination process within 24 months of the completion date of the initial required courses, must successfully complete the entire EMT, AEMT, or Paramedic course for that license level and reapply for licensure.

(12) The entity providing a cognitive examination must have a policy for the accommodation of a person with a documented learning disability.

(13) No accommodation shall be provided for a practical licensure examination.

(14) EMT practical examinations must be attended by an Authority-approved licensing officer who:

(a) Is licensed in Oregon at least at the level of examination they are administering with at least two years field experience at that level or above and is in good standing with the Authority; and

(b) Has completed training offered by the Authority explaining the role and responsibilities of a licensing officer.

Stat. Auth.: ORS 682.017, ORS 682.208, & ORS 682.216
Stats. Implemented: ORS 682.017, 682.208, 682.216
Hist.: PH 10-2008, f. & cert. ef. 6-16-08; PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0024
EMT-Intermediate Provider Examination

(1) The EMT-Intermediate examinations for licensure will be administered by a licensing officer and hosted by a teaching institution, EMS agency, or approved hospital that offers EMT-Intermediate courses.

(2) An EMT-Intermediate candidate who fails:

(a) Three or fewer skill stations of the EMT-Intermediate practical examination may retest those skill stations failed on the same day with no additional charge by the Authority.

(b) One or more skill stations a second time must submit a re-examination fee and be scheduled through the Authority to retest any skill station failed.

(c) More than three skill stations of the EMT-Intermediate practical examination must schedule a retest for a separate day, and submit a re-examination fee to the Authority.

(3) If a candidate fails the practical examination three times, the candidate must submit official documentation of remedial education before becoming eligible to re-enter the licensure examination process. Following successful completion of remedial education, a candidate must re-take and pass the practical examination within three additional attempts.

(4) A candidate must pass the practical examination within 24 months after the completion of the required courses.

(5) A candidate who fails the practical examination six times or does not complete the examination process within 24 months of the completion date of the initial required courses, must successfully complete the entire EMT-Intermediate course and reapply for licensure.

(6) No accommodation shall be provided for a practical licensure examination.

(7) An EMT-Intermediate practical examination must be attended by an Authority-approved licensing officer who:

(a) Is licensed in Oregon at least at an EMT-Intermediate level with at least two years field experience at that level or above and is in good standing with the Authority; and

(b) Has completed training offered by the Authority explaining the role and responsibilities of a licensing officer.

Stat. Auth.: ORS 682.017, 682.208, 682.216
Stats. Implemented: ORS 682.017, 682.208, 682.216
Hist.: PH 1-2013, f. & cert. ef. 1-25-13

333-265-0025
Application Process to Obtain an EMS Provider License

(1) For any person to act as an EMS provider a license must be obtained from the Authority.

(2) An applicant for EMR must:

(a) Be at least 16 years of age;

(b) Submit proof of successfully completing an approved course, including completion of all clinical and internship requirements, if applicable;

(c) Submit proof of passing the required cognitive and practical examinations;

(d) Submit a completed application on a form prescribed by the Authority along with the applicable fee;

(e) Consent to a criminal background check through the Law Enforcement Data System (LEDS), including a nationwide criminal record check by fingerprint identification under the authority of ORS 181.534 and 181.537 if required:

(A) The Authority may use information obtained through FBI criminal history records to determine suitability for licensure.

(B) If the Authority determines the information contained in the criminal history record may result in denial of the application or imposed sanctions on the license the applicant will be afforded reasonable time to complete, challenge, or correct the accuracy of the record before a final disposition or sanction is imposed.

(C) Procedures for obtaining a change, correction, or updating of an FBI identification record are set forth in Title 28, C.F.R., 16.34. Procedures for obtaining a change, correction, or updating of an Oregon criminal history record are set forth in OAR 257-010-0035.

(f) Provide authorization for the release of information, as necessary, from any persons or entities, including but not limited to educational institutions, employers, hospitals, treatment facilities, institutions, organization, governmental or law enforcement agencies.

(3) An individual who wishes to become licensed as an EMT, advanced EMT, EMT-Intermediate, or Paramedic shall:

(a) Be at least 18 years of age;

(b) Submit a completed application on a form prescribed by the Authority along with the applicable fee;

(c) Submit proof of successfully completing an approved course, including all clinical and internship requirements if applicable;

(d) Submit proof of passing the required cognitive and practical examinations;

(e) For an EMT, advanced EMT or EMT-Intermediate applicant, submit proof that the applicant received a high school diploma or equivalent or a degree from an accredited institution of higher learning;

(f) For a Paramedic applicant submit proof that the applicant has received an associate's degree or higher from an accredited institution of higher learning;

(g) Consent to a criminal background check through the Law Enforcement Data System (LEDS), including a nationwide criminal record check by fingerprint identification under the authority of ORS 181.534 and 181.537 if required:

(A) The Authority may use information obtained through FBI criminal history records to determine suitability for licensure.

(B) If the Authority determines the information contained in the criminal history record may result in denial of the application or imposed sanctions on the license the applicant will be afforded reasonable time to complete, challenge, or correct the accuracy of the record before a final disposition or sanction is imposed.

(C) Procedures for obtaining a change, correction, or updating of an FBI identification record are set forth in Title 28, C.F.R., 16.34. Procedures for obtaining a change, correction, or updating of an Oregon criminal history record are set forth in OAR 257-010-0035.

(h) Provide an authorization for the release of information, as necessary, from any persons or entities, including but not limited to educational institutions, employers, hospitals, treatment facilities, institutions, organizations, governmental or law enforcement agencies in order for the Authority to complete the review of the application; and

(4) EMT and EMT-Intermediate applications for licensure must be received by the Authority three weeks prior to the date of the licensing practical examination.

(5) Advanced EMT and Paramedic applications for licensure must be received by the Authority four weeks prior to the date of the practical examinations.

(6) Any fee for a criminal background check through LEDS or a nationwide criminal background check shall be the responsibility of the applicant.

(7) An applicant for an initial license as an EMS provider, who completed training in a program outside Oregon and has never been licensed in another state, must:

(a) Meet all requirements for that level as established in OAR 333-265-0000 through 333-265-0023;

(b) Demonstrate proof of current National Registry certification; and

(c) Make application within 24 months from the date that their training program was completed, unless an applicant has been on active duty in the military within the last four years and in that case, the application may be submitted more than 24 months from the date the training program was completed.

(8) An initial license must not exceed 30 months.

(9) If an applicant has been on active duty in the military within the past four years and the applicant can demonstrate proof of current National Registry certification for the level of license desired, current licensure in another state is not mandatory.

(10) The Authority may return any application that is incomplete or is not accompanied by the appropriate fee.

Stat. Auth.: ORS 682.017, 682.028 & 682.208
Stats. Implemented: ORS 682.017, 682.028 & 682.208
Hist.: OHD 9-2001, f. & cert. ef. 4-24-01; Hist.: PH 10-2008, f. & cert. ef. 6-16-08; PH 11-2008(Temp), f. 6-19-08, cert. ef. 6-20-08 thru 12-12-08; Administrative correction 12-22-08; PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0050
EMS Provider Licensure by Reciprocity

(1) A person registered with the National Registry of EMTs as an EMR, first responder, EMT, EMT-Basic, advanced EMT, EMT-Intermediate I-99, EMT-Intermediate I-85, Paramedic, or EMT-Paramedic may apply to the Authority for licensure by reciprocity until January 1, 2015 at which time only National Registry EMR, EMT, advanced EMT, and Paramedic will be accepted for reciprocity.

(a) A National Registry EMT-Intermediate I-99 may apply for an Oregon EMT-Intermediate licensure by reciprocity until January 1, 2015 at which time National Registry EMT-Intermediate I-99 will no longer be accepted for reciprocity.

(b) A National Registry EMT-Intermediate I-85 may apply for an EMT licensure by reciprocity until January 1, 2015 at which time National Registry EMT-Intermediate I-85 will no longer be accepted for reciprocity.

(2) A person applying for Oregon EMS provider licensure by reciprocity shall:

(a) Submit a completed application on a form prescribed by the Authority along with the applicable nonrefundable fee;

(b) Submit documentation of the EMS provider training which meets or exceeds the requirements for Oregon EMS provider licensure at the level of licensure for which the person is applying;

(c) If applying for Paramedic licensure by reciprocity, submit proof of having received an associate's degree or higher from an accredited institution of higher learning or submit proof of having worked for at least three years out of the last five years as a Paramedic in either another state or in the United States military at the National Registry Paramedic level.

(d) Be in good standing with the applicant's current licensing agency and with the National Registry of EMTs; and

(e) Consent to a criminal background check in accordance with OAR 333-265-0025(3).

(3) The Authority shall review an application for licensure by reciprocity and shall conduct a criminal background check.

(4) If there are no issues that arise during the review of the application and the applicant meets all the applicable requirements of ORS chapter 682 and these rules, the Authority shall grant the applicant a license by reciprocity.

(5) If the applicant does not meet the standards for licensure, or there are criminal history or personal history issues that call into question the ability of the applicant to perform the duties of a licensed EMS provider, in accordance with ORS chapter 682 or these rules, the Authority may deny the application on the basis of the information provided, or conduct an additional investigation in accordance with OAR 333-265-0085. Following such an investigation the Authority may take any action as specified in OAR 333-265-0040(4).

(6) The Authority shall be the sole agency authorized to determine equivalency of EMS provider course work presented from an out-of-state accredited institution of higher learning.

(7) The Authority shall be the sole agency authorized to determine equivalency of work experience in lieu of the associate degree requirement for Paramedics.

(8) The Authority shall return any application that is incomplete, or cannot be verified.

Stat. Auth.: ORS 682.017, 682.216
Stats. Implemented: ORS 682.017, 682.216
Hist.: HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0620; HD 19-1984, f. & ef. 9-10-84; HD 16-1986, f. & ef. 9-9-86; HD 18-1990(Temp), f. & cert. ef. 6-19-90; HD 19-1991, f. & cert. ef. 10-18-91; HD 8-1993, f. 6-22-93, cert. ef. 7-1-93; HD 18-1994, 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0020; HD 8-1995, f. & cert. ef. 11-6-95; OHD 9-2001, f. & cert. ef. 4-24-01; PH 10-2008, f. & cert. ef. 6-16-08; PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2011, f. & cert. ef. 1-6-11; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0060
Paramedic Provisional Licensure

(1) As authorized by ORS 682.216, the Authority may issue a provisional Paramedic license to an out-of-state licensed Paramedic who meets the requirements in OAR 333-265-0050, except for the educational requirements in OAR 333-265-0050(3)(a) and is in the process of obtaining an associate's degree or higher from an accredited institution for higher learning.

(2) A provisional license shall only be provided in the event that the associate's degree or higher is obtainable within two years.

(3) An applicant shall comply with the application requirements in OAR 333-265-0050 and shall submit:

(a) A letter of recommendation from the applicant's most recent medical director;

(b) A letter from an Oregon EMS agency specifying that the person shall be immediately employed or has a conditional offer of employment, whether in a paid or volunteer capacity; and

(c) A letter from the applicant's prospective EMS medical director stating that the EMS medical director will serve as his or her EMS medical director while being provisionally licensed.

(4) The Authority may return any application that is incomplete, cannot be verified, or is not accompanied by the appropriate fee.

(5) A Paramedic with a provisional license issued under these rules shall enter into an agreement with the Authority and shall submit quarterly reports to the Authority describing the license holder's progress in obtaining an associate's degree or higher from an accredited institution for higher learning.

(6) A Paramedic provisional license shall be revoked if the person:

(a) Ceases active involvement in emergency medical services;

(b) Fails to meet the conditions set forth in the agreement;

(c) Fails to cooperate or actively participate in a request from the Authority in order to obtain more information or required materials;

(d) Has his or her EMS provider scope of practice revoked or restricted by his or her EMS medical director; or

(e) Does not submit written documentation of the successful completion of any of the educational requirements set out in this rule

Stat. Auth.: ORS 682.017, 682.216
Stats. Implemented: ORS 682.017, 682.216
Hist.: HD 18-1994, 6-30-94, cert. ef. 7-1-94; OHD 9-2001, f. & cert. ef. 4-24-01; PH 10-2008, f. & cert. ef. 6-16-08; PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0085
Investigations

(1) The Authority may conduct an investigation of an EMS provider if:

(a) The Authority receives a complaint concerning an EMS provider;

(b) Personal or criminal history questions arise during a review of an application that raise questions about the EMS provider's ability to safely perform the duties of an EMS provider;

(c) A reportable action is received pursuant to OAR 333-265-0080; or

(d) The Authority receives information in any manner that indicates an EMS provider has violated ORS chapter 682 or these rules, may be medically incompetent, guilty of prohibited, unprofessional or dishonorable conduct or mentally or physically unable to safely function as an EMS provider.

(2) The Authority may investigate the off-duty conduct of an EMS provider to the extent that such conduct may reasonably raise questions

about the ability of the EMS provider to perform the duties of an EMS provider in accordance with the standards established by this division.

(3) Upon receipt of a complaint about an EMS provider or applicant, the Authority may conduct an investigation as described under ORS 676.165 and 682.220. Investigations shall be conducted in accordance with ORS 676.175.

(4) The fact that an investigation is conducted by the Authority does not imply that disciplinary action will be taken.

(5) During an investigation the Authority may do any of the following:

(a) Request additional information from the EMS provider;

(b) Conduct a phone or in-person interview; or

(c) Request or order that the EMS provider undergo a psychological, physical, psychiatric, alcohol or chemical dependency assessment.

Stat. Auth.: ORS 676.165, 676.175
Stats. Implemented: ORS 682.017, 682.220, 682.224
Hist.: PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0105
Reinstatement of an EMS Provider License

(1) To reinstate an expired Oregon EMR, EMT, advanced EMT, EMT-Intermediate, or Paramedic license that has been expired for less than one year, an applicant must:

(a) Submit a completed application for license renewal;

(b) Submit the appropriate license renewal fee plus a late fee; and

(c) Provide evidence of completion of continuing education requirements as specified in Appendices 1 through 3, incorporated by reference, and courses completed from the license holder's last successful application through the date of the present application for license renewal, as specified in this rule:

(A) EMR before July 1, 2012 or on or after July 1, 2014 refer to Appendix 1;

(B) EMR on or after July 1, 2012 but before July 1, 2014 refer to Appendix 2;

(C) EMT, AEMT, EMT-Intermediate, and Paramedic before July 1, 2013 or on or after July 1, 2015 refer to Appendix 1;

(D) EMT, AEMT, EMT-Intermediate, and Paramedic on or after July 1, 2013 but before July 1, 2015 refer to Appendix 3;

(2) Reinstatement of an EMR license that has been expired for more than one year will require retaking and passing the course and examinations.

(3) Reinstatement of an EMT-Intermediate license that has been expired for more than one year will require retaking and passing the course and examinations.

(4) To reinstate an Oregon EMT or EMT-Paramedic license that has been expired for more than one year, but less than two years, a license holder must submit a completed application for licensure with the appropriate fee and successfully complete an Authority-approved reinstatement program described in these rules.

(5) Reinstatement program for an EMT:

(a) Obtain an American Heart Association "Health Care Provider," or American Red Cross "Basic Life Support for the Professional Rescuer," or other Authority-approved equivalent CPR course completion document;

(b) Complete the EMT Authority-approved Refresher Training Program;

(c) Pass the EMT cognitive and practical examinations within three attempts, including a same-day re-examination; and

(d) Complete the above listed program requirements within 730 calendar days from expiration date.

(6) Reinstatement program for an advanced EMT:

(a) Obtain an American Heart Association "Health Care Provider," or American Red Cross "Basic Life Support for the Professional Rescuer," or other Authority-approved equivalent CPR course completion document;

(b) Complete a Basic Trauma Life Support (BTLS) course, or Pre-Hospital Trauma Life Support (PHTLS) course, provider or instructor course; and

(c) Complete the above listed program requirements within 730 calendar days from expiration date.

(7) Reinstatement program for a Paramedic:

(a) Complete an Advanced Cardiac Life Support (ACLS) course, provider or instructor course;

(b) Complete a Basic Trauma Life Support (BTLS) course, or Pre-Hospital Trauma Life Support (PHTLS) course, provider or instructor course;

(c) Complete an Advanced Pediatric Life Support (APLS), Pediatric Advanced Life Support (PALS), Pediatric Education for Pre-hospital Professionals (PEPP), or Neonatal Advance Life Support (NALS) course, provider or instructor course;

(d) Complete the U.S. Department of Transportation, National Highway Traffic Safety Administration 2001 Paramedic: National Standard Curriculum Refresher Training Program, incorporated by reference;

(e) Pass the Paramedic cognitive and practical examinations within three attempts, including the same-day re-examination;

(f) Complete the above listed program requirements within two years of applying for reinstatement; and

(g) Document completion of a DOT Paramedic Training Program taken after January 1, 1977.

(h) If the requirements described in OAR 333-265-0105(6) cannot be met prior to 730 calendar days from expiration date an applicant must follow the National Registry's re-entry requirements to obtain a new National Registry certification before applying for a new license as outlined in OAR 333-265-0025.

[ED. NOTE: Appendices referenced are not included in rule text.]
Stat. Auth.: ORS 682.216
Stats. Implemented: ORS 682.017, 682.216
Hist.: PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 16-2010(Temp), f. & cert. ef. 7-16-10 thru 1-1-11; PH 1-2011, f. & cert. ef. 1-6-11; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0110
Licensed EMS Provider Continuing Education Requirements for License Renewal

(1) An EMR is required to:

(a) Complete 12 hours of continuing education as specified in Appendix 1, incorporated by reference;

(b) On or after July 1, 2012 but before July 1, 2014 an EMR must complete 12 hours of continuing education as specified in Appendix 2, incorporated by reference during which period a current National Registry of Emergency Medical Technicians certification will not be accepted in lieu of requirements listed in Appendix 2

(c) On or after July 1, 2014 an EMR must complete 12 hours of continuing education as specified in Appendix 1, incorporated by reference; or

(d) Complete all requirements of the National Registry of Emergency Medical Technicians for EMR re-registration.

(2) An EMT is required to:

(a) Complete 24 hours of continuing education as specified in Appendix 1, incorporated by reference;

(b) On or after July 1, 2013 but before July 1, 2015 an EMT must complete 24 hours of continuing education as specified in Appendix 3, incorporated by reference during which period a current National Registry of Emergency Medical Technicians certification will not be accepted in lieu of requirements listed in Appendix 3;

(c) On or after July 1, 2015 an EMT must complete 24 hours of continuing education as specified in Appendix 1, incorporated by reference; or

(d) Complete all requirements of the National Registry of EMT or Emergency Medical Technician re-registration.

(3) An advanced EMT is required to:

(a) Complete 36 hours of continuing education as specified in Appendix 1, incorporated by reference;

(b) On or after July 1, 2013 but before July 1, 2015 an advanced EMT must complete 36 hours of continuing education as specified in Appendix 3, incorporated by reference during which period a current National Registry of Emergency Medical Technicians certification will not be accepted in lieu of requirements listed in Appendix 3;

(c) On or after July 1, 2015 an advanced EMT must complete 36 hours of continuing education as specified in Appendix 1, incorporated by reference; or

(d) Complete all requirements of the National Registry of EMTs re-registration.

(4) An EMT-Intermediate is required to:

(a) Complete a course with published standards and guidelines for cardiopulmonary resuscitation and emergency cardiac care in which the EMT has demonstrated knowledge and skills in the performance of subcutaneous (SQ) injections, automated external defibrillator (AED) operation, one and two person rescuer cardiopulmonary resuscitation (adult, child, and infant) and relief of foreign body airway obstruction; and

(b) Obtain at least 36 hours of continuing education as specified in Appendix 1, incorporated by reference; or

(c) On or after July 1, 2013 but before July 1, 2015 an EMT-Intermediate must complete 36 hours of continuing education as specified in Appendix 3, incorporated by reference during which period a current

National Registry of Emergency Medical Technicians certification will not be accepted in lieu of requirements listed in Appendix 3; or

(d) On or after July 1, 2015 an EMT-Intermediate must complete 36 hours of continuing education as specified in Appendix 1, incorporated by reference.

(5) A Paramedic is required to:

(a) Complete all requirements of the National Registry of EMTs re-registration; or

(b) Obtain at least 48 hours of continuing education as specified in Appendix 1, incorporated by reference; or

(c) On or after July 1, 2013 but before July 1, 2015 a Paramedic must complete 48 hours of continuing education as specified in Appendix 3, incorporated by reference during which period a current National Registry of Emergency Medical Technicians certification will not be accepted in lieu of requirements listed in Appendix 3; or

(d) On or after July 1, 2015 a Paramedic must complete 48 hours of continuing education as specified in Appendix 1, incorporated by reference.

(6) All continuing education credits specified in sections (1) through (5) of this rule shall be completed between the date of the license holder's last successful application to the date of the license holder's current license renewal application.

(7) Continuing education credit shall be granted hour-for-hour for:

(a) Attending training seminars, educational conferences, and continuing education classes within the license holder's scope of practice;

(b) Attending live, webinar, or interactive online courses for the same or higher level of licensure;

(c) Online continuing education that provides a certificate of completion and is approved by the Continuing Education Coordinating Board for Emergency Medical Services (CECBEMS);

(d) Related accredited college courses will count one hour per credit hour received; and

(e) Authority-approved license renewal courses.

(8) Up to 50 percent of the hours of continuing education credits for each subject listed in section 1 of the appropriate appendix as incorporated by reference may be obtained by:

(a) Watching a video, CD-ROM, or other visual media;

(b) Being an EMT practical licensure exam evaluator, if the license holder is qualified as such;

(c) Reading EMS journals or articles; and

(d) Teaching any of the topics listed in the appendices as incorporated by reference, if the license holder is qualified to teach the subject.

(9) In addition to the hours of continuing education required in this rule, any affiliated EMS provider license holder must, as specified in section 2 of the appendices, incorporated by reference, demonstrate skills proficiency through a hands-on competency examination supervised by the EMS medical director or his or her designee. An EMS medical director may require successful performance in a minimum number of clinical skills in these areas on either human subjects or mannequins (e.g. venipunctures, endotracheal intubations, etc.).

(10) An EMS medical director may require additional continuing education requirements and skill competency.

(11) When a license holder obtains an initial license and there is:

(a) Less than six months until license renewal, no continuing education credits are required to obtain license renewal;

(b) More than six months but less than one year until license renewal, the license holder must complete 50 percent of the continuing education credits in each category; or

(c) More than one year until license renewal, the license holder must complete all continuing education credits.

(12) Continuing education credits are granted on an hour-for-hour basis.

(13) It shall be the responsibility of each license holder to ensure the hours obtained meet the Authority's license renewal requirements.

(14) A license holder must submit proof, in a manner prescribed in OAR 333-265-0140 that the continuing education requirements have been met.

(15) Education programs, journals and articles used towards continuing education must be approved by the EMS medical director or the Authority.

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

Stat. Auth.: ORS 682.017, 682.216

Stats. Implemented: ORS 682.017, 682.216

Hist.: HD 18-1994, 6-30-94, cert. ef. 7-1-94; HD 63, f. 6-6-74, ef. 6-25-74; HD 1-1981, f. & ef. 1-14-81; Renumbered from 333-023-0645; HD 19-1984, f. & ef. 9-10-84; HD 16-1986, f. & ef. 9-9-86; HD 19-1991, f. & cert. ef. 10-18-91; HD 18-1994, f. 6-30-94, cert. ef. 7-1-94, Renumbered from 333-028-0045; HD 8-1995, f. & cert. ef. 11-6-95; OHD 9-2001, f. & cert. ef. 4-24-01; PH 10-2008, f. & cert. ef. 6-16-08; PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 1-2011, f. & cert. ef. 1-6-11; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

333-265-0160

License Holder's Responsibility to Notify the Authority of Changes

(1) A license holder must keep the Authority apprised of and report the following changes within 30 calendar days of a change in:

(a) EMS medical director, unless the license holder is affiliated with an ambulance service that is on file with the Authority;

(b) Legal name;

(c) Mailing address;

(d) Electronic mail address;

(e) Main contact phone number; or

(f) EMS affiliation.

(2) When reporting a new affiliation an EMS provider must supply the Authority with verification of completion of skills competency as referenced in Appendix 1 and it must be signed by his/her medical director or designee unless verification was completed during the most recent license renewal period.

[ED. NOTE: Appendices referenced are not included in rule text.]

Stat. Auth.: ORS 682.017, 682.208, 682.220, 682.224

Stats. Implemented: ORS 682.017, 682.208, 682.220, 682.224

Hist.: HD 18-1994, 6-30-94, cert. ef. 7-1-94; HD 8-1995, f. & cert. ef. 11-6-95; OHD 9-2001, f. & cert. ef. 4-24-01; PH 10-2008, f. & cert. ef. 6-16-08; PH 13-2010, f. 6-30-10, cert. ef. 7-1-10; PH 15-2011, f. 12-28-11, cert. ef. 1-1-12; PH 1-2013, f. & cert. ef. 1-25-13

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Rule Caption: Revision of the Organizational Camp rules

Adm. Order No.: PH 2-2013

Filed with Sec. of State: 1-25-2013

Certified to be Effective: 1-25-13

Notice Publication Date: 12-1-2012

Rules Amended: 333-030-0015, 333-030-0020, 333-030-0025, 333-030-0030, 333-030-0035, 333-030-0040, 333-030-0050, 333-030-0055, 333-030-0060, 333-030-0065, 333-030-0070, 333-030-0075, 333-030-0080, 333-030-0085, 333-030-0090, 333-030-0095, 333-030-0100, 333-030-0103, 333-030-0105, 333-030-0110, 333-030-0115, 333-030-0120, 333-030-0125, 333-030-0130

Rules Repealed: 333-030-0045

Subject: The Oregon Health Authority, Public Health Division is permanently amending and repealing Oregon Administrative Rules in chapter 333, division 30 related to organizational camp licensing and inspection. The changes to the organizational camp rules are being made at the request of Oregon camp operators. The amended rules help address the concerns of camp license holders concerning clarifying responsibility and accountability for contract and rental operations using camps. The amended rules also address concerns of camp operators that the rules have become unwieldy and, in some cases, impossible to comply with because they do not take into account the changes that have occurred in the way camps currently operate.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-030-0015

Definitions

As used in these rules unless otherwise required by context:

(1) "Administrator" means the Public Health Director of the Oregon Health Authority or designee.

(2) "Ancillary Activity" means an individual or group using the camp facilities in a manner unrelated to the camp's mission or programs. An example might include a wedding party or a business group using a Boy Scout Camp for a reception or meeting. Such activities may require the camp to maintain a food service or traveler's accommodation license in addition to the organization camp license.

(3) "Approved" means approved in writing by the Oregon Health Authority, Public Health Division.

(4) "Aquatic Director" means a person over 18 years of age who is an employee or volunteer within the organizational camp and is a currently certified lifeguard, as defined by OAR 333-060-0015 (see "Program Director" and "Program Supervisor").

(5) "Cabin Cooking" means food preparation in a facility usually equipped with residential grade cooking and cooling equipment, and usually done by campers for themselves.

(6) "Camp" means an organizational camp as defined in section (25) of this rule.

(7) "Camp Commissary" means the central food storage and distribution facility when cabin or wilderness/primitive cooking are regularly practiced.

(8) "Camp Director" means the person on-site who has the overall responsibility for the programs and activities under the direction of the camp operator.

(9) "Camp Health Director" is an adult, 18 years of age or older, who is responsible for routine and emergency health care services at the camp (see "Program Director" and "Program Supervisor").

(10) "Camp Operator" means either the license holder or a contract or rental group the license holder has contracted with to use part or all of the camp facilities and, whichever has overall responsibility for the camp programs and activities.

(11) "Camp Staff" includes paid and unpaid staff and volunteer leaders working directly for the license holder or contract or rental group.

(12) "Contract groups" or "Rental groups" are organized groups that use the camp facilities under contracted arrangement with the license holder or camp owner.

(13) "Day Camp" means an organizational camp facility that campers attend for an established period of time, leaving at the end of the camping day that provides creative and recreational opportunities in the out-of-doors utilizing trained leadership and the resources of the natural surroundings to contribute to the camper's mental, physical and spiritual growth.

(14) "Delegated County" means a county delegated authority to administer the Organizational Camp Program under ORS 446.425. (See also "Local Public Health Authority").

(15) "Division" means the Public Health Division of the Oregon Health Authority.

(16) "Family Camp" means sessions operated or staffed by the license holder or contract group or rental group for parents and children as family groups. Parents and guardians are on-site and have frequent contact with and make decisions on behalf of their children.

(17) "Health Disclosure" means an up-to-date record of the camper's or staff's past and present health status.

(18) "Health Services" means the services provided to campers and staff including first aid, medication management, provision of prescribed medical treatment and health practices.

(19) "High Risk Program Facilities" means areas and equipment, developed by the license holder, that present a higher than normal opportunity for camper injuries. High Risk Program Facilities include but are not limited to rifle and archery ranges, ropes courses, climbing walls, trampolines, waterfront and swimming facilities, skiing and snowboarding.

(20) "License Holder" means the person to which the organizational camp license has been issued by the Division or local public health authority.

(21) "Lifeguard" means a currently certified lifeguard (with waterfront module where applicable), as determined by the Division.

(22) "Local Public Health Authority (LPHA)" has the meaning given that term in ORS 431.260.

(23) "Off-Site" means outside of the boundaries of the camp facility.

(24) "On-Site" means within the boundaries of the licensed camp facility.

(25) "Organizational Camp" has the meaning given that term in ORS 446.310.

(26) "Outdoor Youth Program" means a program that provides, in an outdoor living setting, treatment services to youth who are enrolled in the program because they have behavioral problems, mental health problems or problems with abuse of alcohol or drugs.

(27) "Permanent Sleeping Unit" means cabins, platform tents, huts and other shelters that are used for sleeping and remain stationary for more than six nights in an organizational camp.

(28) "Person" means individuals, corporations, associations, firms, partnerships and joint stock companies as well as public entities such as schools, colleges, public or private educational corporations.

(29) "Potentially Hazardous Food (Time/Temperature Control for Safety Food)" has the meaning given that term in OAR 333-150-0000 1-201.10(B).

(30) "Primitive Camping" means a type of camping, during which the campers use non-permanent sleeping structures such as tents, tarps and ground cloths.

(31) "Outdoor Cooking" means meals are prepared using primitive or outdoor cooking methods.

(32) "Program Assistants" means the staff required to operate a program area or activity, trained in their responsibilities and under the direct supervision of the program director or program supervisor.

(33) "Program Director" means an individual with appropriate training and experience in the program area or activity for which the individual has overall responsibility.

(34) "Program Supervisor" means an individual that supervises the operation of a program area or activity under the direction of a program director who has appropriate training and experience in the program area or activity he or she supervises.

(35) "Public Spa Pool" means any public swimming pool or wading pool designed primarily to direct water, or air-enriched water under pressure, onto the bather's body with the intent of producing a relaxing or therapeutic effect. A public spa pool includes, but is not limited to, spa pools owned or operated by organizational camps.

(36) "Public Swimming Pool" means an artificial structure, and its appurtenances, that contains water more than two feet deep that is used, or intended to be used, for swimming or recreational bathing and is for the use of any segment of the public. A public swimming pool includes, but is not limited to, swimming pools owned or operated by organizational camps.

(37) "Public Wading Pool" means an artificial structure, and its appurtenances, that contains water less than two feet deep that is expressly designated or used with the knowledge and consent of the owner or operator for wading or recreational bathing and is for the use of any segment of the public, whether limited to patrons of a companion facility or not. A public wading pool includes, but is not limited to, wading and spray pools owned or operated by an organizational camp.

(38) "Recreation Park" means any area designated by the person establishing, operating, managing or maintaining the same for picnicking or overnight camping by the general public or any segment of the public. Recreation park includes, but is not limited to, areas open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license, membership, association or common ownership and further includes, but is not limited to, those areas divided into two or more lots, parcels, units or other interests for purposes of such use.

(39) "These Rules" means OAR 333-030-0005 through 333-030-0130.

(40) "Tourist Facility" means any travelers' accommodation, hostel, picnic park, recreation park and organizational camp.

(41) "Waterfront Activities" means those activities occurring in or on bodies of water other than a licensed public swimming, public wading or public spa pools.

(42) "Variance" means written permission from the Division for an organizational camp to be operated when it does not comply with all the applicable rules for Organizational Camps.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 445.310 - 446.350
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 1-2005, f. & cert. ef. 1-14-05; PH 9-2007, f. & cert. ef. 7-13-07; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0020
Licensing Required

(1) No person shall establish, operate, manage or maintain an organizational camp without first securing a license from the Division or the local public health authority. Either the landlord or tenant may be issued a license for an organizational camp operated under contract, rental or leasehold arrangements. The license holder is responsible for compliance with these rules.

(2) All licenses issued under ORS 446.310 to 446.350 terminate and are renewable on December 31 of each year.

(3) Contract and rental groups may be required by the owner of the camp to obtain a license for the operating period.

(4) A contract or rental group that is the license holder is responsible for complying with these rules.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.322
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 18-1983(Temp), f. & ef. 10-18-83; HD 11-1984, f. & ef. 6-20-84; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0025
Application

(1) An application for a license, accompanied by the required fee, must be made upon forms provided by the Division or local public health authority at least 30 days prior to opening an organizational camp.

(2) Thirty days prior to any change of license holder, the Division or local public health authority must be notified of the change and an application for a new license, accompanied by the required fee, must be submitted by the new owner or operator.

Stat. Auth.: ORS 446.330

Stats. Implemented: ORS 446.323
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 18-1983(Temp), f. & ef. 10-18-83; HD 11-1984, f. & ef. 6-20-84; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0030
Required Fees

The fee for an original license or the annual renewal of a license must be specified in county ordinance by the delegated local public health authority, or as specified by statute.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.321
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 18-1983(Temp), f. & ef. 10-18-83; HD 11-1984, f. & ef. 6-20-84; HD 27-1994, f. 10-27-94, cert. ef. 12-31-94; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0035
Renewal of License

(1) Application for renewal licenses must be submitted on the forms supplied by the Division or local public health authority and must be accompanied by the required fee.

(2) Renewal licenses may be issued upon determination of substantial compliance with ORS chapter 446 and these rules.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 18-1983(Temp), f. & ef. 10-18-83; HD 11-1984, f. & ef. 6-20-84; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0040
Plans

(1) No person shall construct, enlarge or alter any organizational camp or convert the use of an existing structure to an organizational camp without first securing appropriate permits. A copy of a building plan approval or building permits issued by the building department having jurisdiction must accompany the plot plan.

(2) When proposing to make improvements to an organizational camp a plot plan showing the general layout of the organizational camp must be submitted to the local public health authority. The location for each of the following must be clearly shown and identified:

(a) Property lines;

(b) Proposed and existing construction;

(c) Building floor plans that include the location of plumbing fixtures;

(d) The number, size, type and location of all permanent structures and facilities;

(e) Location of all proposed and existing water supply and sewage disposal systems;

(f) Location of water and sewer lines;

(g) Estimated total number of campers and staff to be using the facilities at any given time; and

(h) Location of storage, collection and disposal facilities of solid waste.

(3) Whenever a food service facility at an organizational camp is constructed or extensively remodeled and whenever an existing structure at an organizational camp is converted to use as a food service facility, properly prepared plans and specifications for such construction, remodeling or conversion must be submitted to the local public health authority for approval before construction. Plans must be submitted in accordance with Oregon Food Sanitation Rules OAR 333-150-0000 part 8-2.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 18-1983(Temp), f. & ef. 10-18-83; HD 11-1984, f. & ef.6-20-84; HD 7-1996, f. & cert. ef. 12-10-96; PH 1-2005, f. & cert. ef. 1-14-05; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0050
Sleeping Space

(1) Each permanent sleeping unit must have:

(a) For fire safety, at least 30 inches (760 mm) of walking space between beds or sleeping bags placed on the floor.

(b) At least 30 inches (760 mm) separation between the heads of sleepers must be provided for communicable disease prevention. In lieu of such separation, partitions or physical barriers are acceptable.

(c) At least 30 inches (760 mm) vertical separation between tiers of beds or between the top tier and the ceiling.

(d) Where two tiers of beds are provided, there must be at least 10 inches (254 mm) of space between the floor of the sleeping units and the underside of the first tier of beds. In lieu of such spacing, the first tier of bunks must have a continuous base, which must be sealed to the floor.

(e) Upper bunk beds must have a guardrail on each side of the bed, except a guardrail need not be provided on the side of a bed securely attached to a wall. The guardrails must create no spaces wider than 3.5 inches (89 mm) to prevent an entrapment or choking hazard, and must extend at least 5 inches (127 mm) above the top of the mattress. Guardrails are not necessary for campers 15 years or older.

(2) Permanent sleeping units must be provided with cross ventilation or must comply with the ventilation requirements of the Oregon Department of Consumer and Business Services (DCBS), Building Codes Division.

(3) Sleeping units and furnishings must be kept clean and in good repair.

(4) Bedding:

(a) Pillowslips, sheets, towels and washcloths, when provided by the camp operator, must be washed at least once per week and before being assigned to a different camper or staff member.

(b) Blankets, spreads, mattresses and pillows must be kept clean and free of insect infestation. Mattresses must be covered with a non-absorbent cover or other approved protection and must be maintained clean and in good repair.

(c) If sheets are not provided by the camp operator, the cover, pad, or mattress must be cleaned for each incoming camper or staff member, and more often if necessary.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 1-2005, f. & cert. ef. 1-14-05; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0055
Bathing, Handwashing and Toilet Facilities

(1) Facilities for toileting, bathing and handwashing must:

(a) Be illuminated for cleaning;

(b) Be ventilated by mechanical or natural means;

(c) Have floors that are smooth, impervious and easily cleanable;

(d) Have an effective water-tight union where a floor and wall join;

(e) Have smooth, easily cleanable and impervious wall surfaces; and

(f) Be kept clean, sanitary, free of mold and mildew, and in good repair.

(2) Plumbed and unplumbed toilet facilities in all organizational camps must meet the following requirements:

(a) There must be one toilet (plumbed or unplumbed) for every 15 campers or fraction thereof except in day camps in which one toilet for every 50 campers or fraction thereof is required.

(b) Separate toilet rooms for each gender, or locking unisex toilet rooms, must be provided when both genders are to be accommodated simultaneously;

(c) Urinals may be substituted for no more than one-third the required toilets for males;

(d) Toilets or urinals must not be located in sleeping rooms;

(e) Toilet tissue must be provided at each privy or toilet at all times the camp is in operation; and

(f) Unplumbed toilet facilities must comply with OAR 340-071-0320 and the Nonwater-Carried Waste Disposal Facilities, Materials, and Construction requirements of the Department of Environmental Quality (DEQ), OAR 340-073-0065 through 0075 and the DCBS Building Specialty Codes.

(3) Bathing and handwashing facilities in all organizational camps must meet the following requirements:

(a) A minimum of one handwashing sink must be provided for every 30 campers. A handwash set-up must be conveniently provided wherever a toilet facility is located. Where permanently plumbed handwash sinks cannot be provided, hand sanitizer or a water container may be used provided it allows a stream of water without needing to be held open and waste water must be collected in a container and disposed of properly or must flow into an approved waste water drain system. Each handwash set-up must:

(A) Be located in close proximity to privies, toilets or urinals;

(B) Be supplied with a change of clean water for each use;

(C) Be supplied with soap; and

(D) Be provided with single use towels, or if an individual sleeping room has a dedicated toilet room, personal towels may be used.

(b) In any camp where participants are present for four or more nights, there must be one bathing facility (shower or bathtub) provided for every 20 campers or fraction thereof. Bathing facilities must:

(A) Be supplied with a change of clean warm water for each use:

(i) By having a tempering valve capable of providing a water temperature not to exceed 110 degrees Fahrenheit (43 degrees Celsius); or

(ii) In lieu of a tempering valve, a mixing faucet with a hot water supply providing a water temperature of not to exceed 110 degrees Fahrenheit (43 degrees Celsius) may be provided along with a cold water supply.

(B) Separate bathing facilities must be provided for each gender, or locking unisex bathing facilities must be provided when both genders are to be accommodated simultaneously;

(C) Shower walls, ceilings and partitions must be impervious to water;

(D) Bathtub and shower floor areas must be finished with slip-resistant, impervious and easily cleanable surfaces;

(E) Shower floors must be sloped to effectively drain all waste water;

(F) Wooden racks over shower floors are prohibited; and

(G) Where glass bath or glass shower doors are used, such doors must be made of safety glass.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0060
Laundry Facilities

(1) Laundry facilities, when provided, must be located in areas separate from sleeping units, food preparation areas and perishable food storage areas.

(2) Laundry facilities must be kept clean and well maintained.

(3) All clean linen must be stored in clean storage rooms or cupboards.

(4) Soiled linen and clothing must be stored in an area separate from food preparation and perishable food storage areas prior to laundering.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0065
Solid Waste

(1) Solid waste must be disposed of in a manner, which complies with the applicable rules of the Department of Environmental Quality, OAR chapter 340, divisions 93, 94, 95 and 96.

(2) Solid waste must be stored in individual garbage containers, storage bins or storage vehicles. All such containers, bins or vehicles must:

(a) Have tight-fitting lids, covers or closable tops;

(b) Be durable, rust-resistant watertight, rodent proof and readily washable; and

(c) During times of food preparation and service, waste containers in food preparation and service areas may be uncovered.

(3) The premises of each organizational camp must be kept orderly and free of litter and refuse.

(4) All solid waste must be collected for disposal or recycling at regular intervals so as not to create:

(a) Vector harborage and sustenance;

(b) Objectionable odors; or

(c) Any overflowing of solid waste or other unsanitary conditions.

(5) Solid waste containing putrescible waste must be collected for disposal at regular intervals not to exceed seven days.

(6) Solid waste must be transported in a manner that complies with the rules of the Department of Environmental Quality OAR 340-093-0220 (Transportation).

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.340
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0070
Insect and Rodent Control

(1) The grounds, buildings and structures used or intended for human habitation must be kept clean and maintained to prevent harborage and infestation of insects, rodents and vermin.

(2) The camp health director, or other person knowledgeable in pest identification, must check the sleeping areas and other harborages for bedbugs whenever there are complaints or possible bites.

(3) A license holder may not begin treatment for insects, rodents and vermin without first consulting with a currently certified pest management professional (PMP). A license holder may contract with a certified PMP for pest management services.

(4) During the season when flies, mosquitoes and other insects are prevalent, all openings into the outer air of permanent kitchens and dining room must be effectively screened, unless other effective means are provided to prevent the entrance of insects or rodents. Where screens are used, there must be not less than 16 meshes per lineal inch, and all screen doors must be equipped with a self-closing device.

(5) For insecticide and rodenticide extermination methods, only pesticides registered with the Environmental Protection Agency and the state Department of Agriculture can be used. Pesticides must be applied in accordance with the directions on the labels and must be handled and stored as to avoid health hazards.

(6) Poisons, chemicals, rodenticides, insecticides, pesticides, herbicides and other toxic materials must be properly labeled, or in the original containers, and stored in locked areas not accessible to campers separate from all food service, food storage and food preparation areas, sleeping areas and linens. Except that insecticides, rodenticides and cleaning and sanitizing materials necessary for maintaining the food service facility may be present in the food service facility, but must be stored separately from cleaning and sanitizing materials. Both must be stored in cabinets or compartments used for no other purpose and must not be stored above or intermingled with food, food equipment and dishes or utensils. Detergents and sanitizers may be conveniently stored at warewashing facilities.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0075
Recreational Vehicles

Organizational camps that provide accommodations for recreational vehicles as defined in ORS 446.003 must comply with the Division's rules for the Construction, Operation and Maintenance of Recreation Parks, OAR 333-031-0002 through 333-031-0020, and 333-031-0059 through 333-031-0075 and must comply with the DCBS Building Codes Division's rules for the Recreational Parks and Organizational Camps, OAR 918-650-0000 through 918-650-0080. The licensure requirement of ORS 446.320 for a recreation park does not have to be met unless the park is used by individuals not participating in, or working for the organizational camp program.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-24-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0080
Water Quality, Source and Distribution

(1) Definitions applicable to this rule:

(a) "Maximum Contaminant Level (MCL)" means the maximum allowable level of a contaminant in water for consumption delivered to the users of a system, except in the case of turbidity where the maximum allowable level is measured at the point of entry to the distribution system.

(b) "Quarterly Sampling" means a sample is taken and submitted according to the following schedule:

(A) 1st Quarter is from January 1 through March 31;

(B) 2nd Quarter is from April 1 through June 30;

(C) 3rd Quarter is from July 1 through September 30; and the

(D) 4th Quarter is from October 1 through December 31.

(2) Water supply systems serving travelers' accommodations and hostels must comply with Oregon Administrative Rules for Public Water Systems, OAR 333-061-0005 through 333-061-0095, and must be:

(a) Regulated as a Public Drinking Water System under OAR 333-061; or

(b) Water systems serving travelers' accommodations and hostels that are not regulated under OAR 333-061 as a Public Drinking Water System must meet the requirements in section (3) of this rule.

(3) Unregulated Public Drinking Water Systems:

(a) Plan Review. All new facilities that are not regulated by OAR 333-061 must submit plans to the Division for review prior to construction or major modification of system. Systems regulated prior to January 1, 2003 by OAR 333-061 are not required to re-submit plans.

(b) Surface Water Sources. New facilities with surface water sources not regulated under OAR 333-061 will not be licensable after January 1, 2005. Facilities existing prior to January 1, 2005 in compliance with OAR 333-061-0032 may continue to operate.

(c) Sampling frequency:

(A) For seasonal facilities, a coliform sample must be taken prior to the camp's operational period and each quarterly sampling period while open to public. A minimum of two samples will be required for coliform, regardless of length of operation.

(B) For year round facilities:

(i) Coliform: Monthly for surface water. Quarterly for populations under 1000 using ground water.

(ii) Inorganic Samples. One time sampling required for new facilities before beginning operation.

(d) MCL Violations. An item is not considered a violation until confirmed by second sample taken within 24 hours. Four repeat samples must be taken within 24 hours of the original sample for a sample result above the maximum contaminant level (MCL).

(A) Total Coliform. Any positive total coliform samples must be reported to the Division or Local Public Health Authority within 24 hours of being notified of the positive sample.

(B) Fecal Coliform. Any positive fecal coliform sample must be reported to the Division or Local Public Health Authority within 24 hours of being notified of the positive sample.

(i) Public notification for this potential acute health risk is required.

(ii) An alternative procedure approved by the Division must be in place before serving the public.

(C) Inorganic Samples. One time sampling is required for new facilities. Additional testing is not required for facilities that were previously regulated under OAR 333-061 and have tested prior to January 1, 2003. Inorganics include: antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium and thallium.

(D) Nitrate. A sample must be submitted for testing annually.

(i) Any samples exceeding the MCL for nitrate must be reported to the Division within 24 hours.

(ii) When a test on a sample is reported to exceed the MCL for nitrate, public notification is required. Bottled water must be provided to public upon request.

(E) The Division may require more frequent monitoring than specified or may require confirmation samples for positive and negative results. It is the responsibility of the operator to correct any problems and get a laboratory test result that is less than the maximum contaminant level.

(e) Sample collection methods.

(A) For the purpose of determining compliance with the MCL and the sampling requirements of these rules, sampling results may be considered only if they have been analyzed by a laboratory certified by the State Drinking Water Program.

(B) Samples submitted to laboratories for analysis must be clearly identified with the name of the water system, facility license number, sampling date, time, sample location identifying the sample tap, the name of the person collecting the sample and whether it is a routine or a repeat sample.

(i) Routine. These are samples collected from established sampling locations within a water system at specified frequencies to satisfy monitoring requirements as prescribed in this rule. These samples are used to calculate compliance with maximum contaminant levels for inorganics prescribed in OAR 333-061-0030(Table 1);

(ii) Repeat. These are samples collected as a follow-up to a routine sample that has exceeded a maximum contaminant level.

(iii) Test results. Sample results must be submitted to the Local Public Health Authority by the 10th of the month following the sampling period.

(iv) The Division may take additional samples to determine compliance with applicable requirements of these rules.

(f) Public Notice. Public Notice must be posted conspicuously on-site and must include:

(A) A description of the violation or situation of concern;

(B) Corrective actions taken to improve water quality;

(C) Any potential adverse health effects;

(D) The population at risk; and

(E) The alternative measures in place to provide safe drinking water.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 1-2005, f. & cert. ef. 1-14-05; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0085
Building Plumbing

All building plumbing must comply with the applicable requirements of the Oregon Department of Consumer and Business Services, Building Codes Division. New water supply distribution systems, or systems remodeled, enlarged or converted after the effective date of these rules must meet the requirements of the 2008 Oregon Plumbing Specialty Code.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 1-2005, f. & cert. ef. 1-14-05; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0090
Sewage Collection and Disposal

(1) No untreated or partially treated sewage, liquid waste or septic tank effluent shall be discharged directly or indirectly onto the surface of the ground or into the public waters.

(2) All sewage and waste water plumbing must be designed, constructed and maintained in compliance with the minimum standards set forth in the 2011 Oregon State Plumbing Specialty Code.

(3) Sewage and waste water must be disposed of into an area-wide sewerage system or in a manner approved by the Department of Environmental Quality in accordance with the rules for On-Site Sewage Disposal, OAR 340-071-0100 through 340-071-0600.

(4) Any construction, alteration or repair of an on-site sewage disposal system or any part thereof must comply with the rules of the Department of Environmental Quality, OAR chapter 340, division 71.

(5) If non-water carried waste disposal facilities are provided, such facilities must comply with the rules of the Department of Environmental Quality, OAR 340-071-0330.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.340
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0095
Food Service

(1) FOOD SANITATION RULES. Eating and drinking facilities, commissaries, mobile units and vending machines operated in conjunction with organizational camps must be constructed, operated and maintained in compliance with the Division's Food Sanitation Rules, OAR 333-150-0000 with the following exceptions:

(a) Areas for food storage, preparation and service that are restricted to individual or single-family use;

(b) A food service facility must have toilet and handwashing facilities for use by the kitchen staff and food handlers. Public toilet and handwashing facilities associated with the food service facility are not required for the participants of the camp;

(c) Food service facilities operated for participants of the camp shall not be graded as "Complied" or "Failed to Comply", or given a numerical score; and

(d) Due to the unique nature of some of the food service preparation conditions encountered in primitive cooking and other types of non-dining hall food service found in camps, the Division, or local public health authority in consultation with the Division, may implement alternate requirements to the Division's Food Sanitation Rules, OAR 333-150-0000, as long as the food safety intent of the original rule is preserved.

(2) EMPLOYEE TRAINING. The camp must have trained food preparation staff if the organizational camp prepares food in camp food service facilities.

(a) For camp programs longer than three consecutive nights the camp must:

(A) Provide a food manager, currently certified by one of the Division-approved food manager certifying agencies or organizations, who supervises the food preparation activities; or

(B) Assure that all food preparation staff have a current Oregon food handler certification.

(b) Camp contract or rental groups operating for three nights or more in length must have at least one individual involved with food preparation activities that has, at a minimum, an Oregon food handler certification.

(3) CAMP COMMISSARIES:

(a) A camp commissary must have staff trained as required in section (2) of this rule.

(b) The food service equipment and utensils must be washed, rinsed, sanitized and air-dried between uses. The camp commissary must have a minimum three-compartment sink or commercial mechanical warewashing machine approved by the Division. The sinks or dishwashing equipment must be large enough to immerse the largest dish or utensil to properly wash, rinse and sanitize dishes and utensils (see OAR 333-150-0000 for details).

(c) To the extent possible, the food distributed from the camp commissary to the remote cooking location should be in a form so that handling is minimized (i.e. pre-formed meat patties, pre-prepared salads, etc.).

(4) OUTDOOR COOKING. A camp engaging in wilderness and outdoor cooking must ensure that group leaders are knowledgeable about and practice food service in accordance with the following health and safety guidelines:

(a) A camp should minimize or avoid the serving of high risk (potentially hazardous) foods.

(b) Leftover time and temperature controlled for safety (TCS) foods that have been prepared for service may not be re-served.

(c) Campers and staff doing the food preparation must wash their hands frequently to remove dirt and prevent cross-contamination of foods (see OAR 333-150-0000 2-301.11 through 2-301.16).

(d) The license holder must assure an adequate supply of safe drinking water or provide equipment, methods and procedures for purifying drinking water. Whenever possible, drinking water should be obtained from an approved water system. If that is not possible:

(A) Water must be purified by boiling for one minute followed by the addition of three to four drops of liquid chlorine per quart of water and allowing 30 minutes contact before drinking; or

(B) Water must be purified using a micro-filter filtration system to remove microorganisms and viruses and two drops of liquid chlorine per quart of water must be added to finish treatment, with 30 minutes of contact time allowed before drinking.

(5) CABIN COOKING. A camp engaging in cabin cooking must ensure that group leaders are knowledgeable about and practice food service in accordance with the following health and safety guidelines:

(a) Leftover TCS foods that have been prepared for service may not be re-served.

(b) Campers and staff doing the food preparation must wash their hands frequently to remove dirt and prevent cross-contamination of foods.

(c) The license holder must assure an adequate supply of safe drinking water. Drinking water must be obtained from an approved water system.

(6) DAY CAMP FOOD SERVICE. Full-service meal service must comply with OAR 333-150-0000 and sections (1) and (2) of this rule. Food service limited to beverages, snacks and sack lunches must comply with OAR 333-150-0000 and the additional guidelines below:

(a) Sack lunches must be stored in coolers and refrigerators maintaining a temperature of 41 degrees Fahrenheit or lower, or the attendees' parents or guardians must be advised to only include non-perishable foods in the sack lunch.

(b) Foods or beverages, once served and if opened, may not be collected and re-served.

(c) Persons handling foods must properly wash their hands before handling foods. Where unprotected foods are handled, bare hand contact must be minimized.

Stat. Auth.: ORS 446
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 27-1994, f. 10-27-94, cert. ef. 12-31-94; HD 7-1996, f. & cert. ef. 12-10-96; OHD 11-2002, f. & cert. ef. 8-7-02; PH 5-2004(Temp), f. & cert. ef. 2-13-04 thru 7-30-04; PH 15-2004, f. & cert. ef. 4-9-04; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0100
Emergency Procedures

(1) Each organizational camp must retain on-site a written emergency plan outlining procedures to be followed in each of the following situations:

(a) Natural disasters and other emergencies;

(b) Lost camper or lost swimmer, if applicable;

(c) Fires;

(d) Transportation emergencies;

(e) Severe illnesses, injuries or communicable diseases;

(f) Stranger in camp; and

(g) Transition of supervision and release of campers to a designated responsible party.

(2) The emergency plan must contain at least evacuation procedures, procedures for communication with emergency medical services and facilities and the nearest fire station, and procedures for the control of vehicular traffic through the camp.

(3) The licensee or owner/operator of an organizational camp must:

(a) Designate individuals to be responsible for carrying out the emergency plan;

(b) Instruct all employees and volunteers in the emergency plan and their duties in the event of an emergency situation; and

(c) Retain on-site written documentation that all employees are aware of their responsibilities under the emergency plan and their duties therein.

(4) The following emergency information must be posted conspicuously, near the phone or alternative communication system used by the camp for off-site emergency communication, accessible during all hours of operation and maintained in all organizational camps:

(a) When telephones are provided, the license holder must post by each telephone:

(A) The current telephone numbers for contacting physicians, hospitals, poison control, police, ambulances and fire departments in the immediate area;

(B) The telephone number of the organizational camp office; and

(C) The locations of the nearest medical facility and the organizational camp including highway number, street number, rural route and box number or other data (i.e. global positioning system (GPS) coordinates, life flight landing zone locations, etc.) to aid in assuring prompt emergency response.

(b) When an alternative communication system is provided, the license holder must post by each communication location:

(A) The current procedure to contact physicians, hospitals, poison control, police, ambulances and fire departments in the immediate area;

(B) The telephone number of the organizational camp office or alternate contact information; and

(C) The locations of the nearest medical facility and the organizational camp including highway number, street number, rural route and box number or other data (i.e. GPS coordinates, life flight landing zone locations, etc.) to aid in assuring prompt emergency response.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0103
Camp Administration

(1) REGISTER RECORD. A record of all campers and staff attending camp must be kept by the license holder for a period of at least three years from the date attended.

(a) The record must include their name, address, phone number and dates of attendance.

(b) If the camp is contracted or rented out to a group, the license holder may inform the group in writing that they are required to do the following:

(A) Maintain a record of campers; and

(B) The license holder must keep a record of the group with contact information.

(2) VISITOR TRACKING. The camp operator must have a system to track visitors.

(3) CAMPER LOG. The camp operator must have a log of campers and staff under the age of 18 that leave or arrive at camp during the camp session. The record must include the identity of the person taking responsibility for the camper or staff person.

(4) CAMP IDENTIFIED. When the camp is being used by a contract or rental group that is not the license holder, the license holder must inform the group that they are required to include information identifying the license holder in promotional and informational materials distributed to attendees of the contract program.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0105
Health Services

(1) All camp operators must have health and first aid services available whenever the camp is operating.

(2) A camp director or license holder must ensure that residential camps with 100 or more campers and staff on-site at any one time has on-site at least one automatic external defibrillator (AED) with pediatric and adult capability meeting the local emergency medical services' protocol. The camp director or license holder must comply with the following:

(a) Each AED must have documented maintenance inspections and service records, including the battery and electrodes according to the guidelines set forth by the manufacturer.

(b) The AED must be stored in a central location where the AED is accessible to camp users and can be quickly retrieved.

(c) Signage must be provided that indicates the location of the AED.

(d) A policy must be developed for the use of the AED, including the need to contact 911 as soon as possible. This policy should be made available to camp staff and must be posted with the AED.

(3) The license holder or camp operator must report to the Division and local public health authority any unusual illness outbreaks or fatality that occurs at the camp. If possible, these incidents should be reported within 24 hours of occurrence.

Note: A reporting form is available from the Division, in this rule's appendices depending on the source, or at: http://www.oregon.gov/DHS/ph/pl/docs/campaccident.pdf.

Stat. Auth.: ORS 446.330

Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0110
Special Programs and Facilities

(1) HIGH RISK PROGRAM FACILITIES:

(a) A license holder is responsible for maintenance of a permanent high-risk program facility.

(b) The camp operator must ensure that the program director for each activity has training or experience in the high-risk program areas.

(c) Written procedures for the high risk activity must be communicated by the program supervisor to necessary camp staff and participants. Safety procedures must include:

(A) Eligibility requirements for participation;

(B) Camper/staff supervision ratios;

(C) Safety regulations;

(D) Emergency procedures;

(E) Safety and protective equipment and usage; and

(F) Activity area design or safety features, if applicable.

(2) AQUATIC PROGRAMS. The aquatic programs must be under the direction of an aquatic director or supervisor.

(a) Public swimming pools and wading pools in organizational camps must comply with OAR chapter 333, division 60 (Public Swimming Pools).

(b) Public spa pools in organizational camps must comply with OAR chapter 333, division 62 (Public Spa Pools).

(3) WATERFRONT ACTIVITIES:

(a) An aquatic director must supervise any waterfront activity serving a total of 10 or more persons;

(b) There must be at least one lifeguard for each 25 persons in or on the water. An overall ratio of one observer or lifeguard for every 10 persons in or on the water must be maintained;

(c) Waterfront activities serving less than 10 persons in or on the water may operate with only the supervision of a lifeguard;

(d) If waterfront activities take place at more than one location, a lifeguard must be present at each location. Lifesaving, first aid, and safety equipment must be present at each location. Such equipment must be suitable for the users and conditions under which the equipment is expected to be used; and

(e) All watercraft must be equipped with a U.S. Coast Guard approved personal flotation device (PFD) in good, serviceable condition and of appropriate size for each person on board whenever the watercraft is in use.

(f) Subsections (3)(a) through (d) of this rule do not apply to groups comprised of only adults.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0115
Transportation

(1) EMERGENCY TRANSPORTATION. All camp operators must provide transportation for use in emergency situations. When emergency transportation does not include an on-site vehicle in good running condition, a specific written plan for emergency transportation must be maintained at the camp.

(2) NON-EMERGENCY TRANSPORTATION. Campers must only be transported in areas of vehicles designed for passengers. Drivers must have a current driver's license with proper endorsement for the vehicle being operated and must be a minimum of 18 years of age.

(3) Slow-moving vehicles used for activities that do not exceed five miles-per-hour are allowed to transport campers.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0120
Fire Safety

(1) The camp licensee that is the camp owner must comply with the 2010 Oregon Fire Code.

(2) WRITTEN NOTIFICATION:

(a) At least once per year, written notification must be provided to the fire department or fire authority serving the camp, concerning the camp's operation period and including a copy of the camp's emergency plan. Any suggestions from the fire department or fire authority should be considered for addition to the emergency plan.

(b) For camps located outside of an established fire district, the camp must have an agreement or contract with a fire protection agency agreeing to provide fire protection services.

(3) EMERGENCY PLAN. The camp license holder must have a written plan for dealing with fire emergencies. The plan must ensure camper security, notifying emergency fire-fighting resources, and staff duties and responsibilities. This plan must be communicated to campers prior to overnight occupancy.

(4) STAFF TRAINING. Permanent staff must be instructed and periodically drilled on the use of the emergency equipment and procedures to follow for notifying emergency personnel.

(5) CONTRACT AND RENTAL GROUPS. The camp operator for contract and rental groups must be provided with and oriented to the fire emergency plan.

(6) NON-PERMANENT SLEEPING AREAS. A camp must have firefighting equipment available near sleeping areas that are non-permanent in nature, having no electricity, water, or wood stoves. Such non-permanent sleeping areas are areas using tents, provided camping spaces, and other temporary structures, including open-air structures.

(7) PERMANENT BUILDINGS. Permanent buildings within the organizational camp that are accessible to entry by the campers must meet the requirements of the 2010 Oregon Fire Code. Fire escape plans and routes must be communicated to campers prior to overnight occupancy.

(a) Buildings with an occupancy of more than 10 persons must be provided with at least two separate and independent means of emergency exit, located as far apart as possible but in no case closer than 50 percent of the longest diagonal dimension of the building.

(b) Where wood burning stoves or other combustible fuel heating devices are used in sleeping quarters, a carbon monoxide detector that is listed by a nationally recognized testing organization as meeting the Underwriter's Laboratories, Inc., UL 2034 or UL 2075 standards for carbon monoxide alarms must be provided, properly located, and maintained in compliance with OAR 837-047-0100 through 837-047-0170.

(c) Smoke detectors in good working order must be provided, properly located, and maintained in compliance with OAR 837-045-0040 through 837-045-0065 in all buildings used for sleeping by camp participants or staff. Smoke detectors must be listed by a nationally recognized testing organization as meeting the Underwriter's Laboratories, Inc., UL 217 or UL 265 standards for smoke detectors and alarms.

(d) Fire extinguishers must be provided and located as required by the 2010 Oregon Fire Code.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 1-2005, f. & cert. ef. 1-14-05; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0125
Chemical and Physical Hazards

(1) Cleaning equipment and supplies, all insecticides, chemicals, paints, flammable liquids, and other toxic substances that bear the warning "keep out of reach of children" must be stored isolated from campers and stored so as to prevent contamination of clothing, toweling, bedding materials and food supplies. All applications of chemicals including, but not limited to, cleaners and disinfectants must be in accordance with the manufacturer's recommendations and by appropriately trained personnel.

(2) All toxic substances must be clearly labeled or stored in the original container. When not in use, all toxic materials must be stored according to the applicable requirements specified below:

(a) In a locked storage area or unit;

(b) As required by OAR 333-030-0070(6); or

(c) As required by OAR 333-150-0000, Food Sanitation Rules, for food preparation areas.

(3) Organizational camps must be a safe environment and must minimize or eliminate safety hazards including, but not limited to, debris, open excavations, abandoned wells, unused refrigerators or freezers with latchable doors. The licensee that is the camp owner must take measures to limit unsupervised access to natural hazards such as cliffs or bodies of water. All buildings and equipment must be kept in good repair.

(4) Gasoline and other flammable and combustible liquids must be clearly labeled, stored and dispensed in accordance with OAR 837-020-0025 through 837-020-0085 and the 2010 Oregon Fire Code.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; HD 7-1996, f. & cert. ef. 12-10-96; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

333-030-0130
Variance

(1) A license applicant or licensee may apply to the Division in writing for a variance from a requirement in OAR 333-030-0015 through 333-030-0125. In order to qualify for a variance an applicant or licensee must demonstrate, to the satisfaction of the Division, that:

(a) Strict compliance with the rule would be highly burdensome or impractical due to special conditions or cause;

(b) The public or private interest in granting the variance clearly outweighs the interest of the application of uniform rules; and

(c) Alternative measures, if applicable, provide adequate public health and safety protection for camp participants.

(2) A variance may only be granted by the Division and not by a LPHA.

Stat. Auth.: ORS 446.330
Stats. Implemented: ORS 446.330
Hist.: HD 25-1981, f. & ef. 11-25-81; PH 9-2007, f. & cert. ef. 7-13-07; PH 2-2013, f. & cert. ef. 1-25-13

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Rule Caption: Rule revisions to clarify regulatory requirements for public water suppliers
Adm. Order No.: PH 3-2013
Filed with Sec. of State: 1-25-2013
Certified to be Effective: 1-25-13
Notice Publication Date: 12-1-2012
Rules Amended: 333-061-0025, 333-061-0030, 333-061-0032, 333-061-0034, 333-061-0036, 333-061-0040, 333-061-0042, 333-061-0043, 333-061-0045, 333-061-0050, 333-061-0065, 333-061-0070, 333-061-0071, 333-061-0072, 333-061-0073, 333-061-0074, 333-061-0077, 333-061-0087, 333-061-0090, 333-061-0098, 333-061-0220, 333-061-0225, 333-061-0228, 333-061-0235, 333-061-0245, 333-061-0250, 333-061-0335
Rules Repealed: 333-061-0058
Subject: The Oregon Health Authority, Public Health Division, Drinking Water Services section is permanently amending and repealing Oregon Administrative Rules in chapter 333, division 61 related to public water systems for clarification and housekeeping. The amendments have been identified by program staff and the Drinking Water Advisory Committee to improve rule clarity and ensure the rules are consistent with current industry practices. Revisions specify that ultraviolet light (UV) transmittance is a necessary measurement for water systems using UV disinfection of surface water sources, waives monitoring of residual chlorine for water systems that verify there is no residual before water enters the distribution system, better protect public health by ensuring that significant deficiencies identified during a sanitary survey are consistent with other regulatory requirements, and aligns the rule for disinfection of new or repaired facilities with industry best management practices. The repeal of OAR 333-061-0058 will improve rule organization and brevity.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-061-0025
Responsibilities of Water Suppliers

Water suppliers are responsible for taking all reasonable actions to assure that the water delivered to water users does not exceed maximum contaminant levels, to assure that water system facilities are free of public health hazards, and to assure that water system operation and maintenance are performed as required by these rules. Such actions include, but are not limited to:

(1) Routinely collecting and submitting water samples for laboratory analyses at the frequencies prescribed by OAR 333-061-0036;

(2) Taking immediate corrective action when the results of analyses or measurements indicate that maximum contaminant levels have been exceeded and report the results of these analyses as prescribed by OAR 333-061-0040;

(3) Reporting as prescribed by OAR 333-061-0040, the results of analyses or measurements which indicate that maximum contaminant levels have not been exceeded;

(4) Notifying all customers of the water system and the general public in the service area, as prescribed by OAR 333-061-0042, when the maximum contaminant levels have been exceeded;

(5) Notifying all customers served by the water system, as prescribed by OAR 333-061-0042, when reporting requirements are not being met, when public health hazards are found to exist in the system, or when the operation of the system is subject to a permit or a variance;

(6) Maintaining monitoring and operating records and making these records available for review when the system is inspected;

(7) Maintaining a pressure of at least 20 pounds per square inch (psi) at all service connections at all times;

(8) Following-up on complaints relating to water quality from users and maintaining records and reports on actions undertaken;

(9) Conducting an active program for systematically identifying and controlling cross connections;

(10) Submitting, to the Authority, plans prepared by a professional engineer registered in Oregon for review and approval before undertaking the construction of new water systems or major modifications to existing water systems, unless exempted from this requirement;

(11) Assuring that the water system is in compliance with OAR 333-061-0032 relating to water treatment;

(12) Assuring that the water system is in compliance with OAR 333-061-0205 relating to certification of water system operators; and

(13) Assuring that Transient Non-Community water systems utilizing surface water sources or groundwater sources under the influence of surface water are in compliance with OAR 333-061-0065(2)(c) relating to required special training.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 448.123, 448.131, 448.135, 448.150, 448.278, 448.279, 448.450, 448.455 & 448.460
Hist.: HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0206, HD 2-1983, f. & ef. 2-23-83; HD 9-1989, f. & cert. ef. 11-13-89; HD 7-1992, f. & cert. ef. 6-9-92; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 4-2009, f. & cert. ef. 5-18-09; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0030
Maximum Contaminant Levels and Action Levels

(1) Maximum contaminant levels (MCLs) and Action Levels (ALs) for inorganic chemicals are applicable to all Community and Non-transient Non-community water systems and are listed in Table 1. The MCL for Fluoride is applicable only to Community Water Systems and the MCL for Nitrate is applicable to all water systems. [Table not included. See ED. NOTE.]

(a) Compliance with the maximum contaminant levels for inorganic contaminants is calculated pursuant to OAR 333-061-0036(2)(i).

(b) Violations of secondary contaminant levels for fluoride (2.0 mg/l) require a special public notice. Refer to OAR 333-061-0042(7).

(c) The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E) is greater than 0.015 mg/L (i.e., if the "90th percentile" lead level is greater than 0.015 mg/L). The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E) is greater than 1.3 mg/L (i.e., if the "90th percentile" copper level is greater than 1.3 mg/L).

(A) The 90th percentile lead and copper levels shall be computed as follows: The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken. The number of samples taken during the monitoring period shall be multiplied by 0.9. The contaminant concentration in the numbered sample yielded by this calculation is the 90th percentile contaminant level.

(B) For water systems serving fewer than 100 people that collect five samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations. For a water system allowed by the Authority to collect fewer than five samples the sample result with the highest concentration is considered the 90th percentile value.

(2) Maximum contaminant levels for organic chemicals:

(a) The maximum contaminant levels for synthetic organic chemicals are shown in Table 2 and apply to all Community and Non-Transient Non-Community water systems. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(a)(G). [Table not included. See ED. NOTE.]

(b) The maximum contaminant levels for disinfection byproducts are shown in Table 3 and apply to all Community and Non-Transient Non-Community water systems that add a disinfectant (oxidant) to the water supply at any point in the treatment process or deliver water in which a disinfectant has been added to the water supply. [Table not included. See ED. NOTE.]

(A) Compliance with the MCLs for TTHM and HAA5 shall be calculated as a running annual arithmetic average as prescribed by OAR 333-061-0036(4)(c) and (4)(p) until the dates specified in Table 4, at which time compliance with the MCLs shall be calculated as a locational running annual arithmetic average pursuant to OAR 333-061-0036(4)(d). [Table not included. See ED. NOTE.]

(B) Compliance with the MCL for Bromate shall be calculated as a running annual arithmetic average pursuant to OAR 333-061-0036(4)(l) and (r).

(C) Compliance with the MCL for Chlorite shall be calculated as a running annual arithmetic average pursuant to OAR 333-061-0036(4)(k) and (s).

(c) The maximum contaminant levels for volatile organic chemicals are indicated in Table 5 and apply to all Community and Non-Transient Non-Community water systems. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(b)(I) and (J). [Table not included. See ED. NOTE.]

(d) When the Authority has reason to believe that a water supply has been contaminated by a toxic organic chemical, it will determine whether a public health hazard exists and whether control measures must be carried out;

(e) The Authority may establish maximum contaminant levels for additional organic chemicals as deemed necessary when there is reason to suspect that the use of those chemicals will impair water quality to an extent that poses an unreasonable risk to the health of the water users;

(f) Persons who apply pesticides on watersheds above surface water intakes of public water systems shall comply with federal and state pesticide application requirements. (Safe Drinking Water Act (EPA), Clean Water Act (EPA), Federal Insecticide, Fungicide and Rodenticide Act (EPA), ORS 536.220 to 536.360 (Water Resources), 468B.005 (DEQ), 527.610 to 527.990 (DOF), 634.016 to 634.992 (Department of Agriculture)). Any person who has reasonable cause to believe that his or her actions have led to organic chemical contamination of a public water system shall report that fact immediately to the water supplier.

(3) Maximum contaminant levels for turbidity are applicable to all public water systems using surface water sources or groundwater sources under the direct influence of surface water in whole or in part. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(5).

(a) Beginning January 1, 1992, the maximum contaminant levels for turbidity for systems which do not provide filtration treatment are as follows:

(A) The turbidity level cannot exceed 5 NTU in representative samples of the source water immediately prior to the first or only point of disinfectant application unless:

(i) The Authority determines that any such event was caused by circumstances that were unusual and unpredictable; and

(ii) As a result of any such event, there have not been more than two events in the past 12 months the system served water to the public, or more than five events in the past 120 months the system served water to the public, in which the turbidity level exceeded 5 NTU. An "event" is a series of consecutive days during which at least one turbidity measurement each day exceeds 5 NTU. Turbidity measurements must be collected as required by OAR 333-061-0036(5)(a)(B).

(b) Beginning June 29, 1993 or 18 months after failure to meet the requirements of OAR 333-061-0032(1) through (3) whichever is later, the maximum contaminant levels for turbidity in drinking water measured at a point representing filtered water prior to any storage are as follows:

(A) Conventional filtration treatment or direct filtration treatment.

(i) For systems using conventional filtration or direct filtration treatment the turbidity level of representative samples of a system's filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 0.3 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(5).

(ii) For systems using conventional filtration or direct filtration treatment the turbidity level of representative samples of a system's filtered water, measured as soon after filtration as possible and prior to any storage, must at no time exceed 1 NTU measured as specified in OAR 333-061-0036(5).

(B) Slow sand filtration.

(i) For systems using slow sand filtration, the turbidity level of representative samples of filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(5)(b), except that if the Authority determines there is no significant interference with disinfection at a higher turbidity level, the Authority may substitute this higher turbidity limit for that system.

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(5)(b).

(C) Diatomaceous earth filtration.

(i) For systems using diatomaceous earth filtration, the turbidity level of representative samples of filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(5)(b).

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(5)(b).

(D) Other filtration technologies. Systems using filtration technologies other than those listed in paragraphs (3)(b)(A) through (C) of this rule must meet the maximum contaminant level for turbidity of 1 NTU in at least 95 percent of the measurements taken each month and at no time exceed 5 NTU, as specified in OAR 333-061-0036(5)(b)(A). The Authority may substitute a lower turbidity value(s) if it is determined that the above limit(s) cannot achieve the required level of treatment. The water system must demonstrate to the Authority that the alternative filtration technology in combination with disinfection treatment as specified in OAR 333-061-0032 and monitored as specified by OAR 333-061-0036 consistently achieves 99.9 percent removal and/or inactivation of Giardia lamblia cysts and 99.99 percent removal and/or inactivation of viruses, and for all of those systems serving at least 10,000 people and beginning January 1, 2005 for all of those systems serving less than 10,000 people, 99 percent removal of Cryptosporidium oocysts.

(4) Maximum microbiological contaminant levels for all public water systems are as follows:

(a) The MCL is based on the presence or absence of total coliforms in a sample, rather than coliform density.

(A) For a system which collects 40 or more samples per month, total coliform-positive samples shall not exceed 5.0 percent of the samples collected during a month.

(B) For a system which collects fewer than 40 samples per month total coliform-positive samples shall not exceed more than one sample collected during a month.

(b) Any fecal coliform-positive repeat sample or E. coli-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or E. coli-positive routine sample shall be a violation of the total coliform MCL. Public notification for this potential acute health risk is prescribed in OAR 333-061-0042(2)(a)(A).

(c) All public water systems must determine compliance with the MCL for total coliforms in subsections (4)(a) and (b) of this rule on a monthly basis.

(d) A water system may demonstrate to the Authority that a violation of the total coliform MCL is due to a persistent growth of total coliforms in the distribution system rather than fecal or pathogenic contamination, a treatment lapse or deficiency, or a problem in the operation or maintenance of the distribution system. The system making the demonstration may use the health effects language of OAR 333-061-0097(4)(d) in the required public notice in addition to the mandatory language of OAR 333-061-0097(4)(a). This demonstration, made by the system in writing and submitted to the Authority for review and approval, shall show to the satisfaction of the Authority that the system meets the following conditions:

(A) No occurrence of E. coli in distribution system samples;

(B) No occurrence of coliforms at the entry point to the distribution system;

(C) The system meets treatment requirements prescribed in OAR 333-061-0032 as applicable;

(D) The system meets the turbidity MCL, if surface water sources are used;

(E) The system maintains a detectable disinfectant residual in the distribution system;

(F) The system has no history of waterborne disease outbreaks;

(G) The system has addressed requirements and recommendations of the previous sanitary survey conducted by the Authority; and

(H) The system fully complies with cross connection control program requirements.

(5) Maximum contaminant levels for radionuclides are applicable only to Community water systems and are indicated in Table 6: [Table not included. See ED. NOTE.]

(a) The average annual concentration of beta particle and photon radioactivity from man-made sources shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem per year according to the criteria listed in the National Bureau of Standards Handbook 69 as amended August, 1963. If two or more radionuclides are present, the sum total of their annual dose equivalent to the total body or to any organ shall not exceed 4 millirem/year.

(A) The average annual concentration of tritium assumed to produce a total body dose of 4 mrem/year is 20,000 pCi/L;

(B) The average annual concentration of strontium-90 assumed to produce a bone marrow dose of 4 mrem/year is 8 pCi/L.

(b) Compliance with the MCLs shall be calculated pursuant to OAR 333-061-0036(7)(c).

(6) Contaminant levels for secondary contaminants are applicable to all public water systems. These are indicated in Table 7. (Also note OAR 333-061-0036(8)). [Table not included. See ED. NOTE.]

(a) Violations of secondary contaminant levels for fluoride require a special public notice. Refer to OAR 333-061-0042(7).

(b) Violations of maximum contaminant levels for fluoride (4.0 mg/l) require public notification as specified in OAR 333-061-0042(2)(b)(A).

(7) Acrylamide and Epichlorohydrin. Each public water system must certify annually to the state in writing, using third party certification approved by the state or manufacturer's certification, that when acrylamide and epichlorohydrin are used in drinking water systems, the combination, or product, of dose and monomer level does not exceed the levels specified as follows:

(a) Acrylamide: 0.05 percent dosed at 1 ppm or equivalent.

(b) Epichlorohydrin: 0.01 percent dosed at 20 ppm or equivalent.

[ED. NOTE: Tables and Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0210, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef 12-4-85; HD 9-1989, f. & cert, ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09;PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0032

Treatment Requirements and Performance Standards for Surface Water, Groundwater Under Direct Influence of Surface Water, and Groundwater

(1) General requirements for all public water systems supplied by a surface water source or a groundwater source under the direct influence of surface water.

(a) These regulations establish criteria under which filtration is required and treatment technique requirements in lieu of maximum contaminant levels for the following contaminants: Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium, and turbidity. Each public water system with a surface water source or a groundwater source under the direct influence of surface water must provide treatment of that source water that complies with these treatment technique requirements. The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:

(A) At least 99.9 percent (3-log) removal and/or inactivation of Giardia lamblia cysts between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer, and

(B) At least 99.99 percent (4-log) removal and/or inactivation of viruses between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

(C) At least 99 percent (2-log) removal of Cryptosporidium between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer for filtered systems, or Cryptosporidium control under the watershed control plan for unfiltered systems; and

(D) Compliance with any applicable disinfection profiling and benchmark requirements as specified in OAR 333-061-0036(4)(g) and OAR 333-061-0060(1)(e).

(E) Sampling and Bin Classification for Cryptosporidium:

(i) All systems must conduct an initial and second round of source water monitoring, as prescribed in subsection 333-061-0036(5)(e) of these rules, for each plant that treats a surface water or GWUDI source to determine what level, if any, of additional Cryptosporidium treatment they must provide.

(ii) Filtered systems must determine their Cryptosporidium treatment bin classification as prescribed in subsection (4)(f) of this rule and provide additional treatment for Cryptosporidium, if required, as prescribed in subsection (4)(g) of this rule. All unfiltered systems must provide treatment for Cryptosporidium as prescribed in subsections (3)(e) through (g) of this rule. Filtered and unfiltered systems must implement Cryptosporidium treatment according to the schedule in paragraph (1)(a)(F) of this rule.

(iii) Systems required to provide additional treatment for Cryptosporidium must implement microbial toolbox options that are designed and operated as prescribed in sections (13) through (17) of this rule and in OAR 333-061-0036(5)(c), OAR 333-061-0050(4) and OAR 333-061-0050(5)(k).

(F) Schedule for compliance with Cryptosporidium treatment requirements.

(i) Following initial bin classification as prescribed in subsection (4)(f) of this rule, filtered water systems must provide the level of treatment for Cryptosporidium required under subsection (4)(g) of this rule according to the schedule in subparagraph (1)(a)(F)(iii) of this rule.

(ii) Following initial determination of the mean Cryptosporidium level as prescribed by subsection (2)(d) of this rule, unfiltered water systems must provide the level of treatment for Cryptosporidium required under subsection (3)(e) of this rule according to the schedule in subparagraph (1)(a)(F)(iii) of this rule.

(iii) Cryptosporidium treatment compliance dates. The Authority may allow up to an additional two years from the date specified below for water systems making capital improvements.

(I) Water systems that serve at least 100,000 people must comply with Cryptosporidium treatment by April 1, 2012.

(II) Water systems that serve from 50,000 to 99,999 people must comply with Cryptosporidium treatment by October 1, 2012.

(III) Water systems that serve from 10,000 to 49,999 people must comply with Cryptosporidium treatment by October 1, 2013.

(IV) Water systems that serve fewer than 10,000 people must comply with Cryptosporidium treatment by October 1, 2014.

(V) State-Regulated public water systems must comply with Cryptosporidium treatment by October 1, 2015.

(iv) If the bin classification for a filtered water system changes following the second round of source water monitoring as prescribed in subsection (4)(f) of this rule, the water system must provide the level of treatment for Cryptosporidium required by subsection (4)(g) of this rule on a schedule approved by the Authority.

(v) If the mean Cryptosporidium level for an unfiltered water system changes following the second round of monitoring as prescribed by paragraph (2)(d)(A) of this rule, the water system must provide the level of Cryptosporidium treatment required by subsection (3)(e) of this rule, due to the change, following a schedule approved by the Authority.

(b) A public water system using a surface water source or a ground water source under the direct influence of surface water is considered to be in compliance with the requirements of this rule if:

(A) The system meets the requirements for avoiding filtration in section (2) of this rule and the disinfection requirements in section (3) of this rule, and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e); or

(B) The system meets the filtration requirements in section (4) of this rule and the disinfection requirements in section (5) of this rule and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e).

(c) Water systems that utilize sources that have been determined to be under the direct influence of surface water according to section (7) of this rule have 18 months to meet the requirements of sections (2) and (3) of this rule, or the requirements of sections (4) and (5) of this rule. During that time, the system must meet the following Interim Standards:

(A) The turbidity of water entering the distribution system must never exceed 5 NTU. Turbidity measurements must be taken a minimum of once per day. If continuous turbidimeters are in place, measurements should be taken every four hours; and

(B) Disinfection must be sufficient to reliably achieve at least 1.0 log inactivation of Giardia lamblia cysts prior to the first user. Daily disinfection "CT" values must be calculated and recorded daily, including pH and temperature measurements, and disinfection residuals at the first customer.

(C) Reports must be submitted to the Authority monthly as prescribed in OAR 333-061-0040.

(D) If these interim standards are not met, the owner or operator of the water system must notify customers of the failure as required in OAR 333-061-0042(2)(b)(A).

(2) Requirements for systems utilizing surface water or GWUDI sources without filtration:

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water must meet all of the conditions of this section.

(b) Source water quality conditions.

(A) The fecal coliform concentration must be equal to or less than 20/100 ml, or the total coliform concentration must be equal to or less than 100/100 ml in representative samples of the source water immediately prior to the first or only point of disinfectant application in at least 90 percent of the measurements made for the 6 previous months that the system served water to the public on an ongoing basis. If a system measures both fecal and total coliform, the fecal coliform criterion, but not the total coliform criterion, in this paragraph must be met. All samples must be collected as prescribed in OAR 333-061-0036(5)(a)(A).

(B) The turbidity level cannot exceed the maximum contaminant level prescribed in OAR 333-061-0030(3)(a)(A).

(c) Site-specific conditions. The public water supply must:

(A) Meet the disinfection requirements as prescribed in section (3) of this rule at least 11 of the 12 previous months that the system served water to the public, on an ongoing basis, unless the system fails to meet the requirements during 2 of the 12 previous months that the system served water to the public, and the Authority determines that at least one of these failures was caused by circumstances that were unusual and unpredictable.

(B) Maintain a comprehensive watershed control program which minimizes the potential for contamination by Giardia lamblia cysts, Cryptosporidium oocysts, and viruses in the source water. For groundwater systems under the direct influence of surface water, and at the discretion of the Authority, a certified drinking water protection plan (OAR 340-040-0160 to 340-040-0180) that addresses both the groundwater- and surface water components of the drinking water supply may be substituted for a watershed control program. Groundwater systems relying on a drinking water protection plan would still be subject to the requirements of subsection (c) of this rule. The watershed control program shall be developed according to guidelines in OAR 333-061-0075. The public water system must demonstrate through ownership and/or written agreements with landowners within the watershed that it can control all human activities which may have an adverse impact on the microbiological quality of the source water. The system must submit an annual report to the Authority identifying any special concerns about the watershed, the procedures used to resolve the concern, current activities affecting water quality, and projections of future adverse impacts or activities and the means to address them. At a minimum, the watershed control program must:

(i) Characterize the watershed hydrology and land ownership;

(ii) Identify watershed characteristics and activities which have or may have an adverse effect on source water quality; and

(iii) Monitor the occurrence of activities which may have an adverse effect on source water quality.

(C) Be subject to an annual on-site inspection of the watershed control program and the disinfection treatment process by the Authority. The on-site inspection must indicate to the Authority's satisfaction that the watershed control program and disinfection treatment process are adequately designed and maintained including the adequacy limiting the potential contamination by Cryptosporidium oocysts. The inspection must include:

(i) A review of the effectiveness of the watershed control program;

(ii) A review of the physical condition of the source intake and how well it is protected;

(iii) A review of the system's equipment maintenance program to ensure there is low probability for failure of the disinfection process;

(iv) An inspection of the disinfection equipment for physical deterioration;

(v) A review of operating procedures;

(vi) A review of data records to ensure that all required tests are being conducted and recorded and disinfection is effectively practiced; and

(vii) Identification of any improvements which are needed in the equipment, system maintenance and operation, or data collection.

(D) Shall not have been identified by the Authority as a source of waterborne disease outbreak under the system's current configuration. If such an outbreak occurs, the system must sufficiently modify the treatment process, as determined by the Authority, to prevent any future such occurrence.

(E) Comply with the maximum contaminant level (MCL) for total coliform bacteria in OAR 333-061-0030(4) at least 11 months of the 12 previous months that the system served water to the public on an ongoing basis, unless the Authority determines that failure to meet this requirement was not caused by a deficiency in treatment of the source water.

(F) Comply with the requirements for total trihalomethanes, haloacetic acids (five), bromate, chlorite, chlorine, chloramines, and chlorine dioxide as specified in OAR 333-061-0036(4).

(d) Determination of mean Cryptosporidium level.

(A) Unfiltered water systems must calculate the arithmetic average of all Cryptosporidium sample concentrations following completion of the initial and second round of source water monitoring conducted in accordance with OAR 333-061-0036(5)(e). Systems must report this value to the Authority for approval no later than 6 months after the date the system was required to complete the required monitoring.

(B) If the frequency of monthly Cryptosporidium sampling varies, water systems must calculate a monthly average for each month of sampling. Systems must then use these monthly average concentrations, rather than individual sample concentrations, in the calculation of the mean Cryptosporidium level prescribed in paragraph (2)(d)(A) of this rule.

(C) The report to the Authority of the mean Cryptosporidium levels calculated in accordance with paragraph (2)(d)(A) of this rule must include a summary of the source water monitoring data used for the calculation.

(D) Failure to comply with the conditions of subsection (2)(d) of this rule is a violation of the treatment technique requirement.

(e) A public water system which fails to meet any of the criteria in section (2) of this rule is in violation of a treatment technique requirement. The Authority can require filtration to be installed where it determines necessary.

(3) Disinfection requirements for systems utilizing surface water or GWUDI sources without filtration. Each public water system that does not provide filtration treatment must provide disinfection treatment as follows:

(a) The disinfection treatment must be sufficient to ensure at least 99.9 percent (3-log) inactivation of Giardia lamblia cysts and 99.99 percent (4-log) inactivation of viruses, every day the system serves water to the public, except any one day each month. Each day a system serves water to the public, the public water system must calculate the CT value(s) from the system's treatment parameters, using the procedure specified in OAR 333-061-0036(5)(a)(C) and determine whether this value(s) is sufficient to achieve the specified inactivation rates for Giardia lamblia cysts and viruses. If a system uses a disinfectant other the chlorine, the system must demonstrate to the Authority through the use of an approved protocol for on-site disinfection demonstration studies or other information satisfactory to the Authority that the system is achieving the required inactivation rates on a daily basis instead of meeting the "CT" values in this rule.

(b) Systems for chemical disinfection must have either:

(A) Redundant components, including an auxiliary power supply with automatic start-up and alarm to ensure that disinfectant application is maintained continuously while water is being delivered to the distribution system; or

(B) Automatic shut-off of delivery of water to the distribution system whenever there is less than 0.2 mg/l of residual disinfectant concentration in the water, or if the ultraviolet light system fails. If the Authority determines than automatic shut-off would cause unreasonable risk to health or interfere with fire protection, the system must comply with paragraph (3)(b)(A) of this rule.

(c) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(5)(a)(E), cannot be less than 0.2 mg/l for more than four hours.

(d) Disinfectant residuals in the distribution system. The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified in OAR 333-061-0036(5)(a)(F), cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public.

(e) Unfiltered water systems must provide the level of Cryptosporidium inactivation specified in this subsection, based on their mean Cryptosporidium levels, and determined in accordance with subsec-

tion (2)(d) of this rule and according to the schedule in subsection (1)(a) of this rule.

(A) Unfiltered systems with a mean Cryptosporidium level of 0.01 oocysts/L or less must provide at least 2-log Cryptosporidium inactivation.

(B) Unfiltered systems with a mean Cryptosporidium level of greater than 0.01 oocysts/L must provide at least 3-log Cryptosporidium inactivation.

(f) Inactivation treatment technology requirements. Unfiltered systems must use chlorine dioxide, ozone, or UV as prescribed by 333-061-0036(5)(c) of these rules to meet the Cryptosporidium inactivation requirements of this section.

(A) Systems that use chlorine dioxide or ozone and fail to achieve the Cryptosporidium inactivation required in subsection (3)(e) of this rule on more than one day in the calendar month are in violation of the treatment technique requirement.

(B) Systems that use UV light and fail to achieve the Cryptosporidium inactivation required in subsection (3)(e) of this rule because they do not to meet the criteria specified in subsection (18)(c) of this rule are in violation of the treatment technique requirement.

(g) Use of two disinfectants. Unfiltered water systems must meet the combined Cryptosporidium inactivation requirements of subsection (3)(e) of this rule, and the Giardia lamblia and virus inactivation requirements of subsection (3)(a) of this rule using a minimum of two disinfectants. Each of the two disinfectants must achieve by itself, the total inactivation required for at least one of the following pathogens: Cryptosporidium, Giardia lamblia, or viruses.

(4) Requirements for systems utilizing surface water or GWUDI sources that provide filtration:

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water, and does not meet all of the criteria in sections (1), (2), and (3) of this rule for avoiding filtration, violates a treatment technique and must provide treatment consisting of both disinfection, as specified in section (5) of this rule, and filtration treatment which complies with the requirements of either subsection (4)(b), (c), (d), or (e) of this rule by June 29, 1993 or within 18 months of the failure to meet the criteria in section (2) of this rule for avoiding filtration, whichever is later. Failure to install a required treatment by the prescribed dates is a violation of the treatment technique requirements.

(b) Conventional filtration treatment or direct filtration. Systems using conventional filtration treatment or direct filtration treatment shall meet the turbidity requirements as specified in OAR 333-0061-0030(3)(b)(A)(i) and (ii).

(c) Slow sand filtration. Systems using slow sand filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(B).

(d) Diatomaceous earth filtration. Systems using diatomaceous earth filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(C).

(e) Other filtration technologies. Systems using other filtration technologies shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(D).

(A) GWUDI systems using bank filtration as an alternate filtration technology must meet the requirements listed in section (9) of this rule.

(B) Systems using membrane filtration must conduct continuous indirect integrity testing and daily direct integrity testing in accordance with OAR 333-061-0036(5)(d)(B) and (C).

(f) Cryptosporidium Bin classification for filtered water systems. Following completion of the initial round of source water monitoring required by OAR 333-061-0036(5)(e), filtered water systems must calculate an initial Cryptosporidium bin concentration for each plant for which monitoring was required. Calculation of the bin concentration must be based upon the Cryptosporidium results reported in accordance with OAR 333-061-0036(5)(e), and must comply with paragraphs (4)(f)(A) through (F) of this rule.

(A) For water systems that collect 48 or more samples, the bin concentration is equal to the arithmetic average of all sample concentrations.

(B) For water systems that collect at least 24 samples, but not more than 47 samples, the bin concentration is equal to the highest arithmetic average of all sample concentrations in any 12 consecutive months during which Cryptosporidium samples were collected.

(C) For water systems that serve fewer than 10,000 people and only collect Cryptosporidium samples for 12 months, i.e., collect 24 samples in 12 months, the bin concentration is equal to the arithmetic average of all sample concentrations.

(D) For water systems with plants operating only part of the year, and that monitor fewer than 12 months per year as prescribed by OAR 333-061-0036(5)(e)(E), the bin concentration is equal to the highest arithmetic average of all sample concentrations during any year of Cryptosporidium monitoring.

(E) If the monthly Cryptosporidium sampling frequency varies, water systems must first calculate a monthly average for each month of monitoring. Water systems must then use these monthly average concentrations, rather than individual sample concentrations, in the applicable calculation for bin classification of this subsection.

(F) Bin classification table.

(i) Filtered water systems must determine their initial bin classification from Table 9 as follows and using the Cryptosporidium bin concentration calculated under subsection (4)(f) of this rule: [Table not included. See ED. NOTE.]

(ii) Following completion of the second round of source water monitoring required as prescribed by OAR 333-061-0036(5)(e)(B), filtered water systems must recalculate their Cryptosporidium bin concentration based upon the sample results reported in accordance with OAR 333-061-0036(5)(e)(B) and following the procedures specified in paragraphs (4)(f)(A) through (D) of this rule. Water systems must then re-determine their bin classification using Table 9 in paragraph (4)(f)(F) of this rule. [Table not included. See ED. NOTE.]

(G) Filtered water systems must report their bin classification as prescribed by paragraph (4)(f)(F) of this rule to the Authority for approval no later than 6 months after the system is required to complete the initial and second round of source water monitoring based on the schedule in OAR 333-061-0036(5)(e)(C).

(H) The bin classification report to the Authority must include a summary of source water monitoring data and the calculation procedure used to determine bin classification. Failure to comply with the conditions of this paragraph is a violation of treatment technique requirements.

(g) Additional Cryptosporidium treatment requirements.

(A) Filtered water systems must provide the level of additional treatment for Cryptosporidium specified in Table 10 based on their bin classification as determined under subsection (4)(f) of this rule, and according to the schedule in paragraph (1)(a)(F) of this rule. [Table not included. See ED. NOTE.]

(B) Filtered water systems must use one or more of the treatment and management options listed in section (13) of this rule, termed the microbial toolbox, to comply with the additional Cryptosporidium treatment required by paragraph (4)(g)(A) of this rule.

(C) Systems classified in Bin 3 or Bin 4 must achieve at least 1-log of the additional Cryptosporidium treatment, as required by paragraph (4)(g)(A) of this rule, using either one or a combination of the following: bag filters, bank filtration, cartridge filters, chlorine dioxide, membranes, ozone, or UV, as described in sections (14) through (18) of this rule and in OAR 333-061-0036(5)(c).

(i) Failure by a water system, in any month, to achieve the treatment credit required by sections (14) through (18) of this rule and OAR 333-061-0036(5)(c) that is at least equal to the level of treatment required by paragraph (4)(g)(A) of this rule, is a violation of treatment technique requirements.

(ii) If the Authority determines during a sanitary survey or equivalent source water assessment, that after a system completed the monitoring conducted as required by OAR 333-061-0036(5)(e)(A) or (B), significant changes occurred in the system's watershed that could lead to increased contamination of the source water by Cryptosporidium, the system must take action as specified by the Authority to address the contamination. These actions may include additional source water monitoring and/or implementing microbial toolbox options specified in section (13) of this rule.

(5) Disinfection requirements for systems utilizing surface water or GWUDI sources with filtration:

(a) The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9 percent (3-log) inactivation and/or removal of Giardia lamblia cysts and at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Authority.

(b) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(5)(b)(B), cannot be less than 0.2 mg/l for more than 4 hours.

(c) The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified is OAR 333-061-0036(5)(b)(E) cannot be undetectable in more than 5

percent of the samples each month, for any two consecutive months that the system serves water to the public.

(6) Requirements for groundwater systems with significant deficiencies or source water fecal or total coliform contamination.

(a) Groundwater systems must comply with the treatment technique requirements of this section when a significant deficiency is identified.

(b) Groundwater systems must comply with the treatment technique requirements of this section when a groundwater source sample collected in accordance with OAR 333-061-0036(6)(r) through (t) or (w) is E. coli positive.

(c) When a significant deficiency is identified at a public water system that uses both groundwater and surface water or groundwater under the direct influence of surface water, the system must comply with provisions of this section except in cases where the Authority determines that the significant deficiency is in a portion of the distribution system that is served solely by surface water or groundwater under the direct influence of surface water.

(d) Groundwater systems must consult with the Authority regarding the appropriate corrective action within 30 days of receiving written notice from the Authority of a significant deficiency, written notice from a laboratory that a groundwater source sample collected in accordance with OAR 333-061-0036(6)(s) was found to be E. coli -positive, or direction from the Authority that an E. coli -positive collected in accordance with OAR 333-061-0036(6)(r), (u)(A), or (w) requires corrective action.

(e) Within 120 days (or earlier if directed by the Authority) of receiving written notification from the Authority of a significant deficiency, written notice from a laboratory that a groundwater source sample collected in accordance with OAR 333-061-0036(6)(s) was found to be E. coli positive, or direction from the Authority that a E. coli -positive sample collected in accordance with OAR 333-061-036(6)(r), (t), or (w) requires corrective action, the groundwater system must either:

(A) Have completed corrective action in accordance with applicable Authority plan review processes or other Authority guidance, including any Authority-specified interim measures; or

(B) Be in compliance with an Authority approved corrective action plan and schedule subject to the following conditions:

(i) Any subsequent modifications to an approved corrective action plan and schedule must be approved by the Authority; and

(ii) If the Authority specifies interim measures for the protection of public health pending Authority approval of the corrective action plan and schedule, or pending completion of the corrective action plan, the system must comply with these interim measures as well as with any schedule specified by the Authority.

(f) Groundwater systems that meet the conditions of subsections (6)(a) or (6)(b) of this rule must, upon approval by the Authority, implement one or more of the following corrective action alternatives:

(A) Correct all significant deficiencies;

(B) Disconnect the groundwater source from the water system and provide an alternate source of water. If a disconnected well is or will be within 100 feet of a public water supply well, the disconnected well must be abandoned in accordance with 333-061-0050(2)(a)(E);

(C) Eliminate the source of contamination; or

(D) Provide treatment for the groundwater source that reliably achieves at least 4-log inactivation, removal, or a combination of inactivation and removal of viruses before or at the first customer. If the groundwater source does not meet all of the applicable construction standards specified in OAR 333-061-0050(2)(a) or (b), and the Authority determines that reconstruction of the groundwater source will add a significant measure of public health protection, then the groundwater source must be made to meet all of the applicable construction standards specified in OAR 333-061-0050(2)(a) or (b) before treatment is applied as prescribed by OAR 333-061-0050(5)(b).

(g) A groundwater system with a significant deficiency is in violation of treatment technique requirements if, within 120 days (or earlier if directed by the Authority) of receiving written notice from the Authority of the significant deficiency, the water system:

(A) Does not complete corrective action in accordance with applicable Authority plan review processes or other Authority guidance, including Authority specified interim actions and measures; or

(B) Is not in compliance with an Authority approved corrective action plan and schedule.

(h) A groundwater system receiving notification of an E. coli -positive groundwater source sample (unless the Authority invalidates the sample in accordance with OAR 333-061-0036(6)(x)) is in violation of treatment technique requirements if, within 120 days (or earlier if directed by the Authority), the system:

(A) Does not complete corrective action in accordance with any applicable Authority plan review processes or other Authority guidance, including Authority specified interim actions and measures; or

(B) Is not in compliance with an Authority approved corrective action plan and schedule.

(i) A groundwater system, subject to the requirements of subsection (7)(b) of this rule, that fails to maintain at least 4-log treatment of viruses (using inactivation, removal, or an Authority approved combination of 4-log virus inactivation and removal) before or at the first customer for a groundwater source is in violation of treatment technique requirements if the failure is not corrected within four hours of determining the system is not maintaining at least 4-log treatment of viruses before or at the first customer.

(j) Water systems using groundwater sources shall provide continuous disinfection as prescribed by OAR 333-061-0050(5) when disinfection is approved by the Authority as a corrective action for a fecally contaminated source.

(7) Compliance monitoring requirements for groundwater systems that provide at least 4-log treatment of viruses. Water systems must comply with the requirements of (7)(a) through (7)(c) of this rule beginning on December 1, 2009.

(a) A groundwater system that is not required to meet the source water monitoring requirements of 333-061-0036(6)(r) through 333-061-0036(6)(u) of these rules, because it provides at least 4-log treatment of viruses (using inactivation, removal, or an Authority-approved combination of 4-log virus inactivation and removal) before or at the first customer for any groundwater source, must comply with the requirements of this subsection by December 1, 2009 or within 30 days of placing the groundwater source in service, whichever is later.

(A) The water system must notify the Authority in writing, that it provides at least 4-log treatment of viruses (using inactivation, removal, or an Authority approved combination of 4-log virus inactivation and removal) before or at the first customer for the groundwater source. Notification to the Authority must include engineering, operational, or other information that the Authority requests to evaluate the submission.

(B) The system must conduct compliance monitoring as required by subsection (7)(b) of this rule.

(C) The system must conduct groundwater source monitoring under OAR 333-061-0036(6) if the system subsequently discontinues 4-log treatment of viruses (using inactivation, removal, or an Authority-approved combination of 4-log virus inactivation and removal) before or at the first customer for the groundwater source.

(b) Monitoring requirements. A groundwater system subject to the requirements of section (6) or subsection (7)(a) of this rule must monitor the effectiveness and reliability of treatment for that groundwater source before or at the first customer as follows:

(A) Chemical Disinfection:

(i) Groundwater systems serving greater than 3,300 people must continuously monitor the residual disinfectant concentration using analytical methods as specified in OAR 333-061-0036(1), at a location approved by the Authority, and must record the lowest residual disinfectant concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the Authority-determined residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. If there is a failure in the continuous monitoring equipment, the groundwater system must conduct grab sampling every four hours until the continuous monitoring equipment is returned to service. The system must resume continuous residual disinfectant monitoring within 14 days.

(ii) Groundwater systems serving 3,300 or fewer people must monitor the residual disinfectant concentration using analytical methods as specified in OAR 333-061-0036(1), at a location approved by the Authority, and record the residual disinfection concentration each day that water from the groundwater source is served to the public. The groundwater system must maintain the Authority-determined residual disinfectant concentration every day the groundwater system serves water from the groundwater source to the public. The groundwater system must take a daily grab sample during the hour of peak flow or at another time specified by the Authority. If any daily grab sample measurement falls below the Authority-determined residual disinfectant concentration, the groundwater system must take follow-up samples every four hours until the residual disinfectant concentration is restored to the Authority-determined level. Alternately, a

groundwater system that serves 3,300 or fewer people may monitor continuously and meet the requirements of subparagraph (7)(b)(A)(i) of this rule.

(B) Membrane filtration. A groundwater system that uses membrane filtration to achieve at least 4-log removal of viruses must monitor and operate the membrane filtration process in accordance with all Authority-specified monitoring and compliance requirements. A groundwater system that uses membrane filtration is in compliance with the requirement to achieve at least 4-log removal of viruses when:

(i) The membrane has an absolute molecular weight cut-off (MWCO), or an alternate parameter describing the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses;

(ii) The membrane process is operated in accordance with Authority-specified compliance requirements; and

(iii) The integrity of the membrane is intact as verified per OAR 333-061-0050(4)(c)(J).

(C) Alternative treatment. A groundwater system that uses an Authority-approved alternative treatment to provide at least 4-log treatment of viruses (using inactivation, removal, or an Authority-approved combination of 4-log virus inactivation and removal) before or at the first customer must:

(i) Monitor the alternative treatment in accordance with all Authority-specified monitoring requirements; and

(ii) Operate the alternative treatment in accordance with all compliance requirements that the Authority determines to be necessary to achieve at least 4-log treatment of viruses.

(c) Discontinuing treatment. A groundwater system may discontinue 4-log treatment of viruses (using inactivation, removal, or an Authority-approved combination of 4-log virus inactivation and removal) before or at the first customer for a groundwater source if the Authority determines, and documents in writing, that 4-log treatment of viruses is no longer necessary for that groundwater source. A system that discontinues 4-log treatment of viruses is subject to the source water monitoring requirements of OAR 333-061-0036(6).

(8) Determination of groundwater under the direct influence of surface water (GWUDI).

(a) Except for wells using only a handpump, all groundwater sources must be evaluated for the potential of surface water influence if the source is in proximity to perennial or intermittent surface water and meets one of the hydrogeologic setting-surface water setback criteria identified in paragraph (A) and either paragraph (B) or (C). Hydrogeologic setting is identified by the Source Water Assessment or some other hydrogeologic study approved by the Authority.

(A) The groundwater source draws water from:

(i) A sand aquifer and is within 75 feet of surface water;

(ii) A sand and gravel aquifer and is within 100 feet of surface water;

(iii) A coarse sand, gravel, and boulder aquifer and is within 200 feet of surface water;

(iv) A fractured bedrock aquifer or layered volcanic aquifer and is within 500 feet of surface water; or

(v) Greater distances if geologic conditions or historical monitoring data indicate additional risk at the source; and

(B) There is a history of microbiological contamination in the source; or

(C) The Source Water Assessment or some other hydrogeologic study approved by the Authority determines the source is highly sensitive as a result of aquifer characteristics, vadose zone characteristics, monitoring history or well construction.

(b) Except as provided by subsection (8)(c) of this rule, water suppliers must conduct sampling for any groundwater source(s) meeting the criteria specified in subsection (8)(a) of this rule. Sampling must be conducted according to the following criteria:

(A) Collection of twelve consecutive monthly source water samples when the source is used year-round, or every month the source provides water to the public during one operational season for water sources used seasonally;

(B) Samples must be analyzed for E. coli in accordance with all the applicable provisions of OAR 333-061-0036(1); and

(C) Samples must be collected at the water source prior to any treatment unless the Authority approves an alternate sampling location that is representative of source water quality

(c) Public water systems that are required to evaluate their source(s) for direct influence of surface water may submit results of a hydrogeologic assessment completed by an Oregon registered geologist or other licensed professional with demonstrated experience and competence in hydrogeology in accordance with ORS 672.505 through 672.705 to demonstrate that the source is not potentially under the direct influence of surface water. The assessment must be consistent with the Oregon State Board of Geologist Examiners "Hydrology Report Guidelines," must be completed within a timeframe specified by the Authority and must include the following:

(A) Well characteristics: well depth, screened or perforated interval, casing seal placement;

(B) Aquifer characteristics: thickness of the vadose zone, hydraulic conductivity of the vadose zone and the aquifer, presence of low permeability zones in the vadose zone, degree of connection between the aquifer and surface water;

(C) Hydraulic gradient: gradient between the aquifer and surface water source during pumping conditions, variation of static water level and surface water level with time; and

(D) Groundwater flow: flow of water from the surface water source to the groundwater source during pumping conditions, estimated time-of-travel for groundwater from the surface water source(s) to the well(s), spring(s), etc.

(d) If a source water sample collected in accordance with subsection (8)(b) of this rule is reported as E. coli positive, then the water supplier must collect five additional source water samples within 24 hours of receiving notification of the positive sample result.

(e) If any of the five additional source water samples specified in subsection (8)(d) of this rule is E. coli positive then the original E. coli positive sample is considered confirmed, and the water supplier must have the groundwater source analyzed for surface water influence according to subsection (8)(h) of this rule. Further E. coli monitoring is not required.

(f) A water supplier may be required to have the groundwater source analyzed for surface water influence according to subsection (8)(h) of this rule at the discretion of the Authority if source water samples are consistently total coliform positive.

(g) Emergency groundwater sources that meet the criteria of subsection (8)(a) of this rule can either be evaluated as prescribed in subsection 8(b) or (8)(c) of this rule, or the evaluation can be waived if a Tier 2 public notice as prescribed in OAR 333-061-0042 is issued each time the source is used. The notice must explain that the source has been identified as potentially under the direct influence of surface water, but has not been fully evaluated, and therefore may not be treated sufficiently to inactivate pathogens such as Giardia lamblia and Cryptosporidium.

(h) Determination of surface water influence on a groundwater source must be based upon a minimum of two samples conducted according to the "Consensus Method for Determining Groundwaters under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)." Both water samples must be collected during a period of high runoff or streamflow and separated by a period of at least four weeks, or at other times as determined by the Authority. Scoring for diatoms, other algae, and insects/larvae is partially modified according to Table 11. Scoring for Giardia lamblia, coccidia, rotifers, and plant debris remains unchanged. [Table not included. See ED. NOTE.]

(i) A water source will be classified as groundwater or GWUDI as follows:

(A) If the two initial microscopic particulate analyses have a risk score of less than 10, the water system source is classified as groundwater;

(B) If any microscopic particulate analysis (MPA) risk score is greater than 19, or each risk score is greater than 14, the water source is classified as GWUDI;

(C) If at least one of the two MPA risk scores is between 10 and 19, two additional microscopic particulate analyses must be conducted, and water source classification will be made as follows:

(i) If all of the MPA risk scores are less than 15, the water system source is classified as groundwater;

(ii) If any MPA risk score is greater than 19, or two or more are greater than 14, the water system source is classified as under the direct influence of surface water; or

(iii) If only one of four MPA risk scores is greater than 14, two additional microscopic particulate analyses must be conducted, and water source classification will be based upon further evaluation by the Authority.

(j) If an infiltration gallery, Ranney well, or dug well has been classified as groundwater under this rule, the turbidity of the source must be monitored and recorded daily and kept by the water system operator. If the turbidity exceeds 5 NTU or if the surface water body changes course such that risk to the groundwater source is increased, an MPA must be conducted at that time. Reevaluation may be required by the Authority at any time.

(k) The Authority may determine a groundwater source to be under the direct influence of surface water if the criteria in subsection (8)(a) of this rule are met and there are significant or relatively rapid shifts in groundwater characteristics, such as turbidity, which closely correlate to changes in weather or surface water conditions.

(l) The Authority may require reevaluation of a groundwater source, as specified in this section, if geologic conditions, water quality trends, or other indicators change despite any data previously collected or any determination previously made.

(m) The Authority may determine that a source is not under direct influence of surface water based on criteria other than MPAs including the Source Water Assessment, source water protection, and other water quality parameters. The determination shall be based on the criteria indicating that the water source has a very low susceptibility to contamination by parasites, including Giardia lamblia and Cryptosporidium. The Authority may impose additional monitoring or disinfection treatment requirements to ensure that the risk remains low.

(9) Requirements for groundwater sources under the direct influence of surface water seeking alternative filtration credit through bank filtration:

(a) Water systems with all MPA risk scores less than 30 may choose the option to evaluate for bank filtration credit. The water system must conduct a demonstration of performance study that includes an assessment of the ability of the local hydrogeologic setting to provide a minimum of 2-log reduction in the number of particles and microorganisms in the Giardia and Cryptosporidium size range between surface water and the groundwater source. The bank filtration study must include the following elements or other Authority approved methods:

(A) The bank filtration study must involve the collection of data on removal of biological surrogates and particles in the Cryptosporidium size range of 2–5 microns or other surrogates approved by the Authority, and related hydrogeologic and water quality parameters during the full range of operating conditions. The demonstration study methods shall be reviewed and approved by the Authority prior to implementation. Final assessment of removal credit granted to the well shall be made by the Authority based on the study results.

(b) If a GWUDI system using bank filtration as an alternative filtration technology violates the MCL for turbidity specified in OAR 333-061-0030(3)(b)(D), the water system must investigate the cause of the high turbidity within 24 hours of the exceedance. Pending the results of the investigation by the water system, the Authority may require a new bank filtration study.

(10) Disinfection Byproduct Control Requirements:

(a) This rule establishes criteria under which community water systems and Non-transient, Non-community water systems which add a chemical disinfectant to the water in any part of the drinking water treatment process must modify their practices to meet MCLs and MRDLs in OAR 333-061-0030 and 0031, respectively. This rule also establishes the treatment technique requirements for disinfection byproduct precursors, and the criteria under which transient non-community water systems that use chlorine dioxide as a disinfectant or oxidant must modify their practices to meet the MRDL for chlorine dioxide as specified in OAR 333-061-0031.

(b) Compliance dates.

(A) Community and Non-transient Non-community water systems serving at least 10,000 people using surface water or groundwater under the direct influence of surface water must comply with the treatment technique requirements of this rule as well as monitoring and maximum contaminants requirements for disinfection byproduct control as specified in OAR 333-061-0030 and 0036, respectively beginning January 1, 2002. Those systems serving fewer than 10,000 people using surface water or groundwater under the direct influence of surface water and those systems using only groundwater not under the direct influence of surface water must comply with the rules identified in this paragraph beginning January 1, 2004.

(B) Transient non-community water systems serving at least 10,000 people using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with the requirements for chlorine dioxide in this rule and OAR 333-061-0030 and 0036 beginning January 1, 2002. Those systems serving fewer than 10,000 persons using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant and systems using only ground water not under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with the requirements for chlorine dioxide in this rule and OAR 333-061-0030 and 0036 beginning January 1, 2004.

(c) Water systems may increase residual disinfectant levels in the distribution system of chlorine or chloramines (but not chlorine dioxide) to a level and for a time necessary to protect public health, to address specific microbiological contamination problems caused by circumstances such as, but not limited to, distribution line breaks, storm run-off events, source water contamination events, or cross connection events.

(d) Enhanced coagulation or enhanced softening are authorized treatment techniques to control the level of disinfection byproduct precursors for water systems using surface water or groundwater under the direct influence of surface water and conventional filtration treatment. Community and Non-transient Non-community water systems using conventional filtration treatment must operate with enhanced coagulation or enhanced softening to achieve the total organic carbon (TOC) percent removal levels specified in subsection (10)(e) of this rule unless the system meets at least one of the alternative compliance criteria listed in paragraph (10)(d)(A) or (10)(d)(B) of this rule.

(A) Alternative compliance criteria for enhanced coagulation and enhanced softening systems. Water systems may use the alternative compliance criteria in subparagraphs (10)(d)(A)(i) through (vi) of this rule in lieu of complying with the performance criteria specified in subsection (e) of this section. Systems must still comply with monitoring requirements specified in OAR 333-061-0036(4)(n).

(i) The system's source water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(ii) The system's treated water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(iii) The system's source water TOC is less than 4.0 mg/L, calculated quarterly as a running annual average; the source water alkalinity is greater than 60 mg/L (as CaCO3 calculated quarterly as a running annual average; and the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively.

(iv) The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(v) The system's source water SUVA, prior to any treatment and measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(vi) The system's finished water SUVA, measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(B) Additional alternative compliance criteria for softening systems. Systems practicing enhanced softening that cannot achieve the TOC removals required by paragraph (10)(e)(B) of this rule may use the alternative compliance criteria in subparagraphs (10)(d)(B)(i) and (ii) of this rule in lieu of complying with subsection (10)(e) of this rule. Systems must still comply with monitoring requirements in specified in OAR 333-061-0036(4)(n).

(i) Softening that results in lowering the treated water alkalinity to less than 60 mg/L (as CaCO3), measured monthly and calculated quarterly as a running annual average.

(ii) Softening that results in removing at least 10 mg/L of magnesium hardness (as CaCO3), measured monthly and calculated quarterly as a running annual average.

(e) Enhanced coagulation and enhanced softening performance requirements.

(A) Systems must achieve the percent reduction of TOC specified in paragraph (10)(e)(B) in this rule between the source water and the combined filter effluent, unless the Authority approves a system's request for alternate minimum TOC removal (Step 2) requirements under paragraph (10)(e)(C) of this rule.

(B) Required Step 1 TOC reductions, specified in Table 12, are based upon specified source water parameters. Systems practicing softening are required to meet the Step 1 TOC reductions in the far-right column (Source water alkalinity >120 mg/L) for the specified source water TOC: [Table not included. See ED. NOTE.]

(C) Water systems that cannot achieve the Step 1 TOC removals required by paragraph (10)(e)(B) of this rule due to water quality parameters or operational constraints must apply to the Authority, within three months of failure to achieve the TOC removals required by paragraph (10)(e)(B) of this rule, for approval of alternative minimum TOC (Step 2) removal requirements submitted by the water system. If the Authority approves the alternative minimum TOC removal (Step 2) requirements, the Authority may make those requirements retroactive for the purposes of determining compliance. Until the Authority approves the alternate minimum TOC removal (Step 2) requirements, the water system must meet the Step 1 TOC removals contained in paragraph (10)(e)(B) of this rule.

(D) Alternate minimum TOC removal (Step 2) requirements. Applications made to the Authority by enhanced coagulation systems for approval of alternative minimum TOC removal (Step 2) requirements under paragraph (10)(e)(C) of this rule must include, as a minimum, results of bench-scale or pilot-scale testing conducted under subparagraph (10)(e)(D)(i) of this rule. The submitted bench-scale or pilot scale testing must be used to determine the alternate enhanced coagulation level.

(i) Alternate enhanced coagulation level is defined as coagulation at a coagulant dose and pH as determined by the method described in subparagraphs (10)(e)(D)(i) through (v) of this rule such that an incremental addition of 10 mg/L of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to 0.3 mg/ L. The percent removal of TOC at this point on the "TOC removal versus coagulant dose" curve is then defined as the minimum TOC removal required for the system. Once approved by the Authority, this minimum requirement supersedes the minimum TOC removal required by the Table 12 in paragraph (10)(e)(B) of this rule. This requirement will be effective until such time as the Authority approves a new value based on the results of a new bench-scale and pilot-scale test. Failure to achieve Authority-set alternative minimum TOC removal levels is a violation. [Table not included. See ED. NOTE.]

(ii) Bench-scale or pilot-scale testing of enhanced coagulation must be conducted by using representative water samples and adding 10 mg/L increments of alum (or equivalent amounts of ferric salt) until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH as specified in Table 13: [Table not included. See ED. NOTE.]

(iii) For waters with alkalinities of less than 60 mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below 5.5 before significant TOC removal occurs, the system must add necessary chemicals to maintain the pH between 5.3 and 5.7 in samples until the TOC removal of 0.3 mg/L per 10 mg/L alum added (or equivalent addition of iron coagulant) is reached.

(iv) The system may operate at any coagulant dose or pH necessary, consistent with these rules to achieve the minimum TOC percent removal approved under paragraph (10)(e)(C) of this rule.

(v) If the TOC removal is consistently less than 0.3 mg/L of TOC per 10 mg/L of incremental alum dose at all dosages of alum (or equivalent addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The water system may then apply to the Authority for a waiver of enhanced coagulation requirements.

(f) Compliance calculations.

(A) Water systems other than those identified in paragraphs (10)(d)(A) or (d)(B) of this rule must comply with requirements contained in paragraph (10)(e)(B) or (C) of this rule. Systems must calculate compliance quarterly, beginning after the system has collected 12 months of data, by determining an annual average using the following method:

(i) Determine actual monthly TOC percent removal, equal to: {1-(treated water TOC/source water TOC)}x100

(ii) Determine the required monthly TOC percent removal (from either Table 9 in paragraph (10)(e)(B) of this rule or from paragraph (10)(e)(C) of this rule). [Table not included. See ED. NOTE.]

(iii) Divide the value in subparagraph (10)(f)(A)(i) of this rule by the value in subparagraph (10)(f)(A)(ii) of this rule.

(iv) Add together the results of subparagraph (10)(f)(A)(iii) of this rule for the last 12 months and divide by 12.

(v) If the value calculated in subparagraph (10)(f)(A)(iv) of this rule is less than 1.00, the water system is not in compliance with the TOC percent removal requirements.

(B) Water systems may use the provisions in subparagraphs (10)(f)(B)(i) through (v) of this rule in lieu of the calculations in subparagraph (10)(f)(A)(i) through (v) of this rule to determine compliance with TOC percent removal requirements.

(i) In any month that the water system's treated or source water TOC level is less than 2.0 mg/L, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(ii) In any month that a system practicing softening removes at least 10 mg/L of magnesium hardness (as CaCO3), the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(iii) In any month that the water system's source water SUVA, prior to any treatment is less than or equal to 2.0 L/mg-m, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(iv) In any month that the water system's finished water SUVA is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(v) In any month that a system practicing enhanced softening lowers alkalinity below 60 mg/L (as CaCO3), the water system may assign a monthly value of 1.0 (in lieu of the value calculated in subparagraph (10)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (10)(f)(A) of this rule.

(C) Water systems using conventional treatment may also comply with the requirements of this section by meeting the criteria in paragraph (10)(d)(A) or (B) of this rule.

(11) Requirements for Water Treatment Plant Recycled Water.

(a) Any water system using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener, supernatant, or liquids from dewatering processes must meet the requirements of subsections (10)(b) and (c) of this rule and OAR 333-061-0040(2)(i).

(b) A water system must notify the Authority in writing by December 8, 2003 if that water system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification must include, at a minimum, the information specified in paragraphs (10)(b)(A) and (B) of this rule.

(A) A water treatment plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are re-introduced back into the water treatment plant.

(B) Typical recycle flow in gallons per minute (gpm), the highest observed water treatment plant flow experienced in the previous year (gpm), the design flow for the water treatment plant (gpm), and the operating capacity of the water treatment plant (gpm) that has been determined by the Authority where the Authority has made such determinations.

(c) Any water system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes must return these flows through the processes of a system's existing conventional filtration treatment plant or direct filtration treatment plant as defined by these rules or at an alternate location approved by the Authority by June 8, 2004. If capital improvements are required to modify the recycle location to meet this requirement, all capital improvements must be completed no later than June 8, 2006.

(12) Water systems using uncovered finished water storage facilities must comply with the conditions of either subsections (12)(a) or (b) of this rule for each uncovered finished water storage facility, or be in compliance with an Authority approved schedule to meet these conditions no later than April 1, 2009.

(a) Water systems must cover any uncovered finished water storage facility; or

(b) Treat the discharge from the uncovered finished water storage facility into the distribution system to achieve at least 4-log virus, 3-log Giardia lamblia, and 2-log Cryptosporidium inactivation and/or removal using a protocol approved by the Authority.

(c) Failure to comply with the requirements of this section is a violation of the treatment technique requirement.

(13) Summary and General Requirements of Microbial toolbox options for meeting Cryptosporidium treatment requirements. Filtered water systems are eligible for the treatment credits listed in Table 14 of this section by meeting the conditions for microbial toolbox options described in sections (14) through (18) of this rule and in OAR 333-061-0036(5)(c). Unfiltered water systems are eligible only for the treatment credits specified as inactivation toolbox options in Table 14. Water systems apply these treatment credits to meet the requirements of subsections (3)(e) or (4)(g) of this rule, as applicable. [Table not included. See ED. NOTE.]

(14) Source toolbox components for meeting Cryptosporidium treatment requirements.

(a) Watershed control program. Water systems receive 0.5-log Cryptosporidium treatment credit for implementing a watershed control program that meets the requirements of this subsection.

(A) Water systems must notify the Authority of the intent to apply for the watershed control program credit no later than two years prior to the

treatment compliance date applicable to the system in subsection (1)(a) of this rule.

(B) Water systems must submit a proposed watershed control plan to the Authority no later than one year before the applicable treatment compliance date in subsection (1)(a) of this rule. The Authority must approve the watershed control plan for the water system to receive the applicable treatment credit. The watershed control plan must include the following elements:

(i) Identification of an area of influence, outside of which the likelihood of Cryptosporidium or fecal contamination affecting the treatment plant intake is not significant. This is the area to be evaluated in future watershed surveys under subparagraph (14)(a)(E)(ii) of this rule;

(ii) Identification of both potential and actual sources of Cryptosporidium contamination, and an assessment of the relative impact of these contamination sources on the water system's source water quality;

(iii) An analysis of the effectiveness and feasibility of control measures that could reduce Cryptosporidium loading from sources of contamination to the system's source water; and

(iv) A statement of goals and specific actions the system will undertake to reduce source water Cryptosporidium levels. The plan must explain how the actions are expected to contribute to specific goals, identify watershed partners and their roles, identify resource requirements and commitments, and include a schedule for plan implementation with deadlines for completing specific actions identified in the plan.

(C) Water Systems with existing watershed control programs are eligible to seek this credit, but must meet the requirements prescribed in paragraph (14)(a)(B) of this rule, and must specify ongoing and future actions that will reduce source water Cryptosporidium levels.

(D) If the Authority does not respond to a water system regarding approval of a watershed control plan submitted in accordance with this section, and the system meets the other requirements of this section, the watershed control program will be considered approved and a 0.5 log Cryptosporidium treatment credit will be awarded unless the Authority subsequently withdraws such approval.

(E) Water systems must complete the actions specified in this paragraph to maintain the 0.5-log credit.

(i) Water systems must submit an annual watershed control program status report to the Authority. The status report must describe the water system's implementation of the approved plan, and assess the adequacy of the plan to meet its goals. It must explain how the water system is addressing any deficiencies in plan implementation, including those previously identified by the Authority, or as the result of the watershed survey conducted in accordance with subparagraph (14)(a)(E)(ii) of this rule. The watershed control program status report must also describe any significant changes that have occurred in the watershed since the last watershed sanitary survey.

(ii) Water systems must undergo a watershed sanitary survey every three years for community water systems and every five years for non-community water systems and submit the survey report to the Authority. The survey must be conducted according to Authority guidelines and by persons the Authority approves.

(I) The watershed sanitary survey must meet the following criteria: encompass the region identified in the Authority approved watershed control plan as the area of influence; assess the implementation of actions to reduce source water Cryptosporidium levels; and identify any significant new sources of Cryptosporidium.

(II) If the Authority determines that significant changes may have occurred in the watershed since the previous watershed sanitary survey, water systems must undergo another watershed sanitary survey by a date determined by the Authority regardless of the regular date specified in subparagraph (14)(a)(E)(ii) of this rule.

(iii) The water system must make the watershed control plan, annual status reports, and watershed sanitary survey reports available to the public upon request. These documents must be in a plain language style and include criteria by which to evaluate the success of the program in achieving plan goals. The Authority may approve withholding portions of the annual status report, watershed control plan, and watershed sanitary survey from the public based on water supply security considerations.

(F) If the Authority determines that a water system is not implementing the approved watershed control plan, the Authority may withdraw the watershed control program treatment credit.

(G) If a water system determines, during implementation, that making a significant change to its approved watershed control program is necessary, the system must notify the Authority prior to making any such changes. If any change is likely to reduce the level of source water protection, the system must notify the Authority of the actions the water system will take to mitigate this effect.

(b) Alternative source. A water system may conduct source water monitoring that reflects a different intake location (either in the same source or from an alternate source), or a different procedure for the timing or level of withdrawal from the source. If the Authority approves, a system may determine its bin classification under subsection (4)(f) of this rule based on the alternative source monitoring results.

(A) If a water system conducts alternative source monitoring as prescribed by this subsection, the water system must also monitor their current plant intake concurrently as prescribed by OAR 333-061-0036(5)(e).

(B) Alternative source monitoring as prescribed by this subsection must meet the requirements for source monitoring to determine bin classification, as described in OAR 333-061-0036(1), OAR 333-061-0036(5)(e) through (g), and OAR 333-061-0040(1)(l). Water systems must report the alternative source monitoring results to the Authority, including supporting information that documents the operating conditions under which the samples were collected.

(C) If a system determines its bin classification according to subsection (4)(f) of this rule using alternative source monitoring results that reflect a different intake location or a different procedure for managing the timing or level of withdrawal from the source, the system must relocate the intake or permanently adopt the withdrawal procedure, as applicable, no later than the applicable treatment compliance date in subsection (1)(a) of this rule.

(15) Pre-filtration treatment toolbox components for meeting Cryptosporidium treatment requirements.

(a) Presedimentation. Systems receive 0.5-log Cryptosporidium treatment credit for a presedimentation basin during any month the process meets the criteria specified in this paragraph:

(A) The presedimentation basin must be in continuous operation, and must treat the entire plant flow taken from a surface water or GWUDI source;

(B) The water system must continuously add a coagulant to the presedimentation basin; and

(C) The presedimentation basin must achieve the performance criteria specified in this paragraph.

(i) The basin must demonstrate at least 0.5-log mean reduction of influent turbidity. This reduction must be determined using daily turbidity measurements of the presedimentation process influent and effluent, and must be calculated as follows: log10(monthly mean of daily influent turbidity)-log10(monthly mean of daily effluent turbidity).

(ii) The basin must also comply with Authority-approved performance criteria that demonstrates at least 0.5-log mean removal of micron-sized particulate material through the presedimentation process.

(b) Two-stage lime softening. Systems receive an additional 0.5-log Cryptosporidium treatment credit for a two-stage lime softening plant if chemical addition and hardness precipitation occur in two separate and sequential softening stages prior to filtration. Both softening stages must treat the entire plant flow taken from a surface water or GWUDI source.

(c) Bank filtration. Water systems receive Cryptosporidium treatment credit for bank filtration that serves as pretreatment to a filtration plant by meeting the criteria specified in this section. Water systems using bank filtration when they begin source water monitoring according to OAR 333-061-0036(5)(e) must collect samples as prescribed by OAR 333-061-0036(5)(g) and are not eligible for this credit.

(A) Wells with a groundwater flow path of at least 25 feet receive 0.5-log treatment credit. Wells with a groundwater flow path of at least 50 feet receive 1.0-log treatment credit. The groundwater flow path must be determined as specified in paragraph (D) of this subsection.

(B) Only wells in granular aquifers are eligible for treatment credit. Granular aquifers are those comprised of sand, clay, silt, rock fragments, pebbles or larger particles, and minor cement. A water system must characterize the aquifer at the well site to determine aquifer properties.

(i) Water systems must extract a core from the aquifer and demonstrate that in at least 90 percent of the core length, grains less than 1.0 mm in diameter constitute at least 10 percent of the core material.

(C) Only horizontal and vertical wells are eligible for treatment credit.

(D) For vertical wells, the groundwater flow path is the measured distance from the edge of the surface water body under high flow conditions (as determined by the 100 year floodplain elevation boundary or by the floodway, as defined in Federal Emergency Management Agency flood hazard maps) to the well screen. For horizontal wells, the groundwater flow path is the measured distance from the bed of the river under normal flow conditions to the closest horizontal well lateral screen.

(E) Water systems must monitor each wellhead for turbidity at least once every four hours while the bank filtration process is in operation. If monthly average turbidity levels, based on daily maximum values in the well, exceed 1 NTU, the system must report this result to the Authority and conduct an assessment within 30 days to determine the cause of the high turbidity levels in the well. If the Authority determines that microbial removal has been compromised, the Authority may revoke treatment credit until the water system implements Authority-approved corrective actions to remediate the problem.

(F) Springs and infiltration galleries are not eligible for treatment credit under this section, but are eligible for a treatment credit in accordance with subsection (16)(c) of this rule.

(G) Bank filtration demonstration of performance. The Authority may approve Cryptosporidium treatment credit for bank filtration based on a demonstration of performance study that meets the criteria in this paragraph. This treatment credit may be greater than 1.0-log and may be awarded to bank filtration that does not meet the criteria in (15)(c)(A) through (E) of this rule.

(i) The study must follow an Authority approved protocol, and must include the collection of data on the removal of Cryptosporidium or a surrogate for Cryptosporidium and related hydrogeologic and water quality parameters during the full range of operating conditions.

(ii) The study must include sampling from both the production well(s) and monitoring wells that are screened and located along the shortest flow path between the surface water source and the production well(s).

(16) Treatment performance toolbox components for meeting Cryptosporidium treatment requirements.

(a) Combined filter performance. Water systems using conventional filtration treatment or direct filtration treatment receive an additional 0.5-log Cryptosporidium treatment credit during any month that the water system meets the criteria in this subsection. Combined filter effluent (CFE) turbidity must be less than or equal to 0.15 NTU in at least 95 percent of the measurements. Turbidity must be measured as described in OAR 333-061-0036(5)(a)(B).

(b) Individual filter performance. Water systems using conventional filtration treatment or direct filtration treatment receive 0.5-log Cryptosporidium treatment credit, which can be in addition to the 0.5-log credit under subsection (16)(a) of this rule, during any month the system meets the criteria in this subsection. Compliance with this criteria must be based on individual filter turbidity monitoring as described in OAR 333-061-0036(5)(d).

(A) The filtered water turbidity for each individual filter must be less than or equal to 0.15 NTU in at least 95 percent of the measurements recorded each month.

(B) No individual filter may have a measured turbidity greater than 0.3 NTU in two consecutive measurements taken 15 minutes apart.

(C) Any system that has received treatment credit for individual filter performance and fails to meet the requirements of paragraphs (16)(b)(A) or (B) of this rule, during any month, is in violation of treatment technique requirements as prescribed by subsection (4)(g) of this rule unless the Authority determines the following:

(i) The failure was due to unusual and short-term circumstances that could not reasonably be prevented through optimizing treatment plant design, operation, or maintenance; and

(ii) The system has experienced no more than two such failures in any calendar year.

(c) Demonstration of performance. The Authority may approve Cryptosporidium treatment credit for water treatment processes based on a demonstration of performance study that meets the criteria in this subsection. This treatment credit may be greater than or less than the prescribed treatment credits in subsection (4)(g) or sections (15) through (18) of this rule and may be awarded to treatment processes that do not meet the criteria for the prescribed credits.

(A) Water systems cannot receive the prescribed treatment credit for any toolbox option in sections (15) through (18) of this rule, if that toolbox option is included in a demonstration of performance study for which treatment credit is awarded under this subsection.

(B) The demonstration of performance study must follow an Authority approved protocol, and must demonstrate the level of Cryptosporidium reduction achieved by the treatment process under the full range of expected operating conditions for the water system.

(C) Approval by the Authority must be in writing, and may include monitoring and treatment performance criteria that the system must demonstrate and report on an ongoing basis to remain eligible for the treatment credit. The Authority may require such criteria where necessary to verify that the conditions under which the demonstration of performance credit was approved are maintained during routine operation.

(17) Additional filtration toolbox components for meeting Cryptosporidium treatment requirements.

(a) Bag and cartridge filters. Systems receive Cryptosporidium treatment credit of up to 2.0-log for individual bag or cartridge filters and up to 2.5-log for bag or cartridge filters operated in series by meeting the requirements in OAR 333-061-0050(4)(c)(J). To be eligible for this credit, water systems must report to the Authority, the results of challenge testing conducted in accordance with OAR 333-061-0050(4)(c)(J). The filters must treat the entire plant flow.

(b) Membrane filtration. Systems receive Cryptosporidium treatment credit for membrane filtration that meets the requirements of this paragraph. Membrane cartridge filters that meet the definition of membrane filtration in OAR 333-061-0020(122) are eligible for this credit. The level of treatment credit a system receives is equal to the lower of the values determined under OAR 333-061-0050(4)(c)(H)(i) and (ii).

(c) Second stage filtration. Water systems receive 0.5-log Cryptosporidium treatment credit for a separate second stage of Authority-approved filtration that consists of sand, dual media, GAC, or other fine grain media following granular media filtration. To be eligible for this credit, the first stage of filtration must be preceded by a coagulation step and, both filtration stages must treat the entire plant flow taken from a surface water or GWUDI source. The Authority must assign the treatment credit based on an assessment of the design characteristics of the filtration process. A cap (added layer of filter media), such as GAC, on a single stage of filtration is not eligible for this credit.

(d) Slow sand filtration (as secondary filter). Water systems are eligible to receive 2.5-log Cryptosporidium treatment credit for a slow sand filtration process that follows a separate stage of filtration if both filtration stages treat the entire plant flow taken from a surface water or GWUDI source, and no disinfectant residual is present in the influent water to the slow sand filtration process. The Authority must assign the treatment credit based on an assessment of the design characteristics of the filtration process. This subsection does not apply to treatment credit awarded to slow sand filtration used as a primary filtration process.

(18) Inactivation toolbox components for meeting Cryptosporidium treatment requirements.

(a) If Chlorine Dioxide is used, CT values in Table 36 must be met. [Table not included. See ED. NOTE.]

(b) If Ozone is used, CT values in Table 37 must be met. [Table not included. See ED. NOTE.]

(c) To receive treatment credit for UV light, water systems must treat at least 95 percent of the water delivered to the public during each month by UV reactors operating within validated conditions for the required UV dose, as prescribed by OAR 333-061-0036(5)(c)(D) and OAR 333-061-0050(5)(k)(I). Systems must demonstrate compliance with this condition by the monitoring required in OAR 333-061-0036(5)(c)(D)(ii).

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-1-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 13-2012, f. & cert. ef. 9-10-12; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0034

Treatment Requirements and Performance Standards for Corrosion Control

x(1) General requirements:

(a) All Community and Non-Transient Non-Community water systems required to provide corrosion control shall install and operate optimal corrosion control treatment.

(b) Any water system that complies with the applicable corrosion control treatment requirements specified by the Authority under sections (2) and (3) of this rule shall be deemed in compliance with the treatment requirement contained in subsection (1)(a) of this rule.

(c) Any system exceeding the lead or copper action level shall implement all applicable source water treatment requirements specified by the Authority under section (4) of this rule.

(d) Any system exceeding the lead action level shall implement the public education requirements contained in section (5) of this rule.

(e) Tap water monitoring for lead and copper, monitoring for water quality parameters, source water monitoring for lead and copper, and analy-

ses of the monitoring results shall be completed in accordance with OAR 333-061-0036(1)(a) and 333-061-0036(2)(c).

(f) Systems shall report to the Authority all required treatment provision information and maintain appropriate records as prescribed in OAR 333-061-0034 and 0040.

(g) Failure to comply with the applicable requirements prescribed in these rules, shall constitute a violation of the national primary drinking water regulations for lead and/or copper.

(2) Systems shall complete the corrosion control treatment requirements as prescribed in section (3) of this rule as follows:

(a) Large systems (serving >50,000 persons) shall complete the following corrosion control treatment steps, unless it is deemed to have optimized corrosion control as prescribed in paragraphs (d)(B) or (d)(C) of this section:

(A) Systems shall conduct initial tap and water quality parameter monitoring for two consecutive six-month periods as prescribed in OAR 333-061-0036(2)(c)(D)(i) and (2)(c)(F) beginning January 1, 1992;

(B) Systems shall complete corrosion control studies prescribed in subsection (3)(c) of this rule by July 1, 1994;

(C) The Authority shall designate optimal corrosion control treatment as prescribed in subsection (3)(i) of this rule by January 1, 1995;

(D) Systems shall install optimal corrosion control treatment as prescribed in subsection (3)(k) of this rule by January 1, 1997;

(E) Systems shall complete follow-up sampling as prescribed in OAR 333-061-0036(2)(c)(D)(ii) and (2)(c)(F)(iv) by January 1, 1998;

(F) The Authority shall review installation of treatment and designate optimal water quality control parameters as prescribed in subsection (3)(l) of this rule by July 1, 1998.

(G) Systems shall operate in compliance with the Authority-specified optimal water quality control parameters as prescribed in subsection (3)(m) of this rule and continue to conduct tap sampling.

(b) Medium systems (serving 3,301 to 50,000 persons) shall complete the following corrosion control treatment steps, unless it is deemed to have optimized corrosion control under paragraph (d)(A),(d)(B), or (d)(C) of this section:

(A) Systems shall conduct initial tap sampling beginning July 1,1992 until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under OAR 333-061-0036(2)(c)(D)(iv). A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment within six months after the end of the monitoring period during which it exceeds one of the action levels.

(B) Within 12 months after the end of the monitoring period during which a system exceeds the lead or copper action level, the Authority may require the system to perform corrosion control studies. If the Authority does not require the system to perform such studies, the Authority shall specify optimal corrosion control treatment within the following time frames:

(i) For medium systems, within 18 months after the end of the monitoring period during which such system exceeds the lead or copper action level;

(ii) For small systems, within 24 months after the end of the monitoring period during which such system exceeds the lead or copper action level.

(C) If the Authority requires a system to perform corrosion control studies under paragraph (2)(b)(B) of this rule, the system shall complete the studies within 18 months after the Authority requires that such studies be conducted.

(D) If the system has performed corrosion control studies under paragraph (2)(b)(B) of this rule, the Authority shall designate optimal corrosion control treatment within 6 months after completion of paragraph (2)(b)(C) of this rule.

(E) Systems shall install optimal corrosion control treatment within 24 months after the Authority designates such treatment.

(F) Systems shall complete follow-up sampling within 36 months after the Authority designates optimal corrosion control treatment.

(G) The Authority shall review the system's installation of treatment and designate optimal water quality control parameters within 6 months after completion of follow-up sampling.

(H) Systems shall operate in compliance with the Authority-designated optimal water quality control parameters and continue to conduct tap sampling.

(c) Small systems (serving 3,300 or less persons) shall complete the corrosion control treatment steps prescribed in subsection (2)(b) of this rule, unless it is deemed to have optimized corrosion control under paragraphs (d)(A),(d)(B), or (d)(C) of this section. Small systems shall conduct initial tap sampling beginning July 1, 1993.

(d) A system is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies one of the following criteria. Any system deemed to have optimized corrosion control under this rule, and which has treatment in place, shall continue to operate and maintain optimal corrosion control treatment and meet any requirements that the Authority determines appropriate to ensure optimal corrosion control treatment is maintained:

(A) A small or medium-size water system meets the lead and copper action levels during each of two consecutive six-month monitoring periods conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E).

(B) Any water system that demonstrates to the satisfaction of the Authority that it has conducted activities equivalent to the corrosion control steps applicable to such system under this section. If the Authority makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with subsection (3)(l) of this rule. Water systems deemed to have optimized corrosion control under this paragraph shall operate in compliance with the Authority-designated optimal water quality control parameters in accordance with subsection (3)(m) of this rule and continue to conduct lead and copper tap and water quality parameter sampling in accordance with OAR 333-061-0036(2)(c)(D)(iii) and OAR 333-061-0036(2)(c)(F)(v), respectively. A system shall provide the Authority with the following information in order to support a determination under this paragraph:

(i) The results of all test samples collected for each of the water quality parameters in subsection (3)(d) of this rule;

(ii) A report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in subsection (3)(c) of this rule, the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment;

(iii) A report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

(iv) The results of tap water samples collected in accordance with OAR 333-061-0036(2)(c)(A) through (E) at least once every six months for one year after corrosion control has been installed.

(C) Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring and source water monitoring conducted in accordance with OAR 333-061-0036(2)(c)(A) through (E), (G) and (H) that demonstrates for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under OAR 333-061-0030(1)(c)(A) and the highest source water lead concentration, is less than 0.005 mg/l:

(i) Those systems whose highest source water lead level is below the MDL may also be deemed to have optimized corrosion control if the 90th percentile tap water lead level is less than or equal to the PQL for lead for two consecutive 6-month monitoring periods;

(ii) Any water system deemed to have optimized corrosion control shall continue monitoring for lead and copper at the tap no less frequently than once every three years using the reduced number of sampling sites and collecting the samples at the specified times and locations. Any such system that has not conducted a round of monitoring since September 30, 1997, shall complete a round of monitoring no later than September 30, 2000;

(iii) Any water system deemed to have optimized corrosion control shall notify the Authority in writing of any upcoming long-term change in treatment (eg. changing disinfectants or corrosion control chemicals) or the addition of a new source. The Authority must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Authority may require any such system to conduct additional monitoring or to take other action the Authority deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system;

(iv) As of July 2001, a system is not deemed to have optimized corrosion control unless it meets the copper action level.

(v) Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control shall implement corrosion control treatment in accordance with the deadlines prescribed in subsections (b) and (c) of this rule. Any such large system shall adhere to the schedule specified for medium size systems, with the time periods for completing each step being triggered by the date the system is no longer deemed to have optimized corrosion control.

(e) Any small or medium-size water system that is required to complete the corrosion control steps due to its exceedance of the lead or copper action level may cease completing the treatment steps whenever the system meets both action levels during each of two consecutive monitoring periods conducted pursuant to OAR 333-061-0036(2)(c)(A) through (E) and submits the results to the Authority. If any such water system thereafter exceeds the lead or copper action level during any monitoring period, the system (or the Authority, as the case may be) shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The Authority may require a system to repeat treatment steps previously completed by the system where the Authority determines that this is necessary to implement properly the treatment requirements of this section. The Authority shall notify the system in writing of such a determination and explain the basis for its decision. The requirement for any small- or medium- size system to implement corrosion control treatment steps in accordance with subsection (2)(b) of this rule (including systems deemed to have optimized corrosion control under paragraph (2)(d)(A) of this rule) is triggered whenever any small- or medium- size system exceeds the lead or copper action level.

(3) Each system shall complete the corrosion control treatment requirements described below which are applicable to such system under section (2) of this rule:

(a) Based upon the results of lead and copper tap monitoring and water quality parameter monitoring, small and medium-size water systems exceeding the lead or copper action level shall recommend installation of one or more of the corrosion control treatments listed in subsection (3)(c) of this rule which the system believes constitutes optimal corrosion control for that system. The Authority may require the system to conduct additional water quality parameter monitoring in accordance with OAR 333-061-0036(2)(c)(F)(iii) to assist the Authority in reviewing the system's recommendation.

(b) The Authority may require any small or medium-size system that exceeds the lead or copper action level to perform corrosion control studies under subsection (3)(c) of this rule to identify optimal corrosion control treatment for the system.

(c) Any public water system performing corrosion control studies shall evaluate the effectiveness of each of the treatments which follow, and, if appropriate, combinations of the treatments which follow to identify the optimal corrosion control treatment for that system. The water system shall evaluate each of the corrosion control treatments using either pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other systems of similar size, water chemistry and distribution system configuration:

(A) Alkalinity and pH adjustment;

(B) Calcium hardness adjustment; and

(C) The addition of a phosphate or silicate based corrosion inhibitor at a concentration sufficient to maintain an effective residual concentration in all test tap samples.

(d) The water system shall measure the following water quality parameters in any tests conducted under this subsection before and after evaluating the corrosion control treatments listed in subsection (3)(c) of this rule:

(A) Lead;

(B) Copper;

(C) pH;

(D) Alkalinity;

(E) Calcium;

(F) Conductivity;

(G) Orthophosphate (when an inhibitor containing a phosphate compound is used);

(H) Silicate (when an inhibitor containing a silicate compound is used);

(I) Water temperature.

(e) Any additional chemical treatment approaches considered by the water system shall be evaluated by the water system by conducting appropriate studies and analyses approved by the Authority that are equivalent in scope to the studies and analyses required in this section.

(f) The water system shall identify all chemical or physical constraints that limit or prohibit the use of a particular corrosion control treatment and document such constraints with at least one of the following:

(A) Data and documentation showing that a particular corrosion control treatment has adversely affected other water treatment processes when used by another water system with comparable water quality characteristics; and/or

(B) Data and documentation demonstrating that the water system has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

(g) The water system shall evaluate the effect of the chemicals used for corrosion control treatment on other water quality treatment processes.

(h) On the basis of an analysis of the data generated during each evaluation, the water system shall recommend to the Authority in writing the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that system. The water system shall provide a rationale for its recommendation along with all supporting documentation specified in subsections (3)(c) through (g) of this rule.

(i) Based upon consideration of available information including, where applicable, studies performed under subsection (3)(c) through (g) of this rule and a system's recommended treatment alternative, the Authority shall either approve the corrosion control treatment option recommended by the system, or designate alternative corrosion control treatment(s) from among those listed in subsection (3)(c) of this rule. When designating optimal treatment the Authority shall consider the effects that additional corrosion control treatment will have on water quality parameters and on other water quality treatment processes.

(j) The Authority shall notify the system of its decision on optimal corrosion control treatment in writing and explain the basis for this determination. If the Authority requests additional information to aid its review, the water system shall provide the information.

(k) Each system shall properly install and operate throughout its distribution system the optimal corrosion control treatment designated by the Authority under subsection (3)(i) of this rule.

(l) The Authority shall evaluate the results of all lead and copper tap samples and water quality parameter samples submitted by the water system and determine whether the system has properly installed and operated the optimal corrosion control treatment designated by the Authority in subsection (3)(i) of this rule. Upon reviewing the results of tap water and water quality parameter monitoring by the system, both before and after the system installs optimal corrosion control treatment, the Authority shall designate values for the applicable water quality control parameters as listed below and shall be those that the Authority determines to reflect optimal corrosion control treatment for the system. The Authority may designate values for additional water quality control parameters determined by the Authority to reflect optimal corrosion control for the system. The Authority shall notify the system in writing of these determinations and explain the basis for its decisions.

(A) A minimum value or a range of values for pH measured at each entry point to the distribution system;

(B) A minimum pH value, measured in all tap samples. Such value shall be 7.0, unless the Authority determines that meeting a pH level of 7.0 is not technologically feasible or is not necessary for the system to optimize corrosion control;

(C) If a corrosion inhibitor is used, a minimum concentration or a range of concentrations for the inhibitor, measured at each entry point to the distribution system and in all tap samples, that the Authority determines is necessary to form a passivating film on the interior walls of the pipes of the distribution system;

(D) If alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or a range of concentrations for alkalinity, measured at each entry point to the distribution system and in all tap samples;

(E) If calcium carbonate stabilization is used as part of corrosion control, a minimum concentration or a range of concentrations for calcium, measured in all tap samples.

(m) All systems that have installed treatment optimizing corrosion control shall continue to operate and maintain optimal corrosion control treatment, including maintaining water quality parameters at or above minimum values or within ranges designated by the Authority under subsection (3)(l) of this rule for all samples collected under OAR 333-061-0036(2)(c)(F)(v)-(vii). Compliance shall be determined every six months, as specified under OAR 333-061-0036(2)(c)(F)(v). A water system is out of compliance for a six-month period if it has excursions for any Authority-designated water quality parameter on more than nine days during the period. An excursion occurs whenever the daily value for one or more of the water quality parameters measured at a sampling location is below the minimum value or outside the range designated by the Authority. Daily values are calculated as follows:

(A) On days when more than one measurement for the water quality parameter is collected at the sampling location, the daily value shall be the

average of all results collected during the day regardless of whether they are collected through continuous monitoring, grab sampling or a combination of both;

(B) On days when only one measurement for the water quality parameter is collected at the sampling location, the daily value shall be the result of that measurement.

(C) On days when no measurement is collected for the water quality parameter at the sampling location, the daily value shall be the daily value calculated on the most recent day on which the water quality parameter was measured at the sample site;

(n) Upon its own initiative or in response to a request by a water system or other interested party, the Authority may modify its determination of the optimal corrosion control treatment under subsection (3)(i) of this rule or optimal water quality control parameters under subsection (3)(l) of this rule. A request for modification by a system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The Authority may modify its determination where it concludes that such change is necessary to ensure that the system continues to optimize corrosion control treatment. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the Authority's decision, and provide an implementation schedule for completing the treatment modifications.

(4) Source water treatment requirements:

(a) Systems shall complete the applicable source water monitoring and treatment requirements prescribed in subsection (4)(b) of this rule and OAR 333-061-0036(2)(c)(A) through (E), (G) and (H) by the following deadlines:

(A) A system exceeding the lead or copper action level shall complete lead and copper source water monitoring as prescribed in OAR 333-061-0036(2)(c)(G) and (H) and make a treatment recommendation to the Authority as prescribed in paragraph (4)(b)(A) of this rule no later than 180 days after the end of the monitoring period during which the lead or copper action level was exceeded.

(B) The Authority shall make a determination regarding source water treatment as prescribed in paragraph (4)(b)(B) of this rule within 6 months after submission of monitoring results required under paragraph (4)(a)(A) of this rule.

(C) If the Authority requires installation of source water treatment, the system shall install the treatment as prescribed in paragraph (4)(b)(C) of this rule within 24 months after completion of requirements prescribed in paragraph (4)(a)(B) of this rule.

(D) The system shall complete follow-up tap water monitoring as prescribed in OAR 333-061-0036(2)(c)(D)(ii) and source water monitoring as prescribed in OAR 333-061-0036(2)(c)(I) within 36 months after completion of requirements prescribed in paragraph (4)(a)(B) of this rule.

(E) The Authority shall review the system's installation and operation of source water treatment and specify maximum permissible source water levels as prescribed in paragraph (4)(b)(D) of this rule within 6 months after completion of requirements prescribed in paragraph (4)(a)(D) of this rule.

(F) The system shall operate in compliance with the Authority-specified maximum permissible lead and copper source water levels as prescribed in paragraph (4)(b)(D) of this rule and continue source water monitoring as prescribed in OAR 333-061-0036(2)(c)(J).

(b) Source water treatment description:

(A) Any system which exceeds the lead or copper action level shall recommend in writing to the Authority the installation and operation of one of the source water treatments listed in paragraph (4)(b)(B) of this rule. A system may recommend that no treatment be installed based upon a demonstration that source water treatment is not necessary to minimize lead and copper levels at users' taps.

(B) The Authority shall complete an evaluation of the results of all source water samples submitted by the water system to determine whether source water treatment is necessary to minimize lead or copper levels in water delivered to users' taps. If the Authority determines that treatment is needed, the Authority shall either require installation and operation of the source water treatment recommended by the system (if any) or require the installation and operation of another source water treatment from among the following: ion exchange, reverse osmosis, lime softening or coagulation/filtration. If the Authority requests additional information to aid in its review, the water system shall provide the information by the date specified by the Authority in its request. The Authority shall notify the system in writing of its determination and set forth the basis for its decision.

(C) Each system shall properly install and operate the source water treatment designated by the Authority under paragraph (4)(b)(B) of this rule.

(D) The Authority shall review the source water samples taken by the water system both before and after the system installs source water treatment, and determine whether the system has properly installed and operated the source water treatment designated by the Authority. Based upon its review, the Authority shall designate the maximum permissible lead and copper concentrations for finished water entering the distribution system. Such levels shall reflect the contaminant removal capability of the treatment properly operated and maintained. The Authority shall notify the system in writing and explain the basis for its decision.

(E) Each water system shall maintain lead and copper levels below the maximum permissible concentrations designated by the Authority at each sampling point monitored in accordance with OAR 333-061-0036(2)(c)(G) through (K). The system is out of compliance with this paragraph if the level of lead or copper at any sampling point is greater than the maximum permissible concentration designated by the Authority.

(F) Upon its own initiative or in response to a request by a water system or other interested party, the Authority may modify its determination of the source water treatment under paragraph (4)(b)(B) of this rule, or maximum permissible lead and copper concentrations for finished water entering the distribution system under paragraph (4)(b)(D) of this rule. A request for modification by a system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The Authority may modify its determination where it concludes that such change is necessary to ensure that the system continues to minimize lead and copper concentrations in source water. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the Authority's decision, and provide an implementation schedule for completing the treatment modifications.

(5) All water systems must deliver a consumer notice of lead tap water monitoring results to persons served by the water system at sites that are tested, as specified in subsection (5)(e) of this rule. Water systems that exceed the lead action level must sample the tap water of any customer who requests it in accordance with subsection (5)(d) of this rule. A water system that exceeds the lead action level based on tap water samples collected in accordance with OAR 333-061-0036(2)(c)(A) through (E) shall deliver the public education materials contained in subsections (5)(a) and (b) of this rule in accordance with the requirements in subsection (5)(c) of this rule.

(a) Content of written materials. Community and non-transient non-community water system(s) shall include the following elements in all of the printed materials it distributes through its lead public education program in the same order listed below. Paragraphs (5)(a)(A), (B) and (F) of this rule must be included in the materials exactly as written except for the text in braces in these paragraphs for which the system must include system-specific information. Any additional information presented by a system shall be consistent with the information below and be in plain language that can be understood by the general public. Water systems must submit all written public education materials to the Authority prior to delivery.

(A) IMPORTANT INFORMATION ABOUT LEAD IN YOUR DRINKING WATER. {INSERT NAME OF WATER SYSTEM} found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water.

(B) HEALTH EFFECTS OF LEAD: Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of the body. The greatest risk of lead exposure is to infants, young children and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

(C) SOURCES OF LEAD:

(i) Explain what lead is.

(ii) Explain the possible sources of lead in drinking water and how lead enters drinking water. Include information on home/building plumbing materials and service lines that contain lead.

(iii) Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

(D) STEPS THE CONSUMER CAN TAKE TO REDUCE THEIR EXPOSURE TO LEAD IN DRINKING WATER:

(i) Encourage running the water to flush out the lead.

(ii) Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.

(iii) Explain that boiling water does not reduce lead levels.

(iv) Discuss other options consumers can take to reduce exposure to lead in drinking water, such as alternative sources or treatment of water.

(v) Suggest that parents have their child's blood tested for lead.

(E) Explain why there are elevated levels of lead in the system's drinking water (if known) and what the water system is doing to reduce the lead levels in homes/buildings in this area.

(F) For more information, call us at {INSERT YOUR NUMBER}, {(if applicable include the following) or visit our web site at {INSERT YOUR WEB SITE HERE}}. For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's web site at http://www.epa.gov/lead or contact your health care provider.

(b) Community water systems must also:

(A) Tell consumers how to get their water tested;

(B) Discuss lead in plumbing components and the difference between low lead and lead free.

(c) Delivery of public education materials.

(A) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Authority, the public education materials must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

(B) A community water system that exceeds the lead action level on the basis of tap water samples collected in accordance with tap water monitoring requirements of these rules and that is not already conducting public education tasks under this rule must conduct the public education tasks under this section within 60 days after the end of the monitoring period in which the exceedance occurred.

(i) Deliver printed materials meeting the content requirements of subsections (5)(a) and (5)(b) of this rule to all bill paying customers;

(ii) Contact customers who are most at risk by delivering education materials that meet the content requirements of subsections (5)(a) and (5)(b) of this rule to local public health agencies even if they are not located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community water system's users. The water system must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems must deliver education materials that meet the content requirements of subsections (5)(a) and (5)(b) of this rule to all organizations on the provided lists.

(iii) Contact customers who are most at risk by delivering materials that meet the content requirements of subsections (5)(a) and (5)(b) of this rule to public and private schools or school boards; Women, Infants and children (WIC), and Head Start programs; public and private hospitals and medical clinics; Pediatricians; family planning clinics; and local welfare agencies located within the water system's service area along with an informational notice that encourages distribution to all of the organization's potentially affected customers or community water system's users.

(iv) Make a good faith effort to locate licensed childcare centers; public and private preschools; and Obstetricians-Gynecologists and Midwives within the service area and deliver materials that meet the content requirements of subsections (5)(a) and (5)(b) of this rule to them, along with an informational notice that encourages distribution to all potentially affected customers or users. The good faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the water system's service area.

(v) No less often than quarterly, provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written except for the text in braces for which the water system must include system-specific information: {INSERT NAME OF WATER SYSTEM} found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call {INSERT NAME OF WATER SYSTEM}, {(if applicable include the following) or visit our web site at {INSERT YOUR WEB SITE HERE}}. The message or delivery mechanisms can be modified in consultation with the Authority; specifically the Authority may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

(vi) Post material meeting the content requirements of subsection (5)(a) and (5)(b) of this rule on the water system's web site if the system serves a population greater than 100,000.

(vii) Submit a press release to newspaper, television and radio stations.

(viii) In addition to (5)(c)(B)(i) through (vii) of this rule systems must implement at least three activities from the following: public service announcements; paid advertisements; public area information displays; emails to customers; public meetings; household deliveries, targeted individual customer contact; direct material distribution to all multi-family homes and institutions or other methods approved by the Authority. The educational content and selection of these activities must be determined in consultation with the Authority.

(ix) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Authority has established an alternate monitoring period, the last day of that period.

(C) As long as a community water system exceeds the action level, it must repeat the activities in subsection (5)(c) of this rule as follows:

(i) A community water system shall repeat the tasks contained in (5)(c)(B)(i),(ii),(iii),(iv) and (viii) of this rule every 12 months.

(ii) A community water system shall repeat tasks contained in (5)(c)(B)(v) of this rule with each billing cycle.

(iii) A community water system serving a population greater than 100,000 shall post and retain material on a publicly accessible web site pursuant to (5)(c)(B)(vi) of this rule.

(iv) The community water system shall repeat the task in (5)(c)(B)(vii) of this rule twice every 12 months on a schedule agreed upon with the Authority. The Authority can allow activities in (5)(c)(B) of this rule to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the Authority in advance of the 60-day deadline.

(D) Within 60 days after the end of the monitoring period in which the exceedance occurred (unless it already is repeating public education tasks), a non-transient non-community water system shall deliver the public education materials specified by (5)(a) of this rule as follows:

(i) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

(ii) Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the non-transient non-community water system. The Authority may allow the system to utilize electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

(iii) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Authority has established an alternate monitoring period, the last day of that period.

(E) A non-transient non-community water system shall repeat the tasks contained in (5)(c)(D) at least once during each calendar year in which the system exceeds the action level. The Authority can allow activities to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis, however, this extension must be approved in writing by the Authority in advance of the 60-day deadline.

(F) A water system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to the monitoring requirements of these rules. Such a system shall recommence public education requirements if it subsequently exceeds the lead action level during any monitoring period.

(G) A community water system may apply to the Authority, in writing to use only the text specified in (5)(a) of this rule in lieu of the text in (5)(a) and (5)(b) of this rule and to perform the tasks listed in (5)(c)(D) and (E) in lieu of the tasks in (5)(c)(B) and (C) of this rule if:

(i) The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices: and

(ii) The system provides water as part of the cost of services provided and does not separately charge for water consumption.

(H) A community water system serving 3,300 or fewer people may limit certain aspects of their public education programs as follows:

(i) With respect to the requirements of (5)(c)(B)(viii), a system serving 3,300 or fewer must implement at least one of the activities listed.

(ii) With respect to the requirements of (5)(c)(B)(ii), (iii) and (iv) of this rule, a system serving 3,300 or fewer people may limit the distribution of the public education materials required to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.

(iii) With respect to the requirements of (5)(c)(B)(vii) of this rule the Authority may waive this requirement for systems serving 3,300 or fewer persons as long as the system distributes notices to every household served by the system.

(d) Supplemental monitoring and notification of results. A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with OAR 333-061-0036(2)(c)(A) through (E) shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

(e) Notification of results.

(A) All water systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the monitoring requirements of these rules to the persons served by the water system at the specific sampling site from which the sample was taken (e.g. the occupants of the residence where the tap was tested).

(B) A water system must provide the consumer notice as soon as practical, but no later than 30 days after the system learns of the tap monitoring results.

(C) The consumer notice must include the results of lead tap water monitoring for the tap that was tested, an explanation of the health effects of lead, list steps consumers can take to reduce exposure to lead in drinking water and contact information for the water utility. The notice must also provide the maximum contaminant level goal and the action level for lead and the definitions for these two terms.

(D) The Consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the Authority. For example, upon approval by the Authority, a non-transient, non-community water system could post the results on a bulletin board in the facility to allow users to review the information. The system must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-1-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0036

Sampling and Analytical Requirements

(1) General:

(a) Analyses must be conducted by EPA approved methods in accordance with the analytical requirements set forth in 40 CFR 141. Samples analyzed for the purposes of this rule shall be collected after the water has been allowed to flow from the sample tap for a sufficient length of time to assure that the collected sample is representative of water in the distribution system or from the water source as applicable, except for samples collected to determine corrosion by-products. Analysis and handling of Cryptosporidium and E. coli samples collected in accordance with subsections (5)(e) through (5)(h) of this rule must be conducted using EPA approved methods and must meet the requirements set forth in 40 CFR 141.704.

(b) Alternate Analytical Methods:

(A) With the written permission of the Authority, and concurred in by the Administrator of the U.S. EPA, an alternate analytical method may be employed on the condition that it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with any MCL; and

(B) The use of the alternate analytical method shall not decrease the frequency of sampling required by these rules.

(c) Accredited laboratories:

(A) For the purpose of determining compliance with the maximum contaminant levels and the sampling requirements of these rules, the Authority will only accept results from samples that have been handled and documented in accordance with Oregon Environmental Laboratory Accreditation Program (ORELAP) standards, and analyzed by a laboratory accredited by ORELAP, except as prescribed by paragraph (1)(c)(D) of this rule. Accredited laboratories will be considered a primary or subcontracted laboratory as specified by subparagraphs (1)(c)(A)(i) and (ii) of this rule.

(i) A primary laboratory is the first accredited laboratory that receives a compliance sample for analysis, and is responsible for chain of custody documentation (if applicable), performing the analytical method on a compliance sample (if applicable), final report review, and submission of results to the water system and the Authority as specified in OAR 333-061-0040(1)(b)(B). Primary laboratories must hold primary or secondary ORELAP accreditation.

(ii) A subcontracted laboratory is an accredited laboratory that performs the analytical method on a compliance sample, and is responsible for sample analysis and result reporting to the primary laboratory as specified in OAR 333-061-0040(1)(b)(B). Subcontracted laboratories must hold ORELAP primary or secondary accreditation for the appropriate method(s).

(B) All analysis for Cryptosporidium must be conducted by a laboratory that is approved by EPA's Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium in Water or a laboratory certified for Cryptosporidium analysis by the Authority.

(d) Monitoring of purchasing water systems:

(A) When a public water system obtains its water, in whole or in part, from one or more public water systems, the monitoring requirements imposed by these rules on the purchasing water system may be modified by the Authority to the extent that the system supplying the water is in compliance with its source monitoring requirements. When a public water system supplies water to one or more other public water systems, the Authority may modify monitoring requirements imposed by this rule to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes.

(B) Any modified monitoring shall be conducted pursuant to a schedule specified by the Authority and concurred in by the Administrator of the US Environmental Protection Agency.

(e) Water suppliers shall monitor each water source individually for contaminants listed in OAR 333-061-0030 (Maximum Contaminant Levels), except for coliform bacteria, TTHMs and corrosion by-products, at the entry point to the distribution system except as described below. Any such modified monitoring shall be conducted pursuant to a schedule prescribed by the Authority.

(A) If the system draws water from more than one source and sources are combined before distribution, the system may be allowed to sample at an entry point to the distribution system during normal operating conditions, where justified, taking into account operational considerations, geologic and hydrologic conditions, and other factors.

(B) If a system draws water from multiple ground water sources which are not combined before distribution, the system may be allowed to sample at a representative source or sources, where justified, taking into account geologic and hydrogeologic conditions, land uses, well construction, and other factors.

(f) Compliance with MCLs shall be based on each sampling point as described in this section. If any point is determined to be out of compliance, the system shall be deemed out of compliance. If an entirely separated portion of a water system is out of compliance, then only that portion of the system shall be deemed out of compliance.

(g) The Authority may require additional sampling and analysis for the contaminants included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary to determine whether an unreasonable risk to health exists. The Authority may also require sampling and analysis for additional contaminants not included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary for public health protection.

(h) Water suppliers and their appointed representatives shall collect water samples from representative locations in the water system as prescribed in this rule and shall employ proper sampling procedures and techniques. Samples submitted to laboratories for analysis shall be clearly identified and shall include the name of the water system, public water system identification number, sampling date, and time, sample location identifying the sample tap, the name of the person collecting the sample and be labeled as follows:

(A) Routine: These are samples collected from established sampling locations within a water system at specified frequencies to satisfy monitoring requirements as prescribed in this rule. These samples are used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(B) Repeat: These are samples collected as a follow-up to a routine sample that has exceeded a maximum contaminant level as prescribed in OAR 333-061-0030. Repeat samples are also used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(C) Special: These are samples collected to supplement routine monitoring samples and are not required to be reported to the Authority. Samples of this type are not considered representative of the water system and are outside the scope of normal quality assurance and control procedures and/or the established compliance monitoring program. Special samples include, but are not limited to, samples taken for special studies, user complaints, post construction/repair disinfection, sources not in service and raw water prior to treatment, except as required by this rule.

(i) Measurements for turbidity, disinfectant residual, temperature, alkalinity, calcium, conductivity, chlorite, bromide, TOC, SUVA, dissolved organic carbon, UV254, orthophosphate, silica and pH may be performed on site using approved methods by individuals trained in sampling and testing techniques. Daily chlorite samples measured at the entrance to the distribution system must be performed by a party approved by the Authority.

(j) Nothing in these rules shall be construed to preclude the Authority or any of its duly authorized representatives from taking samples and from using the results of such samples to determine compliance with applicable requirements of these rules.

(k) Wellfield Determination

(A) Water systems possessing two or more wells that separately supply water to the distribution system may be eligible to have those wells considered as a wellfield source for monitoring purposes provided the requirements of this rule are met. Information pertinent to determining whether the wellfield designation is appropriate can be found in the water system's Source Water Assessment Report.

(B) To be classified as a wellfield, the wells must meet the following criteria:

(i) The wells must be within 2,500 feet of one another or as determined in a state approved hydrogeological study to minimize inter-well interference drawdowns. For wells located in a low-impact land use area, this criterion may be waived at the discretion of the Authority.

(ii) The wells must produce from the same and no other aquifer. This criterion is determined using source water assessment results, based on well reports, maps and other hydrogeological information.

(C) To be considered for wellfield designation, the water supplier must submit the following to the Authority:

(i) A schematic drawing showing all sources, entry points and relevant sample taps;

(ii) A map and description of the land use activities within the respective wellhead protection areas (using the inventory section of the Source Water Assessment Report); and

(iii) A description of the pumping patterns.

(D) If a water system's wells are considered to comprise a wellfield, the susceptibility analysis conducted during the source water assessment is utilized to determine the sampling point(s). Table 15 summarizes the alternatives: [Table not included. See ED. NOTE.]

(E) To determine the most susceptible well, the area within the two-year time-of-travel is considered. The Authority will consider the potential contaminant source inventory determined during the source water assessment, the aquifer sensitivity, pumping patterns and other pertinent hydrogeological information.

(F) The Authority may still designate more than one entry point within the wellfield as a sampling point if well construction or land use practices warrant. For a large area containing numerous wells, sub-wellfields may be identified, each with its own sample site designation.

(2) Inorganic chemicals:

(a) Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Cyanide, Fluoride, Mercury, Nickel, Selenium and Thallium.

(A) Sampling of water systems for regulated Inorganic Chemicals shall be conducted as follows:

(i) Community and Non-Transient Non-Community Water systems using surface water sources or groundwater sources under the direct influence of surface water solely or a combination of surface and ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Surface water systems shall collect samples annually at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(j) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) Community and Non-Transient Non-Community Water systems using ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system representative of each source after any application of treatment. Ground water systems shall collect samples once every three years at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(j) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(iii) All new Transient Non-Community and State Regulated water systems or existing Transient Non-Community, and State Regulated water systems with new sources shall sample once for arsenic. Samples are to be collected at the entry points to the distribution system representative of each source after any application of treatment.

(iv) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(v) A water system with two or more wells that have been determined to constitute a "wellfield" as specified in subsection (1)(k) of this rule may reduce sampling to only those entry point(s) designated by the Authority.

(B) The Authority may allow compositing of samples from a maximum of 5 sampling points, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples is to be done in the laboratory. Composite samples must be analyzed within 14 days of collection. If the concentration in the composite sample is equal to or greater than one-fifth of the MCL of any inorganic chemical listed in section (2) of this rule, then a follow-up sample must be taken for the contaminants which exceeded one-fifth of the MCL within 14 days at each sampling point included in the composite. If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicates must be analyzed and the results reported to the Authority within 14 days of collection. If the population served by the water system is >3,300 persons, then compositing can only be allowed within the system. In systems serving ≤3,300 persons, compositing is allowed among multiple systems provided the 5 sample limit is maintained.

(C) Water systems may apply to the Authority for a waiver from the monitoring frequencies specified in paragraph (2)(a)(A) of this rule on the condition that the system shall take a minimum of one sample while the waiver is effective and the effective period for the waiver shall not exceed one nine-year compliance cycle.

(i) The Authority may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring (at least one sample shall have been taken since January 1, 1990), and all analytical results are less than the maximum contaminant levels prescribed in OAR 333-061-0030 for inorganic chemicals. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed.

(ii) Waivers granted by the Authority shall be in writing and shall set forth the basis for the determination. The Authority shall review and revise, where appropriate, its determination of the appropriate monitoring frequency when the system submits new monitoring data or where other data relevant to the system's appropriate monitoring frequency become available. In determining the appropriate reduced monitoring frequency, the Authority shall consider the reported concentrations from all previous monitoring; the degree of variation in reported concentrations; and other factors which may affect concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, or changes in stream flows or characteristics.

(D) Systems which exceed the maximum contaminant levels as calculated in subsection (2)(i) of this rule shall monitor quarterly beginning in the next quarter after the violation occurred. The Authority may decrease the quarterly monitoring requirement to the frequencies prescribed in paragraph (2)(a)(A) of this rule when it is determined that the system is reliably and consistently below the maximum contaminant level. Before such a decrease is permitted a groundwater system must collect at least two quarterly samples and a surface water system must collect a minimum of four quarterly samples.

(E) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Authority. The system must also comply with the initial sampling frequencies specified by the Authority to ensure a system can demonstrate compliance with the MCL. Routine and increased monitoring frequencies shall be conducted in accordance with the requirements in this section.

(b) Asbestos:

(A) Community and Non-Transient Non-Community water systems regardless of source, shall sample for Asbestos at least once during the initial three-year compliance period of each nine-year compliance cycle starting January 1, 1993 according to the schedule under subsection (2)(j) of this rule unless a water system applies for a waiver and the waiver is granted by the Authority.

(B) As reviewed by the Authority, if the water system is determined not to be vulnerable to either asbestos contamination in its source water or due to corrosion of asbestos-cement pipe, or both, a waiver may be granted. If granted, the water system will not be required to monitor while the waiver remains in effect. A waiver remains in effect until the completion of the three year compliance period.

(C) A system vulnerable to asbestos contamination due solely to corrosion of asbestos-cement pipe shall take one sample at a tap served by the asbestos-cement pipe under conditions where asbestos contamination is most likely to occur.

(D) A system vulnerable to asbestos contamination due solely to source water shall monitor for asbestos once every nine years.

(E) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(F) A System which exceeds the maximum contaminant levels for asbestos as prescribed in subsection (2)(i) of this rule shall monitor quarterly beginning in the next quarter after the violation occurred. If the Authority determines that the system is reliably and consistently below the maximum contaminant level based on a minimum of two quarterly samples for groundwater systems or a minimum of four quarterly samples for surface water systems or combined surface water/groundwater systems, the system may return to the sampling frequency prescribed in paragraph (2)(b)(A) of this rule.

(G) If monitoring data collected after January 1, 1990 are generally consistent with subsection (2)(b) of this rule, then the Authority may allow the system to use these data to satisfy monitoring requirements for the three-year compliance period beginning January 1, 1993.

(c) Lead and Copper:

(A) Community and Non-Transient, Non-Community water systems shall monitor for lead and copper in tap water as follows: Sample site location:

(i) Each water system shall complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this paragraph, and which is sufficiently large to ensure that the water system can collect the number of lead and copper tap samples required in paragraph (2)(c)(C) of this rule. All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

(ii) In addition to any information that may have been gathered under the special corrosivity monitoring requirements, the water system shall review the sources of information listed below in order to identify a sufficient number of sampling sites:

(I) All plumbing codes, permits, and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system; and

(II) All existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

(iii) The sampling sites selected for a Community water system's sampling pool ("tier 1 sampling sites") shall consist of single family structures that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes. When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

(iv) Any Community water system with insufficient tier 1 sampling sites shall complete its sampling pool with "tier 2 sampling sites", consisting of buildings, including multiple-family residences that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(v) Any Community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites", consisting of single family structures that contain copper pipes with lead solder installed before 1983. A community water system with insufficient tier 1, tier 2 and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the system.

(vi) The sampling sites selected for a Non-Transient Non-Community water system ("tier 1 sampling sites") shall consist of buildings that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(vii) A Non-Transient Non-Community water system with insufficient tier 1 sites that meet the targeting criteria in subparagraph (2)(c)(A)(vi) of this rule shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed, the system shall use representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

(viii) Any water system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate in a letter submitted to the Authority under OAR 333-061-0040(1)(g)(A)(i) why a review of the information listed in subparagraph (2)(c)(A)(ii) of this rule was inadequate to locate a sufficient number of tier 1 sites. Any Community water system which includes tier 3 sampling sites in its sampling pool shall demonstrate in such a letter why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.

(B) Monitoring requirements for lead and copper in tap water. Sample collection methods:

(i) All tap samples for lead and copper collected in accordance with this paragraph shall be first draw samples.

(ii) Each first-draw tap sample for lead and copper shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least six hours. First-draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a non-residential building shall be one liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption. First-draw samples may be collected by the system or the system may allow residents to collect first-draw samples after instructing the residents of the sampling procedures specified in this paragraph. To avoid problems of residents handling nitric acid, acid fixation of first draw samples may be done up to 14 days after the sample is collected. If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

(iii) A water system shall collect each first-draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

(C) Monitoring requirements for lead and copper in tap water. Number of samples: Water systems shall collect at least one sample during each monitoring period specified in paragraph (2)(c)(D) of this rule from the number of sites listed in the first column below ("standard monitoring"). A system conducting reduced monitoring under subparagraph (2)(c)(D)(iv) of this rule shall collect at least one sample from the number of sites specified in the second column below during each monitoring period specified in subparagraph (2)(c)(D)(iv) of this rule. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. A system that has fewer than five drinking water taps, that can be used for human consumption meeting the sample site criteria of (2)(c)(A) of this rule to reach the required number of sample sites, must collect at least one sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively the Authority may allow these public water systems to collect a number of samples less than the number of sites specified below provided that 100 percent of all taps that can be used for human consumption are sampled. The Authority must approve this reduction of the minimum number of samples in writing based on a request from the system or onsite verification by the Authority. The Authority may specify sampling locations when a system is conducting reduced monitoring.

System Size — # of sites — # of sites
(# People Served) — (Standard Monitoring) — (Reduced Monitoring)
>100,000 — 100 — 50
10,001 to 100,000 — 60 — 30
3,301 to 10,000 — 40 — 20

501 to 3,300 — 20 — 10
101 to 500 — 10 — 5
≤100 — 5 — 5

(D) Monitoring requirements for lead and copper in tap water. Timing of monitoring:

(i) Initial tap monitoring requirements:

(I) All large systems shall monitor during two consecutive six-month periods.

(II) All small and medium-size systems shall monitor during each six-month monitoring period until the system exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements specified in OAR 333-061-0034(2), in which case the system shall continue monitoring in accordance with subparagraph (2)(c)(D)(ii) of this rule, or the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with subparagraph (2)(c)(D)(iv) of this rule.

(ii) Monitoring after installation of corrosion control and source water treatment.

(I) Any large (serving more than 50,000 persons) system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall monitor during two consecutive six-month monitoring periods by the date specified in 333-061-0034(2)(a)(E).

(II) Any small (serving 3,300 people or less) or medium-size (serving 3,301 to 50,000 persons) system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(b)(E) shall monitor during two consecutive six-month monitoring periods by the date specified in 333-061-0034(2)(b)(F).

(III) Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall monitor during two consecutive six-month monitoring periods by the date specified in 333-061-0034(4)(a)(D).

(iii) Monitoring after the Authority specifies water quality parameter values for optimal corrosion control. After the Authority specifies the values for water quality control parameters under OAR 333-061-0034(3)(l), the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the Authority specifies the optimal values.

(iv) Reduced monitoring

(I) A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with paragraph (2)(c)(C) of this rule, and reduce the frequency of sampling to once per year. A small or medium water system collecting fewer than five samples as specified in (2)(c)(C) of this rule that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the frequency of sampling to once per year. In no case can the system reduce the number of samples required below the minimum of one sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

(II) Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Authority during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and reduce the number of lead and copper samples in accordance with paragraph (2)(c)(C) of this rule if it receives written approval from the Authority. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. The Authority shall review monitoring, treatment, and other relevant information submitted by the water system, and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring. The Authority shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(III) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Authority during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval from the Authority. Samples collected once every three years shall be collected no later than every third calendar year. The Authority shall review monitoring, treatment, and other relevant information submitted by the water system and shall notify the system in writing when it determines the system is eligible to reduce the frequency of monitoring to once every three years. The Authority shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(IV) A water system that reduces the number and frequency of sampling shall collect these samples from representative sites included in the pool of targeted sampling sites identified in paragraph (2)(c)(A) of this rule. Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September. The Authority may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a Non-transient Non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Authority shall designate a period that represents a time of normal operation for the system. This sampling shall begin during the period approved or designated by the Authority in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring. Community and Non-transient Non- community water systems monitoring annually or triennially that have been collecting samples during the months of June through December and that receive Authority approval to alter their sample collection period must collect their next round of samples during a time period that ends no later than 21 months or 45 months, respectively, after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially as required in this subsection.

(V) A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with subparagraph (2)(c)(D)(iii) of this rule and collect the number of samples specified for standard lead and copper monitoring in paragraph (2)(c)(C) of this rule and shall also conduct water quality parameter monitoring in accordance with subparagraphs (2)(c)(F)(iii), (iv) or (v) of this rule, as appropriate, during the period in which the lead or copper action level was exceeded. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the requirement of subparagraph (2)(c)(D)(iv)(I) of this rule. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. Any such system may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria prescribed in subparagraphs (2)(c)(D)(iv)(III) or (VI) of this rule. Any water system subject to reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality control parameters specified by the Authority for more than nine days in any six-month period specified in subparagraph (2)(c)(F)(v) of this rule shall conduct tap water sampling for lead and copper at the frequency specified in subparagraph (2)(c)(D)(iii) of this rule, collect the number of samples specified for standard monitoring, and shall resume monitoring for water quality parameters within the distribution system in accordance with subparagraph (2)(c)(F)(v) of this rule. This standard tap water sampling shall begin no later than the six-month monitoring period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions Such a system may, with written Authority approval, resume reduced annual monitoring for lead and copper at the tap after it has completed two subsequent six-month rounds of tap lead and copper monitoring that meet the criteria specified in subparagraph (2)(c)(D)(iv)(II) of this rule. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. Such a system, with written Authority approval, may resume reduced triennial monitoring for lead and copper at the tap if it meets the criteria specified in subparagraphs (2)(c)(D)(iv)(III) and (VI) of this rule. Such a system may reduce the number and frequency of water quality parameter distribution tap samples required in accordance with subparagraph (2)(c)(F)(vi)(I) and (II) of this rule. Such a system may not

resume triennial monitoring for water quality parameters distribution tap samples until it demonstrates that it has re-qualified for triennial monitoring.

(VI) Any water system that demonstrates for two consecutive 6-month monitoring periods that the 90th percentile lead level is less than or equal to 0.005 mg/l and the 90th percentile copper level is less than or equal to 0.65 mg/l may reduce the number of samples in accordance with paragraph (2)(c)(C) of this rule and reduce the frequency of sampling to once every three calendar years.

(VII) Any water system subject to a reduced monitoring frequency under (2)(c)(D)(iv) of this rule shall notify the Authority in writing of any upcoming long-term change in treatment or addition of a new source. The Authority must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Authority may require the system to resume standard monitoring or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

(E) Monitoring requirements for lead and copper in tap water. Additional monitoring by systems: The results of any monitoring conducted in addition to the minimum requirements of subsection (c) of this rule shall be considered by the system and the Authority in making any determinations (i.e., calculating the 90th percentile lead or copper level). The Authority may invalidate lead and copper tap water samples as follows:

(i) The Authority may invalidate a lead or copper tap sample if at least one of the following conditions is met. The decision and the rationale for the decision must be documented in writing by the Authority. A sample invalidated by the Authority does not count toward determining lead or copper 90th percentile levels or toward meeting the minimum monitoring requirements:

(I) The laboratory establishes that improper sample analysis caused erroneous results; or

(II) A site that did not meet the site selection criteria; or

(III) The sample container was damaged in transit; or

(IV) There is substantial reason to believe that the sample was subject to tampering.

(ii) The system must report the results of all samples to the Authority and all supporting documentation for samples the system believes should be invalidated.

(iii) The Authority may not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

(iv) The water system must collect replacement samples for any samples invalidated if, after the invalidation of one or more samples, the system has too few samples to meet the minimum requirements. Any such replacement samples must be taken as soon as possible, but no later than 20 days after the date the Authority invalidates the sample. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(F) Monitoring requirements for water quality parameters. All large water systems and all medium and small water systems that exceed the lead or copper action levels shall monitor water quality parameters in addition to lead and copper as follows:

(i) General Requirements. Sample collection methods:

(I) Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Water quality parameter sampling is not required to be conducted at taps targeted for lead and copper sampling, however, established coliform sampling sites may be used to satisfy these requirements.

(II) Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(ii) General requirements. Number of samples:

(I) Systems shall collect two tap samples for applicable water quality parameters during each monitoring period specified under subparagraphs (2)(c)(F)(iii) through (vi) of this rule from the following number of sites.

System Size # People served — # of Sites For Water Quality Parameters
>100,000 — 25
10,001-100,000 — 10
3,301 to 10,000 — 3
501 to 3,300 — 2
101 to 500 — 1
<100 — 1

(II) Except as provided in subparagraph (2)(c)(F)(iv)(III) of this rule, systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in subparagraph (2)(c)(F)(iii) of this rule. During each monitoring period specified in subparagraphs (2)(c)(F)(iv) through (vi) of this rule, systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

(iii) Initial Sampling. All large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each six-month monitoring period specified in subparagraph (2)(c)(D)(i) of this rule. All small and medium-size systems shall measure the applicable water quality parameters at the locations specified below during each six-month monitoring period specified in subparagraph (2)(c)(D)(i) of this rule during which the system exceeds the lead or copper action level:

(I) At taps: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium, conductivity, and water temperature.

(II) At each entry point to the distribution system: all of the applicable parameters listed in subparagraph (2)(c)(F)(iii)(I) of this rule.

(iv) Monitoring after installation of corrosion control. Any large system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall measure the water quality parameters at the locations and frequencies specified below during each six-month monitoring period specified in subparagraph (2)(c)(D)(ii)(I) of this rule. Any small or medium-size system which installs optimal corrosion control treatment shall conduct such monitoring during each six-month monitoring period specified in subparagraph (2)(c)(D)(ii)(II) of this rule in which the system exceeds the lead or copper action level.

(I) At taps, two samples for: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium (when calcium carbonate stabilization is used as part of corrosion control).

(II) Except as provided in subparagraph (2)(c)(D)(iv)(III) of this rule, at each entry point to the distribution system, at least one sample, no less frequently than every two weeks (bi-weekly) for: pH; when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration; and when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable).

(III) Any ground water system can limit entry point sampling to those entry points that are representative of water quality and treatment conditions throughout the system. If water from untreated ground water sources mixes with water from treated ground water sources, the system must monitor for water quality parameters both at representative entry points receiving treatment and no treatment. Prior to the start of any monitoring, the system shall provide to the Authority written information identifying the selected entry points and documentation, including information on seasonal variability, sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(v) Monitoring after Authority specifies water quality parameter values for optimal corrosion control. After the Authority specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under OAR 333-061-0034(3)(l), all large systems shall measure the applicable water quality parameters in accordance with subparagraph (2)(c)(F)(iv) of this rule and determine compliance every six months with the first six-month period to begin on either January 1 or July 1, whichever comes first, after the Authority specifies optimal water quality parameter values. Any small or medium-size system shall conduct such monitoring during each monitoring period specified in this paragraph in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to subparagraph (2)(c)(D)(iv) of this rule at the time of the action level exceedance, the start of the applicable six-month monitoring period shall coincide with the start of the applicable monitoring period under (2)(c)(D) of this rule. Compliance with Authority-designated optimal water quality parameter values shall be determined as specified under 333-061-0034(3)(m).

(vi) Reduced monitoring:

(I) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under paragraph (2)(c)(D) of this rule shall continue monitoring at the entry point(s) to the

distribution system as specified in subparagraph (2)(c)(F)(iv)(II) of this rule. Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each six-month monitoring period.

System Size# People served — Reduced # of Sites for Water Quality Parameters
>100,000 — 10
10,001-100,000 — 7
3,301 to 10,000 — 3
501 to 3,300 — 2
101 to 500 — 1
<100 — 1

(II) Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Authority under OAR 333-061-0034(3)(l) during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in subparagraph (2)(c)(F)(vi)(I) of this rule from every six months to annually. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Authority under 333-061-0034(3)(l) during three consecutive years of annual monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters from annually to every three years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

(III) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to 0.005 mg/l, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/l, and that it also has maintained the range of values for water quality parameters reflecting optimal corrosion control treatment specified by the Authority. Monitoring conducted every three years shall be done no later than every third calendar year.

(IV) A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

(V) Any water system subject to reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Authority under OAR 333-061-0034(3)(l) for more than nine days in any six-month period shall resume distribution system tap water sampling in accordance with the number and frequency requirements in subparagraph (2)(c)(F)(v) of this rule. Such a system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the criteria specified in subparagraph (2)(c)(F)(v) of this rule and/or may resume triennial monitoring at the reduced number of sites after it demonstrates through subsequent annual rounds that it meets the criteria of subparagraphs (2)(c)(F)(vi)(I) and (II) of this rule.

(vii) Additional monitoring by systems. The results of any monitoring conducted in addition to the minimum requirements of subsection (2)(c) of this rule shall be considered by the system and the Authority in making any determinations.

(G) Monitoring requirements for lead and copper in source water. Sample location, collection methods, and number of samples:

(i) A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with paragraphs (2)(c)(A) through (E) of this rule shall collect lead and copper source water samples in accordance with the following requirements regarding sample location, number of samples, and collection methods:

(I) Ground water systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant;

(II) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source, after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant; Surface water systems include systems with a combination of surface and ground sources; and

(III) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods when water is representative of all sources being used.

(ii) Where the results of sampling indicate an exceedance of maximum permissible source water levels established under OAR 333-061-0034(4)(b)(D) the Authority may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point. If an Authority-required confirmation sample is taken for lead or copper, then the results of the initial and confirmation sample shall be averaged in determining compliance with the Authority-specified maximum permissible levels. Any sample value below the detection limit shall be considered to be zero. For lead any value above the detection limit but below the Practical Quantitation Level (PQL) (0.005 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.0025 mg/l). For copper any value above the detection limit but below the PQL (0.050 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.025 mg/l).

(H) Monitoring requirements for lead and copper in source water. Monitoring frequency after system exceeds tap water action level. Any system which exceeds the lead or copper action level at the tap, shall collect one source water sample from each entry point to the distribution system no later than six months after the end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the Authority has established an alternate monitoring period, the last day of that period.

(i) Monitoring frequency after installation of source water treatment. Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified in 333-061-0034(4)(a)(D).

(ii) Monitoring frequency after Authority specifies maximum permissible source water levels or determines that source water treatment is not needed.

(I) A system shall monitor at the frequency specified below in cases where the Authority specifies maximum permissible source water levels under OAR 333-061-0034(4)(b)(D) or determines that the system is not required to install source water treatment under 333-061-0034(4)(b)(B). A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the applicable Authority determination is made. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third calendar year. A water system using surface water (or a combination of surface and groundwater) shall collect samples once during each calendar year, the first annual monitoring period to begin during the year in which the applicable Authority determination is made.

(II) A system is not required to conduct source water sampling for lead and/or copper if the system meets the action level for the specific contaminant in tap water samples during the entire source water sampling period applicable to the system under subparagraph (2)(c)(H)(ii)(I) of this rule.

(iii) Reduced monitoring frequency:

(I) A water system using only groundwater may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and it demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Authority in OAR 333-061-0034(4)(b)(D) during at least three consecutive compliance periods under subparagraph (2)(c)(H)(ii)(I) of this rule or the Authority has determined that source water treatment is not needed and the system demonstrates during at least three consecutive compliance periods under subparagraph (2)(c)(H)(ii)(I) of this rule that the concentration of lead in source water was less than or equal to 0.005 mg/l and the concentration of copper in source water was less than or equal to 0.65 mg/l.

(II) A water system using surface water (or a combination of surface and ground waters) may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and it demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Authority in OAR 333-061-0034(4)(b)(D) for at least three consecutive years or the Authority has determined that source water treatment is not needed and the system

demonstrates that during at least three consecutive years the concentration of lead in source water was less than or equal to 0.005 mg/l and the concentration of copper in source water was less than or equal to 0.65 mg/l.

(III) A water system that uses a new source of water is not eligible for reduced monitoring for lead and/or copper until concentrations in samples collected from the new source during three consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified by the Authority in OAR 333-061-0034(4)(a)(E).

(d) Nitrate:

(A) Community and Non-Transient Non-Community water systems using surface water sources or groundwater sources under the direct influence of surface water shall monitor for Nitrate on a quarterly basis, at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment, beginning January 1, 1993. The Authority may allow a surface water system to reduce the sampling frequency to annually provided that all analytical results from four consecutive quarters are less than 50 percent of the MCL. A surface water system shall return to quarterly monitoring if any one sample is 50 percent of the MCL.

(B) Community and Non-Transient Non-Community water systems using groundwater sources shall monitor for Nitrate annually, at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment, beginning January 1, 1993. The Authority shall require quarterly monitoring for a least one year following any one sample in which the concentration is 50 percent of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(C) Transient Non-Community and State Regulated water systems shall monitor for Nitrate annually, at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment, beginning January 1, 1993. Transient Non-Community water systems must monitor quarterly for at least one year following any one sample in which the concentration is 50 percent of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(D) After the initial round of quarterly sampling is completed, each Community and Non-Transient Non-Community water system which is monitoring annually shall take subsequent samples during the quarter(s) which previously resulted in the highest analytical result.

(e) Nitrite:

(A) Community, Non-Transient Non-Community, and Transient Non-Community water systems shall collect one sample for Nitrite at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment during the compliance period beginning January 1, 1993.

(B) After the initial sample, all systems where analytical results for Nitrite are <50 percent of the MCL, shall monitor once during each subsequent compliance period.

(C) Water systems must conduct quarterly monitoring for at least one year following any one sample in which the concentration is ≥50 percent of the MCL. A water system may change to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below 50 percent of the MCL.

(D) A water system with an analytical result ≥50 percent of the MCL may never monitor less frequently than annually. Systems which are monitoring annually must collect each subsequent sample during the quarter(s) which previously resulted in the highest analytical result.

(E) The Authority may grant a waiver from the monitoring frequency specified in paragraph (2)(e)(B) of this rule provided that water systems have conducted a minimum of three rounds of monitoring (at least one sample shall have been collected since January 1, 1993), and all analytical results are less than 50 percent of the MCL prescribed in OAR 333-061-0030. Water systems that have been granted a waiver must monitor once during each nine-year compliance cycle. Waivers must be granted as prescribed by subparagraph (2)(a)(C)(ii) of this rule.

(F) A water system with two or more wells that have been determined to constitute a "wellfield" as specified in subsection (1)(k) of this rule may reduce sampling to only those entry point(s) designated by the Authority.

(f) Sodium

(A) Samples of water which is delivered to users shall be analyzed for Sodium as follows:

(i) Community and Non-Transient Non-Community water systems, surface water sources, once per year for each source;

(ii) Community and Non-Transient Non-Community water systems, ground water sources, once every three years for each source.

(B) The water supplier shall report to the Authority the results of the analyses for Sodium as prescribed in rule 333-061-0040. The Authority shall notify local health officials of the test results.

(g) Confirmation Samples:

(A) Where the results of sampling for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the Authority may require one additional sample to be taken as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point.

(B) Where the results of sampling for nitrate or nitrite exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the system is required to collect one additional sample within 24 hours of notification of the results of the initial sample at the same sampling point. Systems unable to comply with the 24-hr sampling requirement must initiate consultation with the Authority as soon as practical, but no later than 24 hours after the system learns of the violation and must immediately notify their users as prescribed in 333-061-0042(2)(a)(B), and collect one additional sample within two weeks of notification of the results of the initial sample.

(C) If a confirmation sample required by the Authority is taken for any contaminant then the results of the initial and confirmation sample shall be averaged. The resultant average shall be used to determine the system's compliance as prescribed in subsection (2)(i) of this rule.

(h) The Authority may require more frequent monitoring than specified in subsections (2)(a) through (f) of this rule or may require confirmation samples for positive and negative results. Systems may apply to the Authority to conduct more frequent monitoring than is required in this section.

(i) Compliance with the inorganic MCLs as listed in 333-061-0030(1) (Table 1) shall be determined based on the analytical result(s) obtained at each sampling point as follows:

(A) For systems which are conducting monitoring at a frequency greater than annual, compliance with the MCLs for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium is determined by a running annual average at any sampling point. If the average at any sampling point rounded to the same number of significant figures as the MCL for the substance in question is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample with results below the detection limit specified for the approved EPA analytical method shall be calculated at zero for the purpose of determining the annual average. If a system fails to collect the required number of samples, compliance (average concentration) will be based on the total number of samples collected.

(B) Systems monitoring annually or less frequently for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium must begin quarterly sampling if the level of a contaminant at any sampling point is greater than the MCL listed in OAR 333-061-0030(1). The water system will then determine compliance with the MCL by running annual average at the sampling point. The water system will not be considered in violation of the MCL until it has completed one year of quarterly monitoring. If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance (average concentration) will be based on the total number of samples collected.

(C) Compliance with MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs. If the levels of nitrate and/or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with paragraph (2)(g)(B) of this rule and compliance shall be determined based on the average of the initial and confirmation samples.

(D) If the results of an analysis as prescribed in this rule indicate the level of any contaminant exceeds the maximum contaminant level, the water supplier shall report the analysis results to the Authority within 48 hours as prescribed in OAR 333-061-0040 and initiate the public notice procedures as prescribed by OAR 333-061-0042.

(E) A water system's running annual average (RAA) is calculated by averaging the analytical results for the current monitoring period and the previous monitoring periods within a one-year time frame. For water systems monitoring less frequently than quarterly, the first sample result that exceeds the MCL is considered to be the initial sampling result for determination of the RAA. Multiple sample results within any monitoring peri-

od will be averaged and then rounded to the same number of significant figures as the MCL of the contaminant in question. For the purposes of calculating a RAA, a monitoring period may be a calendar month or calendar quarter. Special samples, as described by paragraph (1)(h)(C) of this rule, will not be included in the calculation of a system's running annual average.

(j) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population — Begin Initial Monitoring — Complete Initial Monitoring By
300 or More — January 1, 1993 — December 31, 1993
100-299 — January 1, 1994 — December 31, 1994
Less than 100 — January 1, 1995 — December 31, 1995

(3) Organic chemicals:

(a) Synthetic Organic Chemicals: Alachlor, Atrazine, Benzo(a)pyrene, Carbofuran, Chlordane, Dalapon, Dibromochloropropane, Dinoseb, Dioxin(2,3,7,8-TCDD), Diquat, Di(2-ethylhexyl)adipate, Di(2-ethylhexyl)phthalate, Endothall, Endrin, Ethylene dibromide, Glyphosate, Heptachlor, Heptachlor epoxide, Hexachlorobenzene, Hexachlorocyclopentadiene, Lindane(BHC-g), Methoxychlor, Oxamyl(Vydate), Picloram, Polychlorinated biphenyls, Pentachlorophenol, Simazine, Toxaphene, 2,4-D and 2,4,5-TP Silvex.

(A) Samples of water which is delivered to users shall be analyzed for regulated synthetic organic chemicals (SOC) as follows:

(i) Community and Non-Transient Non-Community water systems using surface water, ground water under the direct influence of surface water, or groundwater shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment beginning with the initial compliance period starting January 1, 1993. Community and Non-Transient Non-Community water systems shall collect four consecutive quarterly samples at each sampling point. The water systems must collect each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) Beginning on January 1, 2010, new community and non-transient non-community water systems using groundwater sources, or existing systems using a new source, shall sample at each point to the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Samples must be collected annually for three consecutive years at each sampling point. The water systems must collect each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing wellfield, within an existing drinking water protection area, or within an area well characterized by area-wide source water assessments and/or past monitoring results as determined by the Authority, may be eligible for a reduction in initial monitoring from three consecutive annual samples to one sample if no detections occur and if, based on the system's source assessment, the Authority determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(iii) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(iv) If the initial analyses as specified in subparagraphs (3)(a)(A)(i) or (ii) of this rule does not detect any contaminant listed in subsection (3)(a) of this rule, then monitoring at each sampling point may be reduced to:

(I) Two consecutive quarterly samples in one year during each repeat 3-year compliance period for systems serving more than 3,300 population; or

(II) One sample in each repeat 3-year compliance period for systems serving less than or equal to 3,300 population.

(v) A water system with two or more wells that have been determined to constitute a "wellfield" as specified in subsection (1)(k) of this rule may reduce sampling to only those entry point(s) designated by the Authority.

(B) Each Community and Non-Transient Non-Community water system may apply to the Authority for a waiver from the requirements of paragraph (3)(a)(A) of this rule. A waiver must be in place prior to the year in which the monitoring is to be accomplished. Every water system must reapply for a waiver for each compliance period. A water system can receive specific guidance in obtaining a waiver from the Use and Susceptibility Waiver Guidance Document developed by the Authority.

(i) The water system shall use the drinking water protection area as delineated during the Source Water Assessment according to procedures described in the Use and Susceptibility Waiver Guidance Document.

(ii) The Use Waiver criteria as described in the Use and Susceptibility Waiver Guidance Document shall take into consideration but is not limited to the use, storage, distribution, transport and disposal of the contaminant within the delineated recharge or watershed area.

(iii) The Susceptibility Waiver criteria as described in the Use and Susceptibility Waiver Guidance Document shall address only those contaminants that remain after the use waiver process has been completed. The Susceptibility Waiver criteria shall take into consideration but is not limited to the history of bacteria and/or nitrate contamination, well construction, agricultural management practices, infiltration potential, and contaminant mobility and persistence.

(iv) Water systems which qualify for use and susceptibility waivers shall follow the monitoring requirements as directed in the Use and Susceptibility Waiver Guidance Document.

(v) The Use and Susceptibility Waiver Guidance Document is made a part of this rule and shall take into consideration the Wellhead Protection Program and shall be updated with new methods and procedures as they become available.

(vi) The Authority may establish area-wide waivers based on historical monitoring data, land use activity, and the results of "Source Water Assessments" and/or "Use and Susceptibility Waiver Documents".

(vii) Monitoring may be reduced to once every six years for all SOCs, if the system has a state certified Drinking Water Protection Plan or for those SOCs determined to be "used" and for which that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "moderate" susceptibility according to the Authority's Use and Susceptibility Protocol. Information from the system's Source Water Assessment can be used in this determination; or

(viii) Monitoring may be reduced to once every nine years for those SOCs in an analytical method group determined to be "not used" in the delineated drinking water protection area, or for those SOCs determined to be "used" if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "low susceptibility" according to the Authority's Use and Susceptibility Waiver Document. Information from the system's Source Water Assessment can be used in this determination.

(C) If a water system detects in any sample a contaminant listed in subsection (3)(a) of this rule equal to or greater than the minimum detection limit listed in Table 16, then the water system shall monitor quarterly at each sampling point where a detection occurred. [Table not included. See ED. NOTE.]

(i) Based on a minimum of two quarterly samples for ground water sources and four quarterly samples for surface water sources, the Authority may reduce the monitoring frequency required in paragraph (3)(a)(C) of this rule to annually provided the system is reliably and consistently below the MCL. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(ii) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Authority for a waiver as specified in paragraph (3)(a)(B) of this rule.

(iii) If any monitoring required in paragraph (3)(a)(A) of this rule results in the detection of either Heptachlor or Heptachlor epoxide, then subsequent monitoring shall analyze for both contaminants.

(D) If the results of an analysis prescribed in paragraph (3)(a)(A) of this rule indicate that the level of any contaminant exceeds a maximum contaminant level, then the system must monitor quarterly. After a minimum of four quarterly samples show the system to be reliably and consistently below the MCL and in compliance with paragraph (3)(a)(G) of this rule, then the system may monitor annually.

(E) The Authority may require confirmation samples for positive or negative results. If a confirmation sample is required by the Authority, the result must be averaged with the original sample result (unless the previous sample has been invalidated by the Authority) and the average used to determine compliance.

(F) The Authority may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. If the concentration in the composite sample detects one or more contaminants listed in subsection (3)(a) of this rule, then a follow-up sample must be taken and analyzed within 14 days at each sampling point included in the composite, and be analyzed for that contaminant. Duplicates taken on the original composite samples may be used instead of resampling provided the duplicates are analyzed and the results

reported to the Authority within 14 days of collection. For systems with a population greater than 3,300, the Authority may allow compositing at sampling points only within a single system. For systems with a population of 3,300 or less, the Authority may allow compositing among different systems, provided the 5-sample limit is maintained.

(G) Compliance with contaminants listed in OAR 333-061-0030(2)(a) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of an MCL, the system is in violation of the MCL. For systems which monitor more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. Systems which monitor annually or less whose sample result exceeds the regulatory detection limit prescribed in paragraph (3)(a)(C) of this rule (Table 16) must begin quarterly sampling. The system will not be considered in violation of the MCL until it has completed one year of quarterly monitoring. If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected. If a sample result is less than the detection limit, zero will be used to calculate the annual average. If the system is out of compliance, the system shall follow the reporting and public notification procedures as prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A).

(H) A water system's running annual average (RAA) is calculated by averaging the analytical results for the current monitoring period and the previous monitoring periods within a one-year time frame. For water systems monitoring less frequently than quarterly, the first sample result that exceeds the detection limit or MCL is considered to be the initial sampling result for determination of the RAA. Multiple sample results within any monitoring period will be averaged and then rounded to the same number of significant figures as the MCL of the contaminant in question. For the purposes of calculating a RAA, a monitoring period may be a calendar month or calendar quarter. Special samples, as described by paragraph (1)(h)(C) of this rule, will not be included in the calculation of a system's running annual average.

(I) If monitoring data collected after January 1, 1990 are consistent with the requirements of subsection (3)(a) of this rule, the Authority may allow systems to use that data to satisfy the monitoring requirements for the initial compliance periods beginning January 1, 1993 and January 1, 1996.

(J) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population — Begin Initial Monitoring — Complete Initial Monitoring By
300 or More — January 1, 1993 — December 31. 1993
100-299 — January 1, 1994 — December 31, 1994
Less than 100 — January 1, 1995 — December 31, 1995

(K) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Authority. The system must also comply with the initial sampling frequencies specified by the Authority to ensure a system can demonstrate compliance with the MCL.

(b) Volatile Organic Chemicals: Benzene, Carbon tetrachloride, cis-1,2-Dichloroethylene, Dichloromethane, Ethylbenzene, Monochlorobenzene, o-Dichlorobenzene, p-Dichlorobenzene, Styrene, Tetrachloroethylene(PCE), Toluene, trans-1,2-Dichloroethylene, Trichloroethylene(TCE), Vinyl chloride, Xylenes(total), 1,1-Dichloroethylene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, 1,2-Dichloroethane, 1,2-Dichloropropane, and 1,2,4-Trichlorobenzene.

(A) Samples of water which is delivered to users shall be analyzed for regulated volatile organic chemicals (VOC) as follows:

(i) Community and Non-Transient Non-Community water systems using surface water, ground water under the direct influence of surface water, or groundwater sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment beginning in the initial compliance period starting January 1, 1993. Community and Non-Transient Non-Community water systems shall collect four consecutive quarterly samples from each sampling point during each compliance period. The water system shall collect each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) Beginning on January 1, 2010, new community and non-transient non-community water systems using groundwater sources, or existing systems using a new source, shall sample at each point to the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Samples must be collected annually for three consecutive years at each sampling point. The water systems must take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing wellfield, within an existing drinking water protection area, or within an area well characterized by area-wide source water assessments and/or past monitoring results as determined by the Authority, may be eligible for a reduction in initial monitoring from three consecutive annual samples to one sample if no detections occur and if, based on the system's Source Water Assessment, the Authority determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(iii) If warranted, the Authority may designate additional sampling points within the distribution system or at the consumer's tap which more accurately determines consumer exposure.

(iv) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(v) A water system with two or more wells that have been determined to constitute a "wellfield" as specified in subsection (1)(k) of this rule may reduce sampling to only those entry point(s) designated by the Authority.

(B) For the purpose of subsection (3)(b) of this rule, a detectable level for VOCs is 0.0005 mg/l.

(C) If the initial analyses do not detect any contaminant listed in subsection (3)(b) of this rule, then monitoring for all of the VOCs may be reduced to:

(i) Annual per entry point for surface water systems; or

(ii) Annual per entry point for groundwater systems for at least three years. Thereafter, sampling may be reduced to once every three years per entry point for ground water systems after a minimum of three years of annual monitoring and no history of detections.

(D) Each Community and Non-Transient Non-Community water system which does not detect any contaminant listed in subsection (3)(b) of this rule after the initial monitoring period may apply to the Authority for a waiver from the requirements prescribed in paragraph (3)(b)(C) of this rule according to procedures described in subparagraphs (3)(a)(B)(i) through (vi) of this rule and the Use and Susceptibility Waiver Guidance Document developed by the Authority.

(i) Monitoring under a waiver can be reduced to once every six years if the water system has a state certified Drinking Water Protection Plan or if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "moderate" susceptibility to the VOCs according to the Authority's Use and Susceptibility Protocol. Information from the system's Source Water Assessment can be used in this determination.

(ii) Waivers granted to groundwater systems shall be effective for no more than six years.

(I) A waiver must be in place prior to the year in which the monitoring is to be accomplished, and the groundwater system must reapply for a waiver from volatile organic chemicals monitoring every two compliance periods (six years).

(II) As a condition of a waiver, groundwater systems must collect one sample at each sampling point during the time the waiver is in effect and update its vulnerability assessment addressing those factors listed in subparagraphs (3)(a)(B)(ii) and (iii) of this rule. The Authority must confirm that a system is not vulnerable within three years of the original determination, and every time the vulnerability assessment is updated, or the waiver is invalidated and the system is required to sample annually as specified in paragraph (3)(b)(C) of this rule.

(iii) Surface water systems that have been determined to be not vulnerable to VOC contamination by the Authority shall monitor at the discretion of the Authority. The Authority shall reevaluate the vulnerability of such systems during each compliance period.

(iv) The Authority may establish area-wide waivers based on historical monitoring data, land use activity, and the results of "Source Water Assessments" and "Use and Susceptibility Waiver Documents".

(E) If a water system detects any contaminant listed in subsection (3)(b) of this rule (except vinyl chloride) in any sample greater than the minimum detection limit of 0.0005 mg/l, then the water system shall monitor quarterly at each sampling point where a detection occurred.

(i) Based on a minimum of two quarterly samples for ground water sources and four quarterly samples for surface water sources, the Authority may reduce the monitoring frequency required in paragraph (3)(b)(E) of this rule to annually provided the system is reliably and consistently below

the MCL. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(ii) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Authority for a waiver as specified in paragraph (3)(b)(D) of this rule.

(iii) Groundwater systems which have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one or more of the two-carbon organic compounds was detected. If the results of the first analysis do not detect vinyl chloride, the Authority may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride at the discretion of the Authority.

(F) If the results of an analysis prescribed in paragraph (3)(b)(A) of this rule indicate that the level of any contaminant exceeds a maximum contaminant level, then the system shall monitor quarterly. After a minimum of four consecutive quarterly samples show the system to be reliably and consistently below the MCL and in compliance with paragraph (3)(b)(I) of this rule, then the system may monitor annually during the quarter which previously yielded the highest analytical result.

(G) The Authority may require confirmation samples for positive or negative results. If a confirmation sample is required by the Authority, the result must be averaged with the original sample result and the average used to determine compliance.

(H) The Authority may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. If the concentration in the composite sample is 0.0005 mg/l for any contaminant listed in subsection (3)(b) of this rule, then a follow-up sample must be taken and analyzed within 14 days at each sampling point included in the composite, and be analyzed for that contaminant. Duplicates taken on the original composite samples may be used instead of resampling provided the duplicates have not been held for longer than 14 days. For systems with a population greater than 3,300, the Authority may allow compositing at sampling points only within a single system. For systems with a population of 3,300 or less, the Authority may allow compositing among different systems provided the 5-sample limit is maintained.

(I) Compliance with contaminants listed in OAR 333-061-0030(2)(c) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of an MCL, the system is in violation of the MCL. For systems which monitor more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. Systems which monitor annually or less whose sample result exceeds the MCL must begin quarterly sampling. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling. If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected. If a sample result is less than the detection limit, zero will be used to calculate the annual average. If the water system is out of compliance, the system shall follow the reporting and public notification procedures as prescribed in 333-061-0040 and 333-061-0042(2)(b)(A).

(J) A water system's running annual average (RAA) is calculated by averaging the analytical results for the current monitoring period and the previous monitoring periods within a one-year time frame. For water systems monitoring less frequently than quarterly, the first sample result that exceeds the detection limit or MCL is considered to be the initial sampling result for determination of the RAA. Multiple sample results within any monitoring period will be averaged and then rounded to the same number of significant figures as the MCL of the contaminant in question. For the purposes of calculating a RAA, a monitoring period may be a calendar month or calendar quarter. Special samples, as described by paragraph (1)(h)(C) of this rule, will not be included in the calculation of a system's running annual average.

(K) If monitoring data collected after January 1, 1988 are consistent with the requirements of subsection (3)(b) of this rule, the Authority may allow systems to use that data (i.e. a single sample rather than four quarterly samples) to satisfy the monitoring requirements prescribed in paragraph (3)(b)(A) of this rule for the initial compliance period. Systems which use grandparented samples and did not detect any contaminant listed in subsection (3)(b) of this rule shall begin monitoring annually in accordance with paragraph (3)(b)(C) of this rule beginning with the initial compliance period.

(L) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population — Begin initial monitoring — Complete initial monitoring by
300 or More — January 1, 1993 — December 31. 1993
100-299 — January 1, 1994 — December 31, 1994
Less than 100 — January 1, 1995 — December 31, 1995

(M) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Authority. The system must also comply with the initial sampling frequencies specified by the Authority to ensure a system can demonstrate compliance with the MCL.

(4) Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors:

(a) General sampling and analytical requirements. The requirements of this section apply to all Community and Non-transient Non-community water systems that add a disinfectant (oxidant) to the water supply at any point in the treatment process or deliver water in which a disinfectant (oxidant) has been added to the water supply.

(A) Water systems must take all samples during normal operating conditions.

(B) Water systems may consider multiple wells where a disinfectant is added, drawing water from a single aquifer, as one treatment plant for determining the minimum number of total trihalomethanes (TTHM) and haloacetic acids(five)(HAA5) samples required, with approval from the Authority.

(C) Failure to monitor in accordance with the monitoring plan as specified in paragraphs (4)(c)(C) or (4)(d)(D) of this rule is a monitoring violation.

(D) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average (RAA) of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

(E) Systems must use only data collected under the provisions of this rule to qualify for reduced monitoring.

(b) Initial Distribution System Evaluation (IDSE) Requirements. This subsection establishes monitoring and other requirements for identifying monitoring locations which, in conjunction with the requirements of subsections (4)(d) and (4)(f) of this rule, determine compliance with the MCLs for TTHM and HAA5 as specified in OAR 333-061-0030. Non-transient non-community water systems serving less than 10,000 people are exempt from the requirements of this subsection.

(A) IDSE Submittal Schedule: Water systems must comply with the requirements specified in Table 17 of this paragraph. Water systems that begin adding a disinfectant to the water supply after the dates specified in Table 17 must consult with the Authority to identify compliance monitoring locations and any IDSE compliance requirements. Water systems that were granted a waiver by the EPA exempting them from completing an IDSE, must begin monitoring in accordance with subsection (4)(d) of this rule no later than the date set forth in Table 22. [Table not included. See ED. NOTE.]

(i) The Authority may determine, in regards to the dates specified in Table 17, that a combined distribution system does not include certain wholesale or purchasing water systems based on factors such as delivering or receiving water only on an emergency basis, or delivering or receiving only a small percentage and volume of water. [Table not included. See ED. NOTE.]

(ii) IDSE results will not be used for the purpose of determining compliance with MCLs as prescribed by OAR 333-061-0030(2)(b).

(B) Standard monitoring plans. Standard monitoring plans must comply with the requirements of subparagraphs (4)(b)(B)(i) through (iv) of this rule.

(i) The standard monitoring plan must include a schematic of the distribution system (including distribution system water sources, entry points, and storage facilities), with notes indicating the locations and dates of all projected standard monitoring and projected monitoring as prescribed by subsections (4)(c) and (4)(e) of this rule.

(ii) The standard monitoring plan must include an explanation of standard monitoring location selection, and a summary of data relied on to justify the selection.

(iii) The standard monitoring plan must identify the population served and source water classification for the water system.

(iv) Standard monitoring. Water systems must monitor as indicated in Table 18 below. Water systems must collect dual sample sets at each monitoring location, and at least one round of monitoring must be during the peak historical month for TTHM or HAA5 levels, or during the month of warmest water temperature. Water systems must review available compliance, study, or operational data to determine the peak historical month for TTHM or HAA5 levels or the month of warmest water temperature. [Table not included. See ED. NOTE.]

(v) Samples must be collected at locations other than those specified by the monitoring plan as prescribed by subsection (4)(c) of this rule. Sampling locations must be spread throughout the distribution system.

(vi) If the number of entry points to the distribution system is fewer than the number of entry point monitoring locations specified in Table 18, excess entry point samples must be replaced equally by samples collected at locations where you would expect to find high TTHM and HAA5 concentration. If there is an odd number of excess sampling locations, the additional sample must be collected at a location where you would expect to find high TTHM concentration. If the number of entry points to the distribution system is greater than the number of entry point monitoring locations specified in Table 18, the samples must be collected at entry points having the highest annual water flows. [Table not included. See ED. NOTE.]

(vii) Monitoring in accordance with Table 18 may not be reduced according to the provisions of subsection (1)(d) of this rule. [Table not included. See ED. NOTE.]

(viii) IDSE report. The IDSE report must include the following elements:

(I) The IDSE report must include all TTHM and HAA5 analytical results collected in accordance with subsection (4)(c) or (4)(e) of this rule, and all standard monitoring conducted during the period of the IDSE as individual analytical results and a locational running annual average (LRAA) presented in a format acceptable to the Authority. If changed from the standard monitoring plan prescribed by paragraph (4)(b)(B) of this rule, the report must also include a schematic of the distribution system, the population served, and the source water type.

(II) The IDSE report must include an explanation of any deviations from the approved standard monitoring plan.

(III) Water systems must recommend timing and locations for compliance monitoring prescribed in subsections (4)(d) and (4)(f) of this rule, based on the protocol prescribed by subparagraph (4)(b)(D)(iii) of this rule, including an explanation for why the locations were selected.

(C) System Specific Study. A system specific study must be based on either existing monitoring results as prescribed by subparagraph (4)(b)(C)(i) of this rule, or modeling as prescribed by subparagraph (4)(b)(C)(ii) of this rule.

(i) Existing Monitoring Results. Water systems may submit monitoring results from previously collected samples if they meet the following criteria:

(I) TTHM and HAA5 samples must have been collected no earlier than seven years prior to the system specific study plan completion date listed in Table 17. Sample collection and analysis must be conducted in accordance with subsections (1)(a) and (1)(c) of this rule; [Table not included. See ED. NOTE.]

(II) The monitoring locations and monitoring frequency must meet the conditions specified in Table 19. Each sampling location must be sampled once during the peak historical month for TTHM or HAA5 levels or the month of warmest water temperature, for every 12 months of data submitted for that sampling location. Monitoring results must include all monitoring results collected in accordance with subsection (4)(c) or (4)(e) of this rule, and any additional monitoring results necessary to meet the minimum sample requirements; [Table not included. See ED. NOTE.]

(III) The water system must report previously collected monitoring results, and certify that the reported monitoring results include all results generated during the time period beginning with the first reported result and ending with the most recent monitoring result collected in accordance with subsection (4)(c) or (4)(e) of this rule;

(IV) The water system must certify that the samples are representative of the entire distribution system, and that neither treatment nor the distribution system has changed significantly since the samples were collected;

(V) The study plan must include a schematic of the distribution system (including distribution system water sources, entry points, and storage facilities), with notes indicating the locations and dates of all completed or planned system specific study monitoring;

(VI) The system specific study plan must include the population served and source water classification; and

(VII) If a water system submits previously collected monitoring results that meets the number of samples required by Table 19, and the Authority rejects some of the monitoring results, the water system must either conduct additional monitoring to replace the rejected results on an Authority-approved schedule or conduct standard monitoring as prescribed by paragraph (4)(b)(B) of this rule. [Table not included. See ED. NOTE.]

(ii) Modeling. Water systems may conduct analysis of an extended period simulation hydraulic model. The hydraulic model and analysis must meet the following criteria:

(I) The model must simulate a 24-hour variation in demand and show a consistently repeating 24-hour pattern of residence time;

(II) The model must represent the following criteria: (1) 75 percent of pipe volume; (2) 50 percent of pipe length; (3) all pressure zones; (4) all 12-inch diameter and larger pipes; (5) all 8-inch and larger pipes that connect pressure zones, influence zones from different sources, storage facilities, major demand areas, pumps, and control valves, or are known or expected to be significant conveyors of water; (6) all 6-inch and larger pipes that connect remote areas of a distribution system to the main portion of the system; (7) all storage facilities with standard operations represented in the model; and (8) all active pump stations with controls represented in the model; and (9) all active control valves; and

(III) The model must be calibrated, or have calibration plans for the current configuration of the distribution system during the period of highest TTHM formation potential. All storage facilities must be evaluated as part of the calibration process. Calibration must be completed no later than 12-months after submission of the system specific study plan.

(IV) Reporting modeling. The system specific study plan must include (1) tabular or spreadsheet data demonstrating that the model meets requirements in subparagraph (C)(ii)(II) of this section; (2) a description of all calibration activities undertaken, and if calibration is complete, a graph of predicted tank levels versus measured tank levels for the storage facility with the highest residence time in each pressure zone, and a time series graph of the residence time at the longest residence time storage facility in the distribution system showing the predictions for the entire simulation period (i.e., from time zero until the time it takes to for the model to reach a consistently repeating pattern of residence time); (3) model output showing preliminary 24 hour average residence time predictions throughout the distribution system; (4) timing and number of samples representative of the distribution system planned for at least one monitoring period of TTHM and HAA5 dual sample monitoring at a number of locations no less than would be required for the system under standard monitoring in paragraph (4)(b)(B) of this rule during the historical month of high TTHM. These samples must be taken at locations other than existing compliance monitoring locations determined in accordance with subsection (4)(c) of this rule (5) description of how all requirements will be completed no later than 12 months after system submits the system specific study plan; (6) schematic of the distribution system (including distribution system entry points and their sources, and storage facilities), with notes indicating the locations and dates of all completed system specific study monitoring (if calibration is complete) and all compliance monitoring conducted in accordance with subsection (4)(c) of this rule; and (7) population served and system type (surface water, groundwater under the direct influence of surface water, or groundwater).

(V) If a model is submitted that does not meet the requirements of subparagraph (4)(b)(C)(ii) of this rule, the system must correct the deficiencies and respond to Authority inquiries concerning the model. Failure to correct deficiencies or respond to inquiries by the Authority will result in the system having to conduct standard monitoring as prescribed by paragraph (4)(b)(B) of this rule.

(iii) IDSE report. Water systems must submit the IDSE report according to the schedule prescribed in Table 17, and the report must include the following elements: [Table not included. See ED. NOTE.]

(I) The IDSE report must include all TTHM and HAA5 monitoring results collected in accordance with subsections (4)(c) and (4)(e) of this rule, and all system specific study monitoring results collected during the period of the system specific study submitted in a tabular or spreadsheet format acceptable to the Authority. If changed from the system specific study plan submitted under paragraph (4)(b)(C) of this rule, the IDSE report must also include a schematic of the distribution system, the population served, and source water classification;

(II) If using the modeling provision prescribed by subparagraph (4)(b)(C)(ii) of this rule, the system must include final information for the elements described in subparagraphs (4)(b)(C)(ii)(IV) and (V) of this rule,

and a 24-hour time series graph of residence time for each location selected for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule;

(III) The water system must recommend monitoring locations selected for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule based on the protocol in paragraph (4)(b)(D) of this rule. It must also recommend and justify the timing of the monitoring to be conducted at these monitoring locations.

(IV) The IDSE report must include an explanation of any deviations from the approved system specific study plan.

(V) The IDSE report must include the analytical and modeling results, and the justification for recommending the monitoring locations selected for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule.

(VI) Water systems may submit the IDSE report in lieu of the system specific study plan two years prior to the dates listed in Table 17 for completion of the system specific study if the water system believes it has the necessary information by the time that the system specific study plan is due. If water systems choose this approach, the IDSE report must also include all information required under paragraph (4)(b)(C) of this rule. [Table not included. See ED. NOTE.]

(D) Monitoring location recommendations.

(i) The IDSE report must include recommendations and explanation for where and during what month(s) TTHM and HAA5 monitoring in accordance with subsections (4)(d) and (4)(f) of this rule should be conducted. Recommendations must be based on the criteria in subparagraphs (4)(b)(D)(ii) through (v) of this rule.

(ii) Water systems must collect samples as prescribed by Table 20 below. The number of samples and recommended locations must be used for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule, unless the Authority requires different or additional locations. Monitoring locations should be dispersed throughout the distribution system to the maximum extent possible. [Table not included. See ED. NOTE.]

(iii) Water systems must recommend locations for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule based on standard monitoring results, system specific study results, or monitoring results collected in accordance with subsections (4)(c) and (4)(e) of this rule. Water systems must comply with the protocol specified in subparagraphs (4)(b)(D)(iii)(I) through (VIII) of this rule. If a water system is required to monitor at more than eight locations, the protocol must be repeated as necessary. If a water system does not have sufficient monitoring results collected in accordance with subsections (4)(c) and (4)(e) of this rule, the system must repeat the protocol, ignoring the provisions of subparagraphs (4)(b)(D)(iii)(III) and (VII) as necessary, until the required total number of monitoring locations have been identified. Water systems must select the:

(I) Location with the highest TTHM LRAA not previously selected through this protocol;

(II) Location with the highest HAA5 LRAA not previously selected through this protocol;

(III) Location with the highest HAA5 LRAA based on sampling in accordance with subsections (4)(c) and (4)(e) of this rule, and with average residence time (or maximum residence time for groundwater systems) not previously selected through this protocol;

(IV) Location with the highest TTHM LRAA not previously selected through this protocol;

(V) Location with the highest TTHM LRAA not previously selected through this protocol;

(VI) Location with the highest HAA5 LRAA not previously selected through this protocol;

(VII) Location with the highest TTHM LRAA based on sampling in accordance with subsections (4)(c) and (4)(e) of this rule, and with average residence time (or maximum residence time for groundwater systems) not previously selected through this protocol; and

(VIII) Location with the highest HAA5 LRAA not previously selected through this protocol.

(iv) A water system may recommend locations other than those determined through subparagraph (4)(b)(D)(iii) of this rule, if the system includes a rationale for selecting other locations. If the Authority approves the alternate locations, the water system must monitor at these locations to determine compliance with subsections (4)(d) and (4)(f) of this rule.

(v) The water system's recommended monitoring schedule must include the month of historically highest TTHM and HAA5 concentration, unless the Authority approves another month. Once the highest historical month has been identified, and if quarterly or more frequent routine monitoring is required, water systems must schedule monitoring at a regular frequency of at least every 90 days.

(c) Routine monitoring requirements for TTHMs and HAA5.

(A) Water systems required to conduct monitoring for TTHM and HAA5 must monitor at the frequency specified in Table 21 until the date set forth in Table 22, after which water systems must comply with the requirements of subsections (4)(d) or (4)(f) of this rule. [Table not included. See ED. NOTE.]

(B) Systems on increased monitoring may return to routine monitoring if, after at least one year of monitoring, the TTHM annual average is less than or equal to 0.060 mg/L and the HAA5 annual average is less than or equal to 0.045 mg/L.

(C) Monitoring plans. Each water system required to monitor under subsection (4)(c) of this rule must develop and implement a monitoring plan. The system must maintain the plan and make it available for inspection by the Authority and the general public no later than 30 days following the applicable compliance dates as specified in OAR 333-061-0032(10)(b). All water systems using surface water or groundwater under the direct influence of surface water serving more than 3,300 people must submit a copy of the monitoring plan to the Authority no later than the date of the first report required by OAR 333-061-0040(k). The Authority may also require the plan to be submitted by any other system. After review, the Authority may require changes in any plan elements. The plan must include at least the following elements:

(i) Specific locations and schedules for collecting samples for any parameters included in subsection (4)(c) and (4)(e) of this rule;

(ii) How the water system will calculate compliance with MCLs, MRDLs, and treatment techniques; and

(iii) If approved for monitoring as a purchasing water system, or if providing water to a purchasing water system, the sampling plan must reflect the entire distribution system.

(d) Revised monitoring requirements for TTHM and HAA5. This subsection establishes monitoring and other requirements for achieving compliance with the MCL based on a LRAA for TTHM and HAA5.

(A) Water systems must meet the requirements of this subsection beginning on the date specified by the schedule in Table 22: [Table not included. See ED. NOTE.]

(i) Water systems required to conduct quarterly monitoring must begin monitoring in the calendar quarter that includes the compliance date specified in Table 22. [Table not included. See ED. NOTE.]

(ii) Water systems required to conduct monitoring at a frequency less than quarterly must begin monitoring in the month recommended in the IDSE report prepared as prescribed in paragraphs (4)(b)(B) or (4)(b)(C) of this rule, or the month identified in the monitoring plan developed as prescribed in paragraph (4)(d)(D) of this rule, within 12 months of the date specified in Table 22. [Table not included. See ED. NOTE.]

(B) Compliance calculations and determinations. Water systems required to conduct quarterly monitoring must make compliance calculations at the end of the fourth quarter following the compliance date specified in Table 22, and at the end of each subsequent quarter. The LRAA must be calculated prior to the fourth quarter if fewer than four quarters of data would cause the MCL to be exceeded, regardless of the monitoring results in subsequent quarters. Water systems required to conduct monitoring at a frequency less than quarterly must make compliance calculations beginning with the first sample collected after the date specified in Table 22. [Table not included. See ED. NOTE.]

(i) Water systems required to monitor quarterly. Water systems must calculate the LRAA for TTHM and HAA5 using monitoring results collected under this subsection to determine that each LRAA does not exceed the MCL listed in OAR 333-061-0030(2)(b). Water systems that fail to complete four consecutive quarters of monitoring must calculate the LRAA based on the available data from the most recent four quarters. Water systems that take more than one sample per quarter at a specific monitoring location must average all samples taken in the quarter for that location to determine a quarterly average to be used in the LRAA calculation.

(ii) Water systems required to monitor yearly or less frequently. Water systems must determine that each sample collected is less than the MCL listed in OAR 333-061-0030(2)(b). If any sample exceeds the MCL, the water system must comply with the requirements of subsection (4)(h) of this rule. If no sample exceeds the MCL, the sample result for each monitoring location is considered the LRAA for that monitoring location.

(iii) A water system required to monitor quarterly is in violation of the monitoring requirements for each quarter that a monitoring result would be used in calculating an LRAA if the system fails to monitor.

(C) Routine Monitoring Frequency. Water systems that submitted an IDSE report must begin monitoring at the locations and during the months recommended in the IDSE report as prescribed by paragraph (4)(b)(D) of

this rule, following the schedule as prescribed by Table 22, unless the Authority requires other or additional locations after its review. Non-transient Non-community water systems serving less than 10,000 people, and water systems that were granted a waiver by the EPA exempting them from completing an IDSE must begin monitoring at the location(s) and dates identified in the monitoring plan developed as prescribed in paragraph (4)(c)(C) of this rule, and updated as required by paragraph (4)(d)(D) of this rule. [Table not included. See ED. NOTE.]

(i) Systems must monitor at no fewer than the number of locations identified in Table 23: [Table not included. See ED. NOTE.]

(ii) Water systems that begin adding a disinfectant to the water supply after the dates specified in Table 17 must consult the Authority to identify compliance monitoring locations. Systems must then develop a monitoring plan as prescribed in paragraph (4)(d)(D) of this rule that includes those monitoring locations.

(D) Monitoring Plan. Water systems must develop and implement a monitoring plan. The monitoring plan must be completed no later than the date the system begins monitoring in accordance with subsections (4)(d) and (4)(f) of this rule, and must be maintained and made available for inspection by the Authority and the general public.

(i) The monitoring plan must include the following elements:

(I) Monitoring locations;

(II) Monitoring dates; and

(III) Compliance calculation procedures.

(ii) Water systems not required to submit an IDSE report as prescribed in paragraphs (4)(b)(B) or (4)(b)(C) of this rule, and that have either insufficient or too many monitoring locations from monitoring in accordance with subsections (4)(c) and (4)(e) of this rule, must identify the required number of monitoring locations for monitoring in accordance with subsections (4)(d) and (4)(f) of this rule. Water systems must identify the locations by alternating the selection of locations representing high TTHM levels and high HAA5 levels until the required number of monitoring locations have been identified. Water systems must also provide a rationale for identifying the locations as having high levels of TTHM or HAA5.

(iii) Surface water or GWUDI systems serving more than 3,300 people must submit a copy of their monitoring plan to the Authority prior to the date the system conducts initial monitoring under subsection (4)(d) of this rule, unless the IDSE report submitted as prescribed in subsection (4)(b) of this rule contains all the information required in paragraph (4)(b)(D) of this rule.

(iv) Revisions to monitoring plans. Systems may revise monitoring plans to reflect changes in treatment, distribution system operations, layout (including new service areas), or other factors that may affect TTHM or HAA5 formation, including Authority-approved reasons, after consultation with the Authority regarding the need and justification for the revision. If monitoring locations are changed, then water systems must replace existing monitoring locations with the lowest LRAA with new locations that reflect current distribution system locations expected to have high TTHM or HAA5 levels. The Authority may require modifications in monitoring plans. Surface water or groundwater under the direct influence of surface water systems serving > 3,300 people must submit a copy of their modified monitoring plan to the Authority prior to the date required to comply with the revised monitoring plan.

(e) Reduced monitoring. Until the date set forth in Table 22, water systems may reduce monitoring as specified in Table 24, except as otherwise provided. [Table not included. See ED. NOTE.]

(A) Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for systems which must monitor quarterly) or the result of the sample (for systems which must monitor no more frequently than annually) is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. Systems that do not meet these levels must resume monitoring at the frequency identified in paragraph (4)(c)(A) of this rule (minimum monitoring frequency column) in the quarter immediately following the monitoring period in which the system exceeds 0.060 mg/L or 0.045 mg/L for TTHMs and HAA5, respectively. For systems using only groundwater not under the direct influence of surface water and serving less than 10,000 persons, if either the TTHM annual average is greater than 0.080 mg/L or the HAA5 annual average is greater than 0.060 mg/L, the water system must go to increased monitoring as specified in paragraph (4)(c)(A) of this rule (sample location column) in the quarter immediately following the monitoring period in which the system exceeds 0.080 mg/L or 0.060 mg/L for TTHMs or HAA5, respectively.

(B) Systems may remain on reduced monitoring after the dates identified in Table 22 of paragraph (4)(d)(A) of this rule for compliance with this rule only if the water system was granted a waiver by the EPA exempting them from completing an IDSE, and the system meets the reduced monitoring criteria specified in subsection (4)(f) and paragraph (4)(f)(A) of this rule, and does not change or add monitoring locations from those used for compliance monitoring in accordance with subsection (4)(c) of this rule. If monitoring locations under subsection (4)(d) of this rule differ from monitoring locations under subsection (4)(c) of this rule, then systems may not remain on reduced monitoring after the dates identified in paragraph (4)(d)(A) of this rule, for compliance with this rule. [Table not included. See ED. NOTE.]

(C) Monitoring requirements for source water TOC. Surface water or GWUDI systems must collect TOC samples every 30 days at a location prior to any treatment in order to qualify for reduced TTHM and HAA5 monitoring as prescribed by this subsection, unless the water system is monitoring as prescribed by subsection (4)(n) of this rule. To remain on reduced monitoring, and in addition to meeting other criteria for reduced monitoring, the source water TOC running annual average must be ≤4.0 mg/L based on the most recent four quarters of monitoring, on a continuing basis at a location prior to any treatment. Once qualified for reduced monitoring as prescribed by this subsection, a water system may reduce source water TOC monitoring to quarterly TOC samples collected every 90 days at a location prior to any treatment.

(D) The Authority may return a system to routine monitoring at its discretion.

(f) Revised reduced monitoring. Beginning on the dates set forth in Table 22, systems may reduce monitoring to the level specified in Table 25 any time the LRAA is ≤0.040 mg/L for TTHM and ≤0.030 mg/L for HAA5 at all monitoring locations. [Table not included. See ED. NOTE.]

(A) Systems may only use data collected under the provisions of subsections (4)(c) through (4)(f) of this rule to qualify for reduced monitoring. In addition, the annual source water average TOC level, before any treatment, must be less than or equal to 4.0 mg/L at each plant treating surface water or groundwater under the direct influence of surface water, based on monitoring conducted as prescribed in paragraph (4)(f)(D) and subsection (4)(n) of this rule.

(B) Water Systems may remain on reduced monitoring so long as:

(i) The LRAA for water systems conducting quarterly monitoring is less than or equal to 0.040 mg/L for TTHM and less than or equal to 0.030 mg/L for HAA5 at each monitoring location; or

(ii) Samples collected by water systems conducting annual or less frequent monitoring are less than or equal to 0.060 mg/L for TTHM and less than or equal to 0.045 mg/L for HAA5.

(C) Water systems must resume routine monitoring as prescribed in subsection (4)(d) of this rule, or begin increased monitoring as prescribed in subsection (4)(h) of this rule if:

(i) The LRAA based on quarterly monitoring exceeds 0.040 mg/L for TTHM or 0.030 mg/L for HAA5 at any monitoring location; or

(ii) A sample collected at any location exceeds either 0.060 mg/L for TTHM or 0.045 mg/L for HAA5 when the monitoring frequency is annual or less frequent; or

(iii) The average annual source water TOC level, before any treatment, is greater than 4.0 mg/L at any treatment plant treating surface water or groundwater under the direct influence of surface water.

(D) Monitoring requirements for source water TOC. Surface water or GWUDI systems must collect monthly TOC samples every 30 days at a location prior to any treatment in order to qualify for reduced TTHM and HAA5 monitoring as prescribed by this subsection, unless the water system is monitoring as prescribed by subsection (4)(n) of this rule. To remain on reduced monitoring, and in addition to meeting other criteria for reduced monitoring, the source water TOC running annual average must be ≤4.0 mg/L, based on the most recent four quarters of monitoring, on a continuing basis at a location prior to any treatment. Once qualified for reduced monitoring as prescribed by this subsection, a water system may reduce source water TOC monitoring to quarterly TOC samples collected every 90 days at a location prior to any treatment.

(E) A water system may be returned to routine monitoring at the Authority's discretion.

(g) Disinfection Profiling and Disinfection Benchmarking. Any community, non-transient non-community, or transient non-community water system utilizing surface water or groundwater under direct influence of surface water that desires to make a significant change to its disinfection treatment process as defined by OAR 333-061-0060(1)(e)(A) through (1)(e)(D) must conduct disinfection profiling and benchmarking for Giardia lamblia and viruses. Any community or non-transient non-community water system utilizing surface water or groundwater under direct influence of surface

water and having a running annual average greater than or equal to 0.064 mg/l for TTHM or 0.048 mg/l for HAA5, must conduct disinfection profiling for Giardia lamblia.

(A) Water systems serving at least 10,000 people must conduct the disinfection profiling in accordance with the USEPA Disinfection Profiling and Benchmarking Guidance Manual. The profile must be based on daily inactivation rate calculations over a period of 12 consecutive months. If the water system uses chloramines, ozone, or chlorine dioxide as a primary disinfectant, the log inactivation for viruses must be calculated and an additional disinfection profile must be developed using a method approved by the Authority.

(B) Water systems serving less than 10,000 people must conduct the disinfection profiling in accordance with or the USEPA LT1-ESWTR Disinfection Profiling and Benchmarking Technical Guidance Manual. The profile must be based on weekly inactivation rate calculations collected on the same calendar day over a period of 12 consecutive months. If the water system uses chloramines, ozone, or chlorine dioxide as a primary disinfectant, the log inactivation for viruses must be calculated and an additional disinfection profile must be developed using a method approved by the Authority.

(C) Water systems using either a single or multiple points of disinfection must monitor the following parameters to determine total log inactivation for each disinfection segment:

(i) The temperature of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow;

(ii) The pH of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow for systems using chlorine;

(iii) The disinfectant contact time(s) ("T") during peak hourly flow; and

(iv) The residual disinfectant concentration(s) ("C") of the water before or at the first customer and prior to each additional point of disinfection during peak hourly flow.

(D) Water systems required to develop disinfection profiles as prescribed by OAR 333-061-0060(1)(e) must meet the requirements of subparagraphs (4)(g)(D)(i) through (iii) of this rule:

(i) Water systems must monitor at least weekly for a period of 12 consecutive months to determine the total log inactivation for Giardia lamblia and viruses. If water systems monitor more frequently, the monitoring frequency must be evenly spaced. Water systems that operate for fewer than 12 months per year must monitor weekly during the period of operation;

(ii) Water systems must determine log inactivation for Giardia lamblia through the entire plant, based on CT99.9 values in Tables 27 through 34 in OAR 333-061-0036(5) as applicable; and [Table not included. See ED. NOTE.]

(iii) Water systems must determine log inactivation for viruses through the entire treatment plant based on a protocol approved by the Authority.

(E) Water systems must calculate the total inactivation ratio for Giardia lamblia as specified in this paragraph.

(i) Water systems using only one point of disinfectant application must determine the total inactivation ratio for the disinfection segment based on the methods specified in this paragraph.

(I) Water systems must determine one inactivation ratio (CTcalc/CT99.9) before or at the first customer during peak hourly flow; or

(II) Must determine successive (CTcalc/CT99.9) values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow. Water systems must calculate the total inactivation ratio by determining (CTcalc/CT99.9) for each sequence and then adding the (CTcalc/CT99.9) values together to determine Σ(CTcalc/CT99.9).

(ii) Water systems using more than one point of disinfectant application before the first customer must determine the (CTcalc/CT99.9) value of each disinfection segment immediately prior to the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow. The (CTcalc/CT99.9) value of each segment and Σ(CTcalc/CT99.9) must be calculated using the method in subparagraph (4)(g)(E)(i)(II) of this rule.

(iii) The system must determine the total log of inactivation by multiplying the value calculated in subparagraphs (4)(g)(E)(i) or (ii) of this rule by 3.0.

(F) In lieu of conducting new monitoring as prescribed by paragraph (4)(g)(C) of this rule, water systems may elect to meet the requirements of subparagraphs (4)(g)(F)(i) or (ii) of this rule as follows:

(i) Water systems that have at least one year of existing data that are substantially equivalent to data collected in accordance with the provisions of this subsection may use these data to develop disinfection profiles as specified in this section if the system has not made a significant change to its treatment practice nor changed sources since the data were collected. Water systems may develop disinfection profiles using up to three years of existing data.

(ii) Water systems may use disinfection profile(s) developed as prescribed by this subsection in lieu of developing a new profile if the system has neither made a significant change to its treatment practice nor changed sources since the profile was developed. Water systems that have not developed a virus profile as prescribed by paragraph (4)(g)(G) of this rule must develop a virus profile using the same monitoring data on which the Giardia lamblia profile is based.

(G) Water systems must calculate the log of inactivation for viruses using a similar protocol as described in paragraph (4)(g)(D) of this rule, using a CT99.99 and a multiplication factor of 4.0.

(H) A water system subject to OAR 333-061-0060(1)(e) must calculate a disinfection benchmark using the procedures specified in subparagraphs (4)(g)(H)(i) and (ii) of this rule to calculate a disinfection benchmark.

(i) For each year of profiling data collected and calculated as prescribed by paragraphs (4)(g)(A) through (G) of this rule, systems must determine the lowest mean monthly level of both Giardia lamblia and virus inactivation. Water systems must determine the mean Giardia lamblia and virus inactivation for each calendar month for each year of profiling data by dividing the sum of daily or weekly Giardia lamblia and virus log inactivation by the number of values calculated for that month.

(ii) The disinfection benchmark is the lowest monthly mean value (for water systems with one year of profiling data) or the mean of the lowest monthly mean values (for water systems with more than one year of profiling data) of Giardia lamblia and virus log inactivation in each year of profiling data.

(I) Water systems must retain the disinfection profile data in graphic form, such as a spreadsheet, which must be available for review by the Authority as part of a sanitary survey or other field visit contact.

(h) Conditions requiring increased monitoring.

(A) Water systems required to monitor annually or less frequently as prescribed by subsections (4)(d) or (4)(f) of this rule must increase monitoring to dual sample sets collected every 90 days at all locations, if a TTHM or HAA5 sample exceeds the MCL at any location.

(B) Water systems conducting increased monitoring in accordance with paragraph (4)(h)(A) of this rule must collect samples at the monitoring locations specified in the monitoring plan developed in accordance with paragraph (4)(d)(D) of this rule.

(C) Water systems may return to routine monitoring if at least four consecutive quarters of increased monitoring has been conducted, and the LRAA for every monitoring location is less than or equal to 0.060 mg/L for TTHM and 0.045 mg/L for HAA5.

(D) Water systems conducting increased monitoring in accordance with subsection (4)(c) of this rule must continue increased monitoring at the locations specified in the monitoring plan as described in paragraph (4)(d)(D) of this rule beginning on the date identified in Table 22, and continue increased monitoring at the specified locations until qualifying for a return to routine monitoring as prescribed by subsection (4)(d) and paragraph (4)(h)(C) of this rule. [Table not included. See ED. NOTE.]

(i) Operational evaluation levels

(A) Water systems have exceeded the operational evaluation level for TTHM or HAA5 at a monitoring location when the sum of the two previous quarters' sample results plus twice the current quarter's sample result, divided by 4, exceeds the MCL.

(B) Operational evaluation and report.

(i) Systems that exceed the operational evaluation level for either TTHM or HAA5 must conduct an operational evaluation and submit a written report of the evaluation to the Authority no later than 90 days after being notified of the analytical result that causes the system to exceed the operational evaluation level. The written report must be made available to the public upon request.

(ii) Operational evaluations must include an examination of the water system's treatment and distribution practices, including but not limited to: storage tank operations, excess storage capacity, distribution system flushing, changes in sources or source water quality, and treatment changes or problems that may contribute to TTHM and HAA5 formation. The examination must also include what steps could be considered to minimize future exceedances.

(I) The Authority may allow water systems to limit the scope of the evaluation if the water system is able to identify the cause of the operational evaluation level exceedance.

(II) The request to limit the scope of the evaluation does not extend the schedule specified in subparagraph (4)(i)(B)(i) of this rule for submitting the written report. The Authority must approve this limited scope of evaluation in writing, and the water system must keep that approval with the completed report.

(j) Additional requirements for purchasing water systems. Purchasing water systems that do not add a disinfectant, but deliver water where a disinfectant (oxidant) has been added to the water supply at any point in the treatment process must comply with analytical and monitoring requirements for chlorine and chloramines as prescribed in paragraph (4)(m)(A) of this rule and in subsection (4)(s) of this rule.

(k) Chlorite. Community and Non-transient Non-community water systems using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

(A) Routine monitoring.

(i) Daily monitoring. Water systems must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the system must take additional samples in the distribution system the following day at the locations required by paragraph (4)(k)(B) of this rule, in addition to the sample required at the entrance to the distribution system.

(ii) Monthly monitoring. Systems must take a three sample set each month in the distribution system. The system must take one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three sample sets, at the specified locations). The system may use the results of additional monitoring conducted under paragraph (4)(k)(B) of this rule to meet the requirement for monitoring in this paragraph.

(B) Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system is required to take three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(C) Reduced monitoring.

(i) Chlorite monitoring at the entrance to the distribution system required by subparagraph (4)(k)(A)(i) of this rule may not be reduced.

(ii)Chlorite monitoring in the distribution system required by subparagraph (4)(k)(A)(ii) of this rule may be reduced to one three sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under subparagraph (4)(k)(A)(ii) of this rule has exceeded the chlorite MCL and the system has not been required to conduct monitoring under paragraph (4)(k)(B) of this rule. The system may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken quarterly in the distribution system under subparagraph (4)(k)(A)(ii) of this rule exceeds the chlorite MCL or the system is required to conduct monitoring under paragraph (4)(k)(B) of this rule, at which time the system must revert to routine monitoring.

(l) Bromate

(A) Routine monitoring. Community and Non-transient Non-community water systems using ozone, for disinfection or oxidation, must take one sample per month for each treatment plant in the system using ozone. Water systems must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(B) Reduced monitoring. Water systems required to analyze for bromate may reduce monitoring from monthly to quarterly, if the system's running annual average bromate concentration is less than or equal to 0.0025 mg/L based on monthly bromate measurements for the most recent four quarters. Water systems may remain on reduced monitoring as long as the running annual average of quarterly bromate samples is less than or equal to 0.0025 mg/L. If the running annual average bromate concentration is >0.0025 mg/L, the system must resume routine monitoring as required by paragraph (4)(l)(A) of this rule.

(m) Monitoring requirements for disinfectant residuals.

(A) Chlorine and chloramines

(i) Routine monitoring. Community and Non-transient Non-community water systems that use chlorine or chloramines must measure the residual disinfectant level at the same points in the distribution system and at the same time when total coliforms are sampled, as specified in OAR 333-061-0036(6). Water systems using surface water or groundwater under the direct influence of surface water may use the results of residual disinfectant concentration sampling conducted as required by OAR 333-061-0036(5)(a)(F) for unfiltered systems or OAR333-061-0036(5)(b)(E) for systems which filter, in lieu of taking separate samples. Compliance with this rule is achieved when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. Operators may increase residual disinfectant levels of chlorine or chloramine (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health in order to address specific microbiological contaminant problems resulting from events in the source water or in the distribution system.

(ii) Reduced monitoring from subparagraph (4)(m)(A)(i) of this rule is not allowed.

(B) Chlorine dioxide

(i) Routine monitoring. Community, Non-transient Non-community, and Transient Non-community water systems that use chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the water system must take samples in the distribution system the following day at the locations required by subparagraph (4)(m)(B)(ii) of this rule, in addition to the sample required at the entrance to the distribution system. Compliance with this rule is achieved when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the MRDL, the system is required to take three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (i.e., no booster chlorination), the system must take three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system (i.e., booster chlorination), the system must take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Chlorine dioxide monitoring may not be reduced from subparagraph (4)(m)(B)(ii) of this rule.

(n) Monitoring requirements for disinfection byproduct precursors (DBPP)

(A) Routine monitoring. Water systems using surface water or groundwater under the direct influence of surface water which use conventional filtration treatment must monitor each treatment plant for TOC no later than the point of combined filter effluent turbidity monitoring and representative of the treated water. All systems required to monitor as prescribed by subsection (4)(n) of this rule must also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the source water sample is taken, all systems must monitor for alkalinity in the source water prior to any treatment. Systems must take one paired sample and one source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

(B) Reduced monitoring. Water systems using surface water or groundwater under the direct influence of surface water with an average treated water TOC of less than 2.0 mg/L for two consecutive years, or less than 1.0 mg/L for one year, may reduce monitoring for both TOC and alkalinity to one paired sample and one source water alkalinity sample per plant per quarter. The water system must revert to routine monitoring in the month following the quarter when the annual average treated water TOC is greater than or equal to 2.0 mg/L.

(o) General compliance requirements.

(A) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average. Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chlo-

ramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(B) All samples taken and analyzed under the provisions of section (4) of this rule must be included in determining compliance, even if that number is greater than the minimum required.

(C) If, during the first year of monitoring as required by section (4) of this rule, any individual quarter's average will cause the running annual average of that system to exceed the MCL for TTHM, HAA5, or bromate, or the MRDL for chlorine or chloramine, the system is out of compliance at the end of that quarter.

(p) Compliance requirements for TTHMs and HAA5.

(A) For systems monitoring quarterly, and in accordance with subsections (4)(c) or (4)(e) of this rule, compliance with MCLs as required by OAR 333-061-0030(2)(b) must be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as required by subsection (4)(c) of this rule.

(B) For water systems monitoring less frequently than quarterly, and in accordance with subsections (4)(c) or (4)(e) of this rule, compliance must be based on an average of samples taken that year as required by paragraph (4)(c)(A) of this rule. If the average of these samples exceeds the MCL, the water system must increase monitoring to once per quarter per treatment plant and the system is not considered in violation of the MCL until it has completed one year of quarterly monitoring, unless the result of fewer than four quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system is in violation at the end of that quarter. Water systems required to increase monitoring frequency to quarterly monitoring must calculate compliance by including the sample which triggered the increased monitoring plus the following three quarters of monitoring.

(C) If the running annual arithmetic average of quarterly averages covering any consecutive four quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority as required by OAR 333-061-0040.

(D) If a water system fails to complete four consecutive quarters' monitoring, compliance with the MCL for the last four quarter compliance period must be based on an average of the available data.

(E) A water system monitoring for TTHM or HAA5 in accordance with subsections (4)(d), (4)(f) or (4)(h) of this rule is in violation of the MCL specified in OAR 333-061-0030(2)(b) when the LRAA calculation exceeds the MCL based on four consecutive quarters of monitoring (or fewer than four quarters of monitoring if the MCL would be exceeded regardless of monitoring results in subsequent quarters). A water system is in violation of the monitoring requirements every quarter that a monitoring result would be used in calculating an LRAA if the system fails to monitor.

(q) Compliance requirements for Bromate. Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one sample, the average of all samples taken during the month) collected by the system as required by subsection (4)(l) of this rule. If the average of samples covering any consecutive four quarter period exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority as required by OAR 333-061-0040. If a water system fails to complete 12 consecutive months monitoring, compliance with the MCL for the last four quarter compliance period must be based on an average of the available data.

(r) Compliance requirements for Chlorite. Compliance must be based on an arithmetic average of each three sample set taken in the distribution system as required by subparagraph (4)(k)(A)(ii) of this rule and paragraph (4)(k)(B) of this rule. If the arithmetic average of any three sample set exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority as required by OAR 333-061-0040.

(s) Compliance requirements for chlorine and chloramines.

(A) Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system as required by paragraph (4)(m)(A) of this rule. If the average covering any consecutive four quarter period exceeds the MRDL, the system is in violation of the MRDL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority as required by OAR 333-061-0040.

(B) In cases where water systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance must be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted as required by OAR 333-061-0040(1) must clearly indicate which residual disinfectant was analyzed for each sample.

(t) Compliance requirements for Chlorine dioxide.

(A) Acute violations. Compliance must be based on consecutive daily samples collected by the water system as required by paragraph (4)(m)(B) of this rule. If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (or more) of the three samples taken in the distribution system exceed the MRDL, the water system is in violation of the MRDL and must take immediate corrective action to lower the level of chlorine dioxide below the MRDL and must notify the public pursuant to the procedures for acute health risks as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Authority as required by OAR 333-061-0040. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the water system must notify the public of the violation in accordance with the provisions for acute violations as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Authority as required by OAR 333-061-0040.

(B) Non-acute violations. Compliance must be based on consecutive daily samples collected by the system as required by paragraph (4)(m)(B) of this rule. If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the water system is in violation of the MRDL and must take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and will notify the public pursuant to the procedures for non-acute health risks specified by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority as required by OAR 333-061-0040. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the water system must notify the public of the violation in accordance with the provisions for non-acute violations specified by OAR 333-061-0042(2)(b)(A) in addition to reporting to the Authority as required by OAR 333-061-0040.

(u) Compliance requirements for disinfection byproduct precursors (DBPP). Compliance must be determined as specified by OAR 333-061-0032(10)(f). Water systems may begin monitoring to determine whether Step 1 TOC removals can be met 12 months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any water system that does not monitor during this period, and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 requirements as specified in OAR 333-061-0032(10)(e)(B) and must therefore apply for alternate minimum TOC removal (Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed by OAR 333-061-0032(10)(e)(C) and is in violation. Water systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date. For systems required to meet step 1 TOC removals, if the value calculated under OAR 333-061-0032(10)(f)(A)(iv) is less than 1.00, the system is in violation of the treatment technique requirements and must notify the public pursuant to OAR 333-061-0042(2)(b)(A), in addition to reporting to the Authority pursuant to OAR 333-061-0040.

(5) Surface Water Treatment.

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does not provide filtration treatment must monitor water quality as specified in this subsection beginning January 1, 1991 for systems using a surface water source and January 1, 1991 or 6 months after the Authority has identified a source as being under the direct influence of surface water for groundwater sources, whichever is later.

(A) Fecal coliform or total coliform density measurements as required by OAR 333-061-0032(2)(b)(A) must be performed on representative source water samples immediately prior to the first or only point of disinfectant application. The system must sample for fecal or total coliforms at the minimum frequency shown in Table 26 each week the system serves water to the public. These samples must be collected on separate days. Also one fecal or total coliform density measurement must be made every day the system serves water to the public when the turbidity of the source water exceeds 1 NTU (these samples count towards the weekly coliform sampling requirement) unless the Authority determines that the system, for logistical reasons outside of its control, cannot have the sample analyzed within 30 hours of collection. [Table not included. See ED. NOTE.]

(B) Turbidity measurements to determine compliance with OAR 333-061-0030(3)(a) must be performed on representative grab samples of source water immediately prior to the first or only point of disinfectant application every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Authority. Systems using continuous turbidity monitoring must report the turbidity data to the Authority in the same manner that grab sample results are reported. The Authority will furnish report forms upon request.

(C) The total inactivation ratio for each day that the system is in operation must be determined based on the CT99.9 values in Tables 27 through 34. The parameters necessary to determine the total inactivation ratio must be monitored as follows: [Table not included. See ED. NOTE.]

(i) The temperature of the disinfected water must be measured at least once per day at each residual disinfectant concentration sampling point.

(ii) If the system uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine residual disinfectant concentration sampling point.

(iii) The disinfectant contact time(s) ("T") in minutes must be determined for each day during peak hourly flow.

(iv) The residual disinfectant concentration(s) ("C") in mg/l before or at the first customer must be measured each day during peak hourly flow.

(v) If a system uses a disinfectant other than chlorine or UV, the system may demonstrate to the Authority, through the use of protocol approved by the Authority for on-site disinfection challenge studies or other information satisfactory to the Authority, that CT99.9 values other than those specified in the Tables 33 and 34 or other operational parameters are adequate to demonstrate that the system is achieving the minimum inactivation rates required by OAR 333-061-0032(3)(a). [Table not included. See ED. NOTE.]

(D) The total inactivation ratio must be calculated as follows:

(i) If the system uses only one point of disinfectant application, the system may determine the total inactivation ratio based on either of the following two methods:

(I) One inactivation ratio (CTcalc/CTrequired) is determined before or at the first customer during peak hourly flow and if the CTcalc/CTrequired is greater than or equal to 1.0, the Giardia lamblia inactivation requirement has been achieved; or

(II) Successive CTcalc/CTrequired values representing sequential inactivation ratios, are determined between the point of disinfection application and a point before or at the first customer during peak hourly flow. Under this alternative, the following method must be used to calculate the total inactivation ratio:

Step 1: Determine CTcalc/CTrequired for each sequence

Step 2: Add the CTcalc/CTrequired values together

Step 3: If (CTcalc/CTrequired) is greater than or equal to 1.0, the Giardia lamblia inactivation requirement has been achieved.

(ii) If the system uses more than one point of disinfectant application before or at the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The CTcalc/CTrequired value of each sequence and CTcalc/CTrequired must be calculated using the methods in subparagraph (5)(a)(D)(i)(II) of this rule to determine if the system is in compliance with OAR 333-061-0032(3)(a) or (5)(a).

(E) The residual disinfectant concentration of the water entering the distribution system must be monitored continuously, and the lowest value must be recorded each day. If there is a failure in the continuous monitoring equipment, grab sampling every 4 hours may be conducted in lieu of continuous monitoring, but for no more than 5 working days following the failure of the equipment, and systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies prescribed in Table 35. The day's samples cannot be taken at the same time. The sampling intervals are subject to Authority review and approval. If at any time the residual disinfectant concentration falls below 0.2 mg/l in a system using grab sampling in lieu of continuous monitoring, the system must take a grab sample every 4 hours until the residual disinfectant concentration is > 0.2 mg/l. [Table not included. See ED. NOTE.]

(F) The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in section (5) of this rule, except that the Authority may allow a public water system which uses both a surface water source or a groundwater source under the direct influence of surface water, and a groundwater source, to take disinfectant residual samples at points other than the total coliform sampling points if the Authority determines that such points are more representative of treated (disinfected) water quality within the distribution system.

(b) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does provide filtration treatment must monitor water quality as specified in this subsection when filtration treatment is installed.

(A) Turbidity:

(i) Turbidity measurements as required by section OAR 333-061-0032(4) must be performed on representative samples of the system's filtered water, measured prior to any storage, every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Authority.

(ii) Calibration of all turbidimeters must be performed according to manufacturer's specifications, but no less frequently than quarterly.

(iii) Water systems using conventional filtration must measure settled water turbidity every day.

(iv) Water systems using conventional or direct filtration must conduct turbidity profiles for individual filters every calendar quarter.

(v) For any systems using slow sand filtration or filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the Authority may reduce the sampling frequency to once per day if it determines that less frequent monitoring is sufficient to indicate effective filtration performance.

(vi) Systems using lime softening may acidify representative samples prior to analysis using a method approved by the Authority.

(B) The actual CT value achieved must be calculated each day the treatment plant is in operation. The parameters necessary to determine the actual CT value must be monitored as follows:

(i) The temperature of the disinfected water must be measured at least once per day at each residual disinfectant concentration sampling point as prescribed in subparagraph (5)(b)(B)(iv) of this rule.

(ii) If the system uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine residual disinfectant concentration sampling point.

(iii) The disinfectant contact time(s) ("T") in minutes must be determined for each day during peak hourly flow, based on results of a tracer study conducted according to OAR 333-061-0050(6)(a)(R), or other method approved by the Authority.

(iv) The residual disinfectant concentration(s) ("C") in mg/l before or at the first customer must be measured each day during peak hourly flow.

(v) If a system uses a disinfectant other than chlorine, the system may demonstrate to the Authority, through the use of protocol approved by the Authority for on-site disinfection challenge studies or other information satisfactory to the Authority, or other operational parameters are adequate to demonstrate that the system is achieving the minimum inactivation rates required by OAR 333-061-0032(5)(a).

(C) The inactivation ratio calculations as prescribed in paragraph (5)(a)(D) of this rule.

(D) Monitoring for the residual disinfectant concentration entering the distribution system shall be performed as prescribed in paragraph (5)(a)(E) of this rule.

(E) Monitoring for the residual disinfectant concentration in the distribution system shall be performed as prescribed in paragraph (5)(a)(F) of this rule.

(F) Water systems using membrane filtration must perform direct integrity testing on each filter canister at least daily, per OAR 333-061-0036(5)(d)(B).

(c) Inactivation credit for water systems using a disinfectant other than chlorine for pathogen inactivation.

(A) Calculation of CT values.

(i) CT is the product of the disinfectant concentration (C, in milligrams per liter) and actual disinfectant contact time (T, in minutes). Systems with treatment credit for chlorine dioxide or ozone as prescribed by paragraphs (5)(c)(B) or (C) of this rule must calculate CT at least once per day, with both C and T measured during peak hourly flow as specified in paragraph (5)(b)(B) of this rule.

(ii) Systems with several disinfection segments in sequence must calculate CT for each segment where treatment credit is sought, where a disinfection segment is defined as a treatment unit process with a measurable disinfectant residual level and a liquid volume. If using this approach, water systems must add the Cryptosporidium CT values in each segment to determine the total CT for the treatment plant.

(B) CT values for chlorine dioxide and ozone.

(i) Systems receive the Cryptosporidium treatment credit listed in Table 36 by meeting the corresponding chlorine dioxide CT value for the applicable water temperature, as described in paragraph (5)(c)(A) of this rule. [Table not included. See ED. NOTE.]

(ii) Systems receive the Cryptosporidium treatment credit listed in Table 37 by meeting the corresponding ozone CT values for the applicable water temperature, as described in paragraph (5)(c)(A) of this rule. [Table not included. See ED. NOTE.]

(C) Site-specific study. The Authority may approve alternative chlorine dioxide or ozone CT values to those listed in Table 36 or Table 37 on a site-specific basis. The Authority must base this approval on a site-specific study conducted by a water system that follows an Authority approved protocol. [Table not included. See ED. NOTE.]

(D) Ultraviolet light. Systems receive Cryptosporidium, Giardia lamblia, and virus treatment credits for ultraviolet light (UV) reactors by achieving the corresponding UV dose values shown in subparagraph (5)(c)(D)(i) of this rule. Systems must validate and monitor UV reactors as described in OAR 333-061-0050(5)(k) and subparagraphs (5)(c)(D)(ii) and (iii) of this rule to demonstrate that they are achieving a particular UV dose value for treatment credit.

(i) UV dose table. The treatment credits listed in this table are for UV light at a wavelength of 254 nm as produced by a low pressure mercury vapor lamp. To receive treatment credit for other lamp types, systems must demonstrate an equivalent germicidal dose through reactor validation testing as specified in OAR 333-061-0050(5)(k). The UV dose values in Table 38 are applicable to post-filter applications of UV in filtered water systems, unfiltered water systems, and groundwater systems required to disinfect as prescribed by OAR 333-061-0032(6)(j). [Table not included. See ED. NOTE.]

(ii) Reactor monitoring. Systems must monitor their UV reactors to determine if the reactors are operating within validated conditions, as prescribed by OAR 333-061-0050(5)(k). This monitoring must include UV intensity as measured by a UV sensor, flow rate, lamp status, UV Transmittance, and other parameters the Authority designates based on UV reactor operation. Water systems must verify the calibration of UV sensors at least monthly, and must recalibrate sensors in accordance with the EPA UV Disinfection Guidance Manual as necessary.

(iii) Water systems must monitor the percentage of water delivered to the public that was treated within validated conditions for the required UV dose. If less than 95 percent of water delivered was within validated conditions, a Tier 2 public notice must be issued as prescribed by OAR 333-061-0042(3)(b).

(d) Requirements for individual filter effluent turbidity monitoring

(A) In addition to subsection (5)(b) of this rule, water systems using surface water or groundwater under the direct influence of surface water where treatment includes conventional filtration treatment or direct filtration treatment must conduct continuous turbidity monitoring for each individual filter and must calibrate turbidimeters using the procedure specified by the manufacturer. Individual filter monitoring results must be recorded every 15 minutes. If there is a failure in the continuous turbidity monitoring equipment, the water system must conduct grab sampling every four hours in lieu of continuous monitoring until the turbidimeter is repaired and back on-line. The water system serving at least 10,000 people has a maximum of five working days after failure to repair the equipment or the water system is in violation. The water system serving less than 10,000 people has a maximum of 14 days to resume continuous monitoring before a violation is incurred. If the water system's conventional or direct filtration treatment plant consists of two or fewer filters, continuous monitoring of the combined filter effluent turbidity may be substituted for continuous monitoring of individual filter effluent turbidity. For systems serving less than 10,000 people, the recording and calibration requirements that apply to individual filters also apply when continuous monitoring of the combined filter effluent turbidity is substituted for the continuous monitoring of individual filter effluent turbidity;

(B) Direct integrity testing for membrane filtration. Water systems must conduct direct integrity testing in a manner that demonstrates a removal efficiency equal to or greater than the removal credit awarded to the membrane filtration process, and that meets the requirements described in this paragraph. A direct integrity test is defined as a physical test applied to a membrane unit in order to identify and isolate integrity breaches (i.e., one or more leaks that could result in contamination of the filtrate).

(i) The direct integrity test must be independently applied to each membrane unit in service. A membrane unit is defined as a group of membrane modules that share common valving that allows the unit to be isolated from the rest of the water system for the purpose of integrity testing or other maintenance.

(ii) The direct integrity method must have a resolution of three micrometers or less, where resolution is defined as the size of the smallest integrity breach that contributes to a response from the direct integrity test.

(iii) The direct integrity test must have a sensitivity sufficient to verify the log treatment credit awarded to the membrane filtration process by the Authority, where sensitivity is defined as the maximum log removal value that can be reliably verified by a direct integrity test. Sensitivity must be determined using the approach in either subparagraphs (5)(d)(B)(iii)(I) or (II) of this rule as applicable to the type of direct integrity test the system uses.

(I) For direct integrity tests that use an applied pressure or vacuum, the direct integrity test sensitivity must be calculated according to the following equation:

LRVDIT = LOG10 (Qp /(VCF x Qbreach))

Where:

LRVDIT = the sensitivity of the direct integrity test;

Qp = total design filtrate flow from the membrane unit;

Qbreach = flow of water from an integrity breach associated with the smallest integrity test response that can be reliably measured; and

VCF = volumetric concentration factor. The volumetric concentration factor is the ratio of the suspended solids concentration on the high pressure side of the membrane relative to that in the feed water.

(II) For direct integrity tests that use a particulate or molecular marker, the direct integrity test sensitivity must be calculated according to the following equation:

LRVDIT = LOG10(Cf)-LOG10(Cp)

Where:

LRVDIT = the sensitivity of the direct integrity test;

Cf = the typical feed concentration of the marker used in the test; and

Cp = the filtrate concentration of the marker from an integral membrane unit.

(iv) Water systems must establish a control limit within the sensitivity limits of the direct integrity test that is indicative of an integral membrane unit capable of meeting the removal credit awarded by the Authority.

(v) If the result of a direct integrity test exceeds the control limit established under subparagraph (5)(d)(B)(iv) of this rule, the water system must remove the membrane unit from service. Water systems must conduct a direct integrity test to verify any repairs, and may return the membrane unit to service only if the direct integrity test is within the established control limit.

(vi) Water systems must conduct direct integrity testing on each membrane unit at a frequency of not less than once each day that the membrane unit is in operation. The Authority may approve less frequent testing, based on demonstrated process reliability, the use of multiple barriers effective for Cryptosporidium, or reliable process safeguards.

(C) Indirect integrity monitoring for membrane filtration. Water systems must conduct continuous indirect integrity monitoring on each membrane unit according to the criteria specified in this paragraph. Indirect integrity monitoring is defined as monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter. A water system that implements continuous direct integrity testing of membrane units in accordance with the criteria specified in subparagraphs (5)(d)(B)(i) through (v) of this rule is not subject to the requirements for continuous indirect integrity monitoring. Water systems must submit a monthly report to the Authority summarizing all continuous indirect integrity monitoring results triggering direct integrity testing and the corrective action that was taken in each case.

(i) Unless the Authority approves an alternative parameter, continuous indirect integrity monitoring must include continuous filtrate turbidity monitoring.

(ii) Continuous monitoring must be conducted at a frequency of no less than once every 15 minutes.

(iii) Continuous monitoring must be separately conducted on each membrane unit.

(iv) If indirect integrity monitoring includes turbidity and the filtrate turbidity readings are above 0.15 NTU for a period greater than 15 minutes (i.e., two consecutive 15-minute readings above 0.15 NTU), direct integrity testing in accordance with subparagraphs (5)(d)(B)(i) through (v) of this rule must immediately be performed on the associated membrane unit.

(v) If indirect integrity monitoring includes an Authority-approved alternative parameter and if the alternative parameter exceeds an Authority approved control limit for a period greater than 15 minutes, direct integrity testing in accordance with subparagraphs (5)(d)(B)(i) through (v) of this rule must immediately be performed on the associated membrane unit.

(e) Source water monitoring. Wholesale water systems, as defined in OAR 333-061-0020(221), must comply with the requirements of this rule based on the population of the largest water system in the combined distribution system. Water systems required to provide filtration treatment must comply with the requirements of this rule whether or not the water system

is currently operating filtration treatment. The requirements of this rule for unfiltered water systems only apply to those water systems that met and continue to meet the requirements of OAR 333-061-0032(2) and (3).

(A) Initial round. Water systems must conduct monitoring as prescribed by this paragraph, and following the schedule specified in paragraph (5)(e)(C) of this rule, unless the system meets the monitoring exemption criteria specified in paragraph (5)(e)(D) of this rule.

(i) Filtered water systems serving at least 10,000 people must sample their source water for Cryptosporidium, E. coli, and turbidity at least monthly for 24 months.

(ii) Unfiltered water systems serving at least 10,000 people must sample their source water for Cryptosporidium at least monthly for 24 months.

(iii) Filtered water systems serving less than 10,000 people must sample their source water for E. coli at least once every two weeks for 12 months.

(I) Filtered water systems serving fewer than 10,000 people may avoid E. coli monitoring if the system monitors for Cryptosporidium as prescribed in subparagraph (5)(e)(A)(iv) of this rule. The water system must notify the Authority no later than three months prior to the date the system is otherwise required to start E. coli monitoring under paragraph (5)(e)(C) of this rule.

(iv) Filtered water systems serving fewer than 10,000 people must sample their source water for Cryptosporidium at least twice per month for 12 months or at least monthly for 24 months if they meet one of the following, based on monitoring conducted in accordance with subparagraph (5)(e)(A)(iii) of this rule:

(I) The annual mean E. coli concentration, in the surface water source, is greater than 100 E. coli/100 mL;

(II) The water system does not conduct E. coli monitoring as described in subparagraph (5)(e)(A)(iii) of this rule; or

(III) Water systems using groundwater under the direct influence of surface water must comply with the requirements of this paragraph based on the E. coli level specified in subparagraph (5)(e)(A)(iv)(I) of this rule.

(v) Unfiltered water systems serving fewer than 10,000 people must sample their source water for Cryptosporidium at least twice per month for 12 months or at least monthly for 24 months.

(vi) Water systems may sample more frequently than required under this section if the sampling frequency is evenly spaced throughout the monitoring period.

(vii) The Authority may approve monitoring for an indicator other than E. coli to comply with the monitoring prescribed by subparagraph (5)(e)(A)(iii) of this rule for filtered water systems serving fewer than 10,000 people. The Authority may approve an alternative to the E. coli concentrations that trigger Cryptosporidium monitoring as specified in subparagraphs (5)(e)(A)(iv)(I) and (III) of this rule. The Authority's approval to the system will be in writing and will include the basis for the Authority's determination that the alternative indicator or trigger level will provide a more accurate identification of whether a water system will exceed the Bin 1 Cryptosporidium level specified in Table 9 in OAR 333-061-0032(4)(f)(F). [Table not included. See ED. NOTE.]

(B) Water systems must conduct a second round of source water monitoring that meets the requirements for monitoring parameters, frequency, and duration described in paragraph (5)(e)(A) of this rule, and according to the schedule in paragraph (5)(e)(C) of this rule, unless they meet the monitoring exemption criteria specified in paragraph (5)(e)(D) of this rule.

(C) Monitoring schedule. Systems must begin monitoring as required in paragraphs (5)(e)(A) and (B) of this rule no later than the month beginning with the date listed in Table 39. [Table not included. See ED. NOTE.]

(D) Monitoring avoidance.

(i) Filtered water systems are not required to conduct source water monitoring as prescribed by this subsection if the system will provide a total of at least 5.5-log of treatment for Cryptosporidium, equivalent to meeting the treatment requirements of Bin 4 in OAR 333-061-0032(4)(g) and OAR333-061-0032(13) through (18).

(ii) Unfiltered water systems are not required to conduct source water monitoring as prescribed by this subsection if the system will provide a total of at least 3-log Cryptosporidium inactivation, equivalent to meeting the treatment requirements for unfiltered systems with a mean Cryptosporidium concentration of greater than 0.01 oocysts/L in OAR 333-061-0032(3)(e).

(iii) If a water system chooses to provide the level of treatment specified in subparagraph (5)(e)(D)(i) or (ii) of this rule, rather than conducting source water monitoring, the water system must notify the Authority in writing no later than the date the system is otherwise required to submit a sampling schedule for monitoring as prescribed by OAR 333-061-0036(5)(f)(A). A water system may choose to cease source water monitoring at any point after it has initiated monitoring if it notifies the Authority in writing that it will provide this level of treatment. Water systems must install and operate technologies to provide this level of treatment by the applicable treatment compliance date in OAR 333-061-0032(1)(a)(F).

(E) Seasonal plants. Systems with surface water or GWUDI treatment plants that operate for only part of the year must conduct source water monitoring in accordance with this subsection, but with the following modifications:

(i) Water systems must sample their source water only during the months that the plant is in use unless the Authority specifies another monitoring period based on plant operating practices.

(ii) Water systems with treatment plants that operate less than six months per year, and that monitor for Cryptosporidium, must collect at least six Cryptosporidium samples per year for two years of monitoring. Samples must be evenly spaced throughout the period the plant operates.

(F) New sources. A water system that begins using a new source of surface water or GWUDI after the system is required to begin monitoring as prescribed in paragraph (5)(e)(C) of this rule must monitor the new source on a schedule the Authority approves. Source water monitoring must meet the requirements of this subsection, and the water system must also meet the bin classification and Cryptosporidium treatment requirements of OAR 333-061-0032 for the new source on a schedule the Authority approves.

(i) This applies to water systems using surface water or GWUDI sources that begin operation after the monitoring start date applicable to the system's size specified in Table 39. [Table not included. See ED. NOTE.]

(ii) The water system must begin a second round of source water monitoring no later than six years following determination of the mean Cryptosporidium level or initial bin classification as prescribed by OAR 333-061-0032(2) or (4) respectively, as applicable.

(G) Failure to collect any source water sample in accordance with the sampling requirements, schedule, sampling location, analytical method, approved laboratory, and reporting requirements of this section is a monitoring violation.

(H) Grandfathering monitoring data. Systems may use monitoring data collected prior to the applicable monitoring start date in paragraph (5)(e)(C) of this rule to meet the initial source water monitoring requirements in paragraph (5)(e)(A) of this rule. Grandfathered data may substitute for an equivalent number of months at the end of the monitoring period. All data submitted under this paragraph must meet the requirements in subsection (5)(h) of this rule.

(f) Source water sampling schedules.

(A) Water systems required to conduct source water monitoring as prescribed in subsection (5)(e) of this rule must submit a sampling schedule that specifies the calendar dates when the system will collect each required sample.

(i) Water systems must submit sampling schedules to the Authority, no later than three months prior to the applicable date listed in paragraph (5)(e)(C) of this rule, for each round of required monitoring.

(ii) If the Authority does not respond to a water system regarding its sampling schedule, the system must sample at the reported schedule.

(B) Water systems must collect samples within a five-day period, starting two days before the scheduled sampling date and ending two days after. The five-day period applies to each of the dates indicated in the sampling schedule unless one of the following conditions applies:

(i) An extreme condition or situation exists that may pose danger to the sample collector or that cannot be avoided, and that prevents the water system from sampling in the scheduled five-day period. In this case, the water system must sample as close to the scheduled date as possible unless the Authority approves an alternative sampling date. The water system must submit an explanation for the delayed sampling date to the Authority concurrent with the submittal of the sample to the laboratory; or

(ii) A water system is unable to report a valid analytical result for the scheduled sampling date due to equipment failure, loss of or damage to the sample, failure to comply with the analytical method requirements (including the quality control requirements), or the failure of an approved laboratory to analyze the sample.

(I) In this case the water system must collect a replacement sample as prescribed in subparagraph (5)(f)(B)(ii)(II) of this rule.

(II) The system must collect the replacement sample not later than 21 days after receiving information that an analytical result cannot be reported for the scheduled date unless the water system demonstrates that collecting a replacement sample within this time frame is not feasible or the Authority approves an alternative re-sampling date. The system must sub-

mit an explanation for the delayed sampling date to the Authority concurrent with the submittal of the sample to the laboratory.

(iii) Water systems that fail to meet the criteria of paragraph (5)(f)(B) of this rule for any required source water sample must revise their sampling schedules to add dates for collecting all missed samples. Water systems must submit the revised sampling schedule to the Authority for approval prior to beginning collecting the missed samples.

(g) Source water sampling locations.

(A) Water systems required to conduct source water monitoring as prescribed in subsection (5)(e) of this rule must collect samples for each plant that treats a surface water or GWUDI source. Where multiple plants draw water from the same influent, such as the same pipe or intake, the Authority may approve one set of monitoring results to be used to satisfy the requirements for all treatment plants.

(B) Water systems must collect source water samples prior to chemical treatment, such as coagulants, oxidants and disinfectants, unless the system meets the following condition:

(i) The Authority may approve a water system to collect a source water sample after chemical treatment if the Authority determines that collecting a sample prior to chemical treatment is not feasible for the system and that the chemical treatment is unlikely to have a significant adverse effect on the analysis of the sample.

(C) Water systems that recycle filter backwash water must collect source water samples prior to the point of filter backwash water addition.

(D) Bank filtration.

(i) Water systems that receive Cryptosporidium treatment credit for bank filtration as an alternate filtration technology as specified by OAR 333-061-0032(9) must collect source water samples in the surface water source prior to bank filtration.

(ii) Water systems that use bank filtration as pretreatment to a filtration plant must collect source water samples from the well, after bank filtration. Use of bank filtration during monitoring must be consistent with routine operational practice. Water systems collecting samples after a bank filtration process may not receive treatment credit for the bank filtration prescribed by OAR 333-061-0032(9).

(E) Multiple sources. Water systems with treatment plants that use multiple water sources, including multiple surface water sources and blended surface water and groundwater sources, must collect samples as specified in subparagraph (5)(g)(E)(i) or (ii) of this rule. The use of multiple sources during monitoring must be consistent with routine operational practice.

(i) If a sampling tap is available where the sources are combined prior to treatment, water systems must collect samples from this tap.

(ii) If a sampling tap where the sources are combined prior to treatment is not available, systems must collect samples at each source near the intake on the same day and must comply with either subparagraph (5)(g)(E)(ii)(I) or (II) below for sample analysis.

(I) Water systems may composite samples from each source into one sample prior to analysis. The volume of sample from each source must be weighted according to the proportion of the source in the total plant flow at the time the sample is collected.

(II) Water systems may analyze samples from each source separately and calculate a weighted average of the analysis results for each sampling date. The weighted average must be calculated by multiplying the analysis result for each source by the fraction the source contributed to total plant flow at the time the sample was collected and then adding these values.

(F) Additional requirements. Water systems must submit a description of their sampling location(s) to the Authority at the same time as the sampling schedule required under subsection (5)(f) of this rule. This description must address the position of the sampling location in relation to the system's water source(s) and treatment processes, including pretreatment, points of chemical treatment, and filter backwash recycle. If the Authority does not respond to a water system regarding sampling location(s), the system must sample at the reported location(s).

(h) Grandfathering previously collected data.

(A) Water systems may comply with the initial source water monitoring requirements of paragraph (5)(e)(A) of this rule by grandfathering sample results collected before the system is required to begin monitoring. To be grandfathered, the sample results and analysis must meet the criteria in this section and the Authority must approve the previously sampled data.

(i) A filtered water system may grandfather Cryptosporidium samples to meet the monitoring requirements of paragraph (5)(e)(A) of this rule when the system does not have corresponding E. coli and turbidity samples.

(ii) A water system that grandfathers Cryptosporidium samples is not required to collect the E. coli and turbidity samples when the system completes the requirements for Cryptosporidium monitoring under paragraph (5)(e)(A) of this rule.

(B) The analysis of grandfathered E. coli and Cryptosporidium samples must meet the analytical method and approved laboratory requirements of subsections (1)(a) and (1)(c) of this rule.

(C) The sampling location of grandfathered samples must meet the conditions specified in subsection (5)(g) of this rule.

(D) Grandfathered Cryptosporidium samples must have been collected no less frequently than each calendar month on a regular schedule, and no earlier than January 1999. Sample collection intervals may vary for the conditions specified in subparagraph (5)(f)(B)(i) through (ii) of this rule if the system provides documentation of the condition when reporting monitoring results.

(i) The Authority may approve grandfathering of previously collected data where there are time gaps in the sampling frequency if the water system conducts additional monitoring as specified by the Authority to ensure that the data used to comply with the initial source water monitoring requirements of paragraph (5)(e)(A) of this rule are seasonally representative and unbiased.

(ii) Water systems may grandfather previously collected data where the sampling frequency within each month varied. If the Cryptosporidium sampling frequency varied, water systems must follow the monthly averaging procedure in OAR 333-061-0032(2)(d)(B) or (4)(f)(E) as applicable, when calculating the bin classification for filtered water systems or the mean Cryptosporidium concentration for unfiltered water systems.

(E) Reporting monitoring results for grandfathering. Water systems that request to grandfather previously collected monitoring results must report the following information by the applicable dates listed in this paragraph.

(i) Water systems must report that they intend to submit previously collected monitoring. This report must specify the number of previously collected results the system will submit, the dates of the first and last sample, and whether a system will conduct additional source water monitoring to meet the requirements of paragraph (5)(e)(A) of this rule. Water systems must report this information no later than the date the sampling schedule is required as prescribed by subsection (5)(f) of this rule.

(ii) Water systems must report previously collected monitoring results for grandfathering, along with the associated documentation listed in subparagraphs (5)(h)(E)(ii)(I) through (IV) of this rule, no later than two months after the applicable date listed in paragraph (5)(e)(C) of this rule.

(I) For each sample result, water systems must report the applicable data elements specified by OAR 333-061-0040(1)(l).

(II) Water systems must certify that the reported monitoring results include all results the system generated during the time period beginning with the first reported result and ending with the final reported result. This applies to samples that were collected from the sampling location specified for source water monitoring under this paragraph and analyzed in accordance with subsection (1)(a) of this rule.

(III) Water systems must certify that the samples were representative of a plant's source water(s) and that the source water(s) have not changed. Water systems must report a description of the sampling location(s), which must address the position of the sampling location in relation to the system's water source(s) and treatment processes, including points of chemical addition and filter backwash recycle.

(IV) For Cryptosporidium samples, the laboratory or laboratories that analyzed the samples must provide a letter certifying that the quality control criteria in accordance with subsection (1)(a) of this rule were met for each sample batch associated with the reported results. Alternatively, the laboratory may provide bench sheets and sample examination report forms for each field, matrix spike, IPR, OPR, and method blank sample associated with the reported results.

(F) If the Authority determines that a previously collected data set submitted for grandfathering was generated during source water conditions that were not normal for the system, such as a drought, the Authority may disapprove the data. Alternatively, the Authority may approve the previously collected data if the water system reports additional source water monitoring data, as determined by the Authority, to ensure that the data set used under OAR 333-061-0032(4)(f) or 0032(2)(d) represents average source water conditions for the system.

(G) If a water system submits previously collected data that fully meets the number of samples required for initial source water monitoring required by paragraph (5)(e)(A) of this rule, and some of the data is rejected due to not meeting the requirements of this subsection, systems must conduct additional monitoring to replace rejected data on a schedule the Authority approves. Water systems are not required to begin this addition-

al monitoring until two months after notification that data has been rejected and that additional monitoring is necessary.

(6) Microbiological contaminants:

(a) Samples shall be collected and analyzed for the purpose of determining compliance with the maximum contaminant levels for coliform bacteria as follows:

(A) Samples shall be collected from points which are representative of conditions, including impacts of multiple sources, within the distribution system at regular time intervals throughout the reporting period.

(B) The standard sample volume required for total coliform analysis, regardless of analytical method used, is 100 ml.

(C) Community water systems utilizing surface water, groundwater under the direct influence of surface water, or ground water sources must monitor at a frequency no less than set forth in Table 40. [Table not included. See ED. NOTE.]

(D) Non-Transient Non-Community, Transient Non-Community, and State Regulated water systems using surface water, or groundwater under the direct influence of surface water must monitor at a frequency no less than set forth in Table 40. Monitoring must begin at this frequency immediately for systems using surface water sources, or no later than 6 months after the Authority has determined that the groundwater source is under the direct influence of surface water when applicable. [Table not included. See ED. NOTE.]

(E) Non-Transient Non-Community and Transient Non-Community water systems utilizing groundwater sources, and serving more than 1000 persons per day, must monitor at a frequency no less than set forth in Table 40. [Table not included. See ED. NOTE.]

(F) For Non-Transient Non-Community and Transient Non-Community water systems utilizing ground water sources and serving 1000 persons or fewer per day, and State Regulated water systems using groundwater sources, the analyses shall be made in each calendar quarter during which water is provided to the public.

(G) Public water systems must collect total coliform samples at sites which are representative of water throughout the distribution system according to a written sampling site plan. The plan must include, at a minimum, a brief narrative of the water system components, a map of the distribution system showing the representative routine and repeat sampling sites, and sampling protocols. These plans must be approved by the Authority.

(H) Any public water system that uses surface water or groundwater under the direct influence of surface water and does not provide filtration treatment as defined by these rules must collect at least one sample at the first customer for each day the turbidity level of the source water measured as prescribed in OAR 333-061-0036(5)(a)(B) exceeds 1 NTU. This sample must be analyzed for the presence of total coliforms. When one or more turbidity measurements in any day exceed 1 NTU, the system must collect this coliform sample within 24 hours of the first exceedance or as early as possible the next business day, unless the Authority determines that the system cannot have the sample analyzed within 30 hour of collection due to logistical reasons outside the system's control. Sample results from this coliform monitoring must be included in determining compliance with the microbiological MCL prescribed in OAR 333-061-0030(4).

(b) When a routine sample is total coliform-positive, a set of repeat samples must be collected within 24 hours of being notified of the positive results by the certified laboratory.

(A) Systems which collect more than one routine sample/month must collect at least three repeat samples for each total coliform-positive routine sample found.

(B) Systems which collect one routine sample/month or less must collect at least four repeat samples for each total coliform-positive sample found.

(c) The system must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. If the original sampling site is at or near the end of the distribution system, the Authority may waive the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. All repeat samples must be collected on the same day.

(d) Systems with a single service connection may be allowed by the Authority to collect the required set of repeat samples over a four-day period.

(e) The Authority may extend the 24-hour limit in subsection (6)(b) of this rule on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control.

(f) Results of all routine and repeat samples not invalidated by the Authority must be included in determining compliance with the MCL for total coliforms required in OAR 333-061-0030(4).

(g) If one or more repeat samples in the set is total-coliform positive, the public water system must collect an additional set of repeat samples in the manner specified in subsections (6)(b), through (d) of this rule. The additional samples must be collected within 24 hours of being notified of the positive result, unless the Authority extends the limit as provided in subsection (6)(e) of this rule. The system must repeat this process until either total coliforms are not detected in one complete set of repeat samples or The Authority determines that the MCL for total coliforms in OAR 333-061-0030(4) has been exceeded. After a system collects a routine sample and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the system may count the subsequent sample(s) as a repeat sample instead of a routine sample.

(h) If a system collecting fewer than five routine samples/month has one or more total coliform-positive samples and the Authority does not invalidate the sample(s) under subsection (6)(j) of this rule, the system must collect at least five routine samples during the next month the system provides water to the public. The Authority may waive this requirement if:

(A) The Authority performs a site visit before the end of the next month the system provides water to the public and determines that additional monitoring and/or corrective action is not needed; or

(B) The Authority determines why the sample was total coliform-positive and establishes that the system has corrected the problem before the end of the next month the system serves water to the public. The Authority must document in writing this decision, have it approved and signed by the supervisor of the official who recommends such a decision, and make this document available to the public. The written documentation must describe the specific cause of the total coliform-positive sample and what action the system has taken and/or will take to correct this problem. The Authority cannot waive this requirement solely on the grounds that all repeat samples are total-coliform negative. Under this paragraph, a system must still take at least one routine sample before the end of the next month it serves water to the public and use it to determine compliance with the MCL for total coliforms required in OAR 333-061-0030(4) unless the Authority determines that the system has corrected the contamination problem before the system took the set of repeat samples required in subsections (6)(b) through (d) of this rule, and all repeat samples were total coliform negative.

(i) When the maximum microbiological contaminant level for total coliform is exceeded or when the maximum contaminant level for fecal coliform or fecal and total coliform is exceeded the water supplier shall report to the Authority as prescribed in OAR 333-061-0040 and notify the public as prescribed in OAR 333-061-0042(2)(b)(A) for total coliform and 333-061-0042(2)(a)(A) for fecal coliform/E. Coli. If the water system has failed to comply with a coliform monitoring requirement, including the sanitary survey requirement, the system must report to the Authority as prescribed in OAR 333-061-0040 and notify the public as prescribed in OAR 333-061-0042;

(j) The Authority may invalidate a total coliform-positive sample if:

(A) The laboratory establishes that improper sample analysis caused the total coliform-positive result; or

(B) The Authority determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem on the basis of the results of repeat samples collected as required by subsections (6)(b), through (d) of this rule. The Authority cannot invalidate a sample on the basis of repeat sample results unless all repeat sample(s) collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected within five service connections of the original tap are total coliform-negative. (The Authority cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the public water system has only one service connection); or

(C) The Authority has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required by subsections (6)(b) through (h) of this rule and use them to determine compliance with the microbiological MCL prescribed in OAR 333-061-0030(4). To invalidate a total coliform-positive sample under this paragraph, the decision with its rationale must be

documented in writing, approved and signed by the supervisor of the Authority official who recommended the decision. The Authority must make this document available to the public. The written documentation must state the specific cause of the total coliform-positive sample and what action the system has taken, or will take, to correct this problem. The Authority may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative.

(k) A certified laboratory must invalidate a total coliform sample (unless total coliforms are detected) if the sample produced a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the Multiple-Tube Fermentation Technique), produces a turbid culture in the absence of an acid reaction in the Presence-Absence (P-A) Coliform Test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g., Membrane Filter Technique). If a certified laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The system must continue to resample within 24 hours and have the samples analyzed until it obtains a valid result. The Authority may waive the 24-hour time limit on a case-by-case basis.

(l) Any total coliform-positive sample invalidated under subsections (6)(j) or (k) of this rule shall not count towards meeting the minimum monitoring requirements as prescribed in subsections (6)(a) through (d) of this rule.

(m) If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine if fecal coliforms are present. The system may test for E. coli in lieu of fecal coliforms. If fecal coliforms or E. coli are present, the system must notify the Authority by the end of the day when the system is notified of the test result or, if the Authority office is closed, by the end of the next business day.

(n) The Authority may allow a water system to forgo testing for fecal coliform or E. coli on total coliform-positive samples as prescribed in subsection (6)(m) of this rule if the system assumes that the total coliform-positive sample is fecal coliform-positive or E. coli positive. The system must notify the Authority as specified in subsection (6)(m) of this rule and the provisions of OAR 333-061-0030(4) apply.

(o) Public water systems which do not collect five or more routine samples per month must undergo an initial sanitary survey by June 29, 1994 for Community water systems and June 29, 1999 for Non-Transient and Transient Non-Community water systems. Thereafter, systems must undergo another sanitary survey every five years, except that Non-Transient and Transient Non-Community water systems using only protected and disinfected groundwater as defined by the Authority, must undergo subsequent sanitary surveys at least every ten years after the initial survey. The Authority must review the results of each survey to determine whether the existing monitoring frequency is adequate and what additional measures, if any, the system needs to undertake to improve drinking water quality.

(p) Sampling for additional pathogens may be required by the Authority when specific evidence indicates the possible presence of such organisms.

(q) Beginning on December 1, 2009, groundwater systems must conduct triggered source water monitoring if the conditions identified in paragraphs (6)(q)(A) and (6)(q)(B) of this rule exist.

(A)The groundwater system does not provide at least 4-log treatment of viruses before or at the first customer for each groundwater source; and

(B) The groundwater system is notified that a sample collected as prescribed in subsection (6)(a) of this rule is total coliform-positive and the sample is not invalidated as prescribed in subsection (6)(j) of this rule.

(r) If a groundwater system is notified, after November 30, 2009, that a sample collected in accordance with subsection (6)(a) of this rule is total coliform-positive, the water system must collect at least one source water sample, within 24 hours of the notification, from each groundwater source in use at the time the total coliform-positive sample was collected, except as provided in paragraph (6)(r)(B) of this rule.

(A) The Authority may extend the 24-hour time limit on a case-by-case basis if the water system cannot collect the groundwater source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Authority must specify how much time the water system has to collect the sample.

(B) If approved by the Authority, water systems with more than one groundwater source may meet the requirements of subsection (6)(r) of this rule by sampling a representative groundwater source(s). If directed by the Authority, water systems must submit for the Authority's approval a triggered source water monitoring plan that identifies one or more groundwater sources that the system intends to use for representative sampling as prescribed by this subsection, and that are representative of each monitoring site in the water system's coliform sampling plan as prescribed by paragraph (6)(a)(G) of this rule.

(C) A groundwater system serving 1,000 people or less may use a repeat sample collected from a groundwater source to meet the requirements of subsections (6)(b) and (6)(r) of this rule for that groundwater source. If the repeat sample collected from the groundwater source is E. coli positive, the system must comply with subsection (6)(s) of this rule.

(D) Any groundwater source sample required by this subsection must be collected at a location prior to any treatment of the groundwater source, unless the Authority approves an alternative sampling location. If the water system's configuration does not allow for sampling at the groundwater source, the water system must collect a sample at an Authority-approved location representative of source water quality.

(s) Beginning on December 1, 2009, if the Authority does not require corrective action as prescribed by OAR 333-061-0032(6)(b) for an E. coli -positive source water sample collected in accordance with subsection (6)(r) of this rule and not invalidated as prescribed by subsection (6)(x) of this rule, the water system must collect five additional source water samples from the same groundwater source within 24 hours of being notified of the E. coli-positive sample.

(t) In addition to the other requirements of this rule, and beginning on December 1, 2009, a purchasing water system that has a total coliform-positive sample collected in accordance with subsection (6)(a) of this rule must notify the wholesale groundwater system(s) within 24 hours of being notified of the total coliform-positive sample.

(u) In addition to the other requirements of this rule, and beginning on December 1, 2009, a wholesale groundwater system must comply with this subsection.

(A) If a wholesale groundwater system receives notice from a purchasing water system it serves that a sample collected in accordance with subsection (6)(a) of this rule is total coliform-positive, it must collect a sample from its groundwater source(s) as prescribed in subsection (6)(r) of this rule and analyze it for the E. coli within 24 hours of being notified.

(B) If a sample collected in accordance with paragraph (A) of this subsection is E. coli-positive, the wholesale groundwater system must notify all purchasing water systems served by that groundwater source of the E. coli-positive source water sample within 24 hours of being notified of the positive sample result, and must also meet the requirements of subsection (6)(s) of this rule.

(v) A groundwater system is not required to comply with the source water monitoring requirements of subsections (6)(r) though (6)(u) of this rule if either of the following conditions exists:

(A) The Authority determines, and documents in writing, that the total coliform-positive sample collected in accordance with subsection (6)(a) of this rule is caused by a distribution system deficiency; or

(B) The total coliform-positive sample is collected at a location that meets Authority criteria for distribution system conditions that will cause total coliform-positive samples.

(w) Beginning on December 1, 2009, groundwater systems that use chlorine, ultraviolet light, or another oxidant for disinfection, but do not achieve 4-log inactivation of viruses, must conduct assessment monitoring of the groundwater source to determine the potential for viral contamination.

(A) Water systems monitoring in accordance with this subsection must:

(i) Collect at least one annual groundwater source sample; and

(ii) Collect samples from each groundwater source unless the water system obtains written approval from the Authority to conduct monitoring at one or more representative groundwater sources within the system that draw water from the same hydrogeologic setting.

(B) A groundwater system conducting source water assessment monitoring may use a sample collected in accordance with subsection (6)(r) of this rule or a sample collected for determination of Groundwater Under the Direct Influence of Surface Water in accordance with OAR 333-061-0032(8), to meet the requirements of this subsection.

(C) Additional Source Water Assessment Monitoring

(i) Water Systems must conduct additional source water assessment monitoring if at least one of the following conditions occur. These conditions include, but are not limited to:

(I) At least one total coliform-positive sample in the groundwater source water;

(II) A groundwater source having been determined by the Authority to be susceptible to fecal contamination through a Source Water Assessment (or equivalent hydrogeologic assessment wherein susceptibility is defined as a result of a highly sensitive source due to aquifer characteristics, vadose zone characteristics, monitoring history, or well construction) and the presence of a fecal contaminant source within the two-year time-of-travel zone, outreach area, and/or zone one area;

(III) A source that draws water from an aquifer that the Authority has identified as being fecally contaminated; or

(IV) A determination by the source water assessment or equivalent hydrogeologic analysis that the groundwater source is highly sensitive, and that the source is located within an area that has a high density of Underground Injection Control Wells.

(ii) Additional source water assessment monitoring must comply with the following:

(I) Collection of 12 consecutive monthly groundwater source samples for water systems that operate year-round, or monthly samples that represent each month the water system provides groundwater to the public for water systems that operate seasonally;

(II) Collection of a standard sample volume of at least 100 mL for E. coli analysis regardless of the analytical method used;

(III) Analysis of all groundwater source samples, for the presence of E. coli, using an analytical method as prescribed by section (1) of this rule;

(IV) Collection of groundwater source samples at a location prior to any treatment unless the Authority approves a sampling location after treatment; and

(V) Collection of samples at the groundwater source, unless the water system's configuration does not allow for raw water sampling and the Authority approves an alternate sampling location that is representative of the water quality of that groundwater source.

(D) The Authority may require a groundwater source to be re-evaluated as prescribed by this subsection if geologic conditions, source pumping conditions, or fecal contaminant source conditions change over time.

(x) A groundwater system may obtain Authority invalidation of a E. coli-positive groundwater source sample collected in accordance with subsection (6)(r) of this rule only under the following conditions:

(A) The water system provides the Authority with written notice from the laboratory that improper sample analysis occurred; or

(B) The Authority determines and documents in writing that there is substantial evidence that an E. coli -positive groundwater source sample is not related to source water quality.

(y) If the Authority invalidates an E. coli -positive groundwater source sample, the groundwater system must collect another source water sample as prescribed by subsection (6)(r) of this rule within 24 hours of being notified of the invalidation. The Authority may extend the 24-hour time limit on a case-by-case basis if the system cannot collect the source water sample within 24 hours due to circumstances beyond its control. In the case of an extension, the Authority must specify how much time the system has to collect the sample.

(z) The Authority may direct any groundwater system placing a new groundwater source into service after November 30, 2009 to conduct source water assessment monitoring as prescribed by subsection (6)(w) of this rule. Source water assessment monitoring, as prescribed by this subsection, must begin before the groundwater source is used to provide water to the public.

(aa) The Authority may require a groundwater system to provide any existing information that will enable the Authority to perform an assessment to determine whether the groundwater system obtains water from a hydrogeologically sensitive aquifer.

(7) Radionuclides:

(a) Gross alpha particle activity, Radium 226, Radium 228, and Uranium:

(A) Initial Monitoring. Community Water Systems without acceptable historical data, as defined below, must conduct initial monitoring to determine compliance with OAR 333-061-0030(5) by December 31, 2007.

(i) Samples must be collected from each entry point to the distribution system during 4 consecutive quarters before December 31, 2007 according to the following schedule:

Population — Begin initial monitoring - Complete initial monitoring by
300 or More — First quarter 2005 — Fourth quarter 2005
100-299 — First quarter 2006 — Fourth quarter 2006
Less than 100 — First quarter 2007 — Fourth quarter 2007

(ii) New systems or systems using a new source must conduct initial monitoring beginning the first quarter of operation, followed by three consecutive quarterly samples.

(iii) The Authority may waive the final two quarters of the initial monitoring at an entry point if the results of the samples from the first two quarters are below the method detection limit.

(iv) Grandparenting of historical data. A system may use monitoring data from each source or entry point collected between June 2000 and December 8, 2003 to satisfy the initial monitoring requirements.

(v) If the average of the initial monitoring results for a sampling point is above the MCL, the system must collect and analyze quarterly samples at the entry point until the system has results from four consecutive quarters that are at or below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Authority.

(B) Reduced Monitoring. Radionuclide monitoring may be reduced to once every three years, once every six years, or once every nine years based on the following criteria:

(i) If the average of the initial monitoring result for each contaminant (gross alpha particle activity, radium-226, radium-228, and uranium) at a given entry point is below the detection limit, sampling for that contaminant may be reduced to once every nine years.

(ii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is at or above the detection limit but at or below one-half the MCL, sampling for that contaminant may be reduced to once every six years.

(iii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is above one-half the MCL but at or below the MCL, the system must collect one sample at that sampling point at least once every three years.

(iv) Systems must use the samples collected during the reduced monitoring period to determine the monitoring frequency for subsequent monitoring periods.

(v) If a system has a monitoring result that exceeds the MCL while on reduced monitoring, the system must collect and analyze quarterly samples at that entry point until the system has results from four consecutive quarters that are below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Authority.

(vi) A water system with two or more wells that have been determined to constitute a "wellfield" as specified in subsection (1)(k) of this rule may reduce sampling to only those entry point(s) designated by the Authority.

(C) Compositing of samples. A system may composite up to four consecutive quarterly samples from a single entry point if the analysis is done within a year of the first sample. If the analytical result from the composited sample is greater than one-half the MCL, the Authority may direct the system to take additional quarterly samples before allowing the system to sample under a reduced monitoring schedule.

(D) Substitution of results.

(i) A gross alpha particle activity measurement may be substituted for the required radium-226 measurement if the gross alpha particle activity does not exceed 5 pCi/L.

(ii) A gross alpha particle activity measurement may be substituted for the required uranium measurement if the gross alpha particle activity does not exceed 15 pCi/L.

(iii) The gross alpha measurement shall have a confidence interval of 95 percent (1.65 where one-half is the standard deviation of the net counting rate of the sample) for radium-226 and uranium.

(iv) When a system uses a gross alpha particle activity measurement in lieu of a radium-226 and/or uranium measurement, the gross alpha particle activity analytical result will be used to determine the future monitoring frequency for radium-226 and/or uranium. If the gross alpha particle activity result is less than detection, half the method detection limit will be used to determine compliance and the future monitoring frequency.

(b) Beta particle and photon radioactivity:

(A) Community water systems designated by the Authority as "vulnerable" must sample for beta particle and photon radioactivity as follows. No waivers shall be granted:

(i) Initial samples must be collected by December 31, 2007.

(ii) Quarterly samples for beta emitters and annual samples for tritium and strontium-90 must be taken at each entry point to the distribution system. Systems already designated by the state must continue to sample until the state removes the designation.

(iii) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at a sample point has a running annual average less than or equal to 50 pCi/l , sampling for contaminants prescribed in subparagraph (7)(b)(A)(i) of this rule maybe reduced to once every three years.

(B) Community water systems designated by the Authority as "contaminated" by effluents from nuclear facilities and must sample for beta particle and photon radioactivity as follows. No waivers shall be granted.

(i) Systems must collect quarterly samples for beta emitters as detailed below and iodine-131 and annual samples for tritium and strontium-90 at each entry point to the distribution system. Sampling must continue until the Authority removes the designation.

(ii) Quarterly monitoring for gross beta particle activity is based on the analysis of monthly samples or the analysis of a composite of three monthly samples.

(iii) For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. More frequent monitoring may be required if iodine-131 is detected.

(iv) Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples.

(v) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at an entry point has a running annual average less than or equal to 15 pCi/l, the Authority may reduce the frequency of monitoring for contaminants prescribed in subparagraph (7)(b)(B)(i) of this rule at that entry point to every three years.

(C) For systems in the vicinity of a nuclear facility, the Authority may allow the substitution of appropriate environmental surveillance data taken in conjunction with operation of a nuclear facility for direct monitoring of man-made radioactivity by the water supplier where such data is applicable to a particular Community water system. In the event of a release, monitoring must be done at the water system's entry points.

(D) Systems may analyze for naturally occurring potassium-40 beta particle activity from the same or equivalent sample used for the gross beta particle activity analysis. Systems are allowed to subtract the potassium-40 beta particle activity value from the total gross beta particle activity value to determine if the screening level is exceeded. The potassium-40 beta particle activity must be calculated by multiplying elemental potassium concentrations (in mg/l) by a factor of 0.82.

(E) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity exceeds the screening level, an analysis of the sample must be performed to identify the major radioactive constituents present in the sample and the appropriate doses must be calculated and summed to determine compliance with OAR 333-061-0030(5). Doses must also be calculated and combined for measured levels of tritium and strontium to determine compliance.

(F) Systems must monitor monthly at the entry point(s) which exceed the MCL listed in OAR 333-061-0030(5) beginning the month after the exceedance occurs. Systems must continue monthly monitoring until the system has established, by a rolling average of three monthly samples, that the MCL is being met. Systems who establish that the MCL is being met must return to quarterly monitoring until they meet the requirements set forth in subparagraph (7)(b)(A)(ii) or (7)(b)(B)(v) of this rule.

(c) General monitoring and compliance requirements for radionuclides.

(A) The Authority may require more frequent monitoring than specified in subsections (7)(a) and (b) of this rule, or may require confirmation samples at its discretion. The results of the initial and confirmation samples will be averaged for use in compliance determinations.

(B) Each system shall monitor at the time designated by the Authority during each compliance period. To determine compliance with 333-061-0030(5), averages of data shall be used and shall be rounded to the same number of significant figures as the MCL of the contaminant in question.

(C) Compliance.

(i) For systems monitoring more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. If the average of any sampling point is greater than the MCL, then the system is out of compliance with the MCL.

(ii) For systems monitoring more than once per year, if any sample result will cause the running average to exceed the MCL at any entry point, the system is out of compliance with the MCL immediately.

(iii) Systems must include all samples taken and analyzed under the provisions of this section in determining compliance, even if that number is greater than the minimum required.

(iv) If a system does not collect all required samples when compliance is based on a running annual average of quarterly samples, compliance will be based on the running average of the samples collected.

(v) If a sample is less than the detection limit, zero will be used to calculate the annual average, unless a gross alpha particle activity is being used in lieu of radium-226 and/or uranium. In that case, if the gross alpha particle activity result is less than detection, one-half the detection limit will be used to calculate the annual average.

(D) The Authority has the discretion to delete results of obvious sampling or analytical errors.

(E) When the average annual maximum contaminant level for radionuclides as specified in Table 6 is exceeded, the water supplier shall, within 48 hours, report the analysis results to the Authority as prescribed in OAR 333-061-0040 and initiate the public notification procedures prescribed in 333-061-0042(2)(b)(A). [Table not included. See ED. NOTE.]

(8) Secondary contaminants:

(a) The levels listed in Table 7 of OAR 333-061-0030 represent reasonable goals for drinking water quality, but routine sampling for these secondary contaminants is not required. [Table not included. See ED. NOTE.]

(b) The Authority may however, require sampling and analysis under the following circumstances:

(A) User complaints of taste, odor or staining of plumbing fixtures.

(B) Where treatment of the water is proposed and the levels of secondary contaminants are needed to determine the method and degree of treatment.

(C) Where levels of secondary contaminants are determined by the Authority to present an unreasonable risk to health.

(c) If the results of the analyses do not exceed levels for secondary contaminants, listed in Table 7 of OAR 333-061-0030, subsequent sampling and analysis shall be at the discretion of the Authority. [Table not included. See ED. NOTE.]

(d) If the results of the analyses indicate that the levels for secondary contaminants, listed in Table 7 of OAR 333-061-0030 are exceeded, the Authority shall determine whether the contaminant levels pose an unreasonable risk to health or interfere with the ability of a water treatment facility to produce a quality of water complying with the Maximum Contaminant Levels of these rules and specify follow-up actions to be taken. [Table not included. See ED. NOTE.]

(e) During the period while any measures called for in subsection (7)(d) of this rule are being implemented, the water supplier shall follow the procedures relating to variances and permits which are prescribed in OAR 333-061-0045.

(9) Monitoring of disinfectant residuals in the distribution system

(a) All public water systems that add a disinfectant to the water supply at any point in the treatment process, or deliver water in which a disinfectant has been added to the water supply, must maintain a detectable disinfectant residual throughout the distribution system and shall measure and record the residual:

(A) At one or more representative points at a frequency that is sufficient to detect variations in chlorine demand and changes in water flow but in no case less often than twice per week; and

(B) At the same points in the distribution system and at the same times as total coliforms are sampled.

(b) All public water systems that add chlorine for any purpose must ensure that the chlorine residual entering the distribution system after treatment is less than 4.0 mg/l.

(c) The Authority may waive the monitoring requirements specified in subsection (9)(a) of this rule for water systems that add chlorine for purposes such as the oxidation of metals or taste and odor control if a water system measures and records the residual daily and verifies that there is no remaining disinfectant residual at or before the first customer.

(d) Where chlorine is used as the disinfectant, the measurement of residual chlorine shall be by the DPD or other EPA-approved method in accordance with Standard Methods for the Examination of Water and Waste-water, and shall measure the free chlorine residual or total chlorine residual as applicable;

(e) The water supplier shall maintain a summary report of the residual disinfectant measurements and shall retain this summary report at a convenient location within or near the area served by the water system.

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

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 23-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 13-2012, f. & cert. ef. 9-10-12; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0040
Reporting and Record Keeping

(1) Reporting requirements:

(a) Any person who has reasonable cause to believe that his or her actions have led to contamination of a public water system shall report that fact immediately to the water supplier and the Authority.

(b) Laboratory Reporting

(A) Analyses required by OAR 333-061-0036 and performed by an accredited laboratory as defined in OAR 333-061-0036(1)(c)(A)(i) or (ii) must be reported on a form produced by the accredited laboratory. The laboratory analysis report must be submitted to the Authority within 10 days of the end of the month, or within 10 days of the end of the required monitoring period.

(B) Mandatory reporting requirements for primary laboratories as defined in OAR 333-061-0036(1)(c)(A)(i). These laboratories must:

(i) Validate the results of any sample analysis and report that analysis directly to the Authority and to the water supplier within 48 hours or two business days of completing the analytical run if the samples analysis:

(I) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1); or

(II) Is positive for coliform bacteria.

(ii) Report any sample analysis directly to the Authority and to the water supplier within 24 hours or on the next business day after validating a sample result that exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate.

(iii) Report any sample analysis directly to the Authority and to the water supplier within 24 hours or on the next business day after obtaining a sample result from a subcontracted laboratory, if the sample analysis:

(I) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1) or is positive for coliform bacteria; or

(II) Exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate upon validating the sample analysis.

(C) Mandatory reporting requirements for subcontracted laboratories as defined in OAR 333-061-0036(1)(c)(A)(ii). These laboratories must:

(i) Validate the results of any sample analysis and report that analysis to their client laboratory within 48 hours or two business days of completing the analytical run if the analysis:

(I) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1); or

(II) Is positive for coliform bacteria.

(ii) Report any sample analysis to their client laboratory within 24 hours or on the next business day after validating a sample result that exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate.

(c) The water supplier must report to the Authority within (24) hours on any substance or pathogenic organisms found in the water that has caused or is likely to cause physical suffering or illness.

(d) The water supplier using a surface water source or a groundwater source under direct influence of surface water which provides filtration treatment shall report monthly beginning June 29, 1993 or when filtration is installed, whichever is later, to the Authority the results of any test, measurement or analysis required by OAR 333-061-0036(5)(b) of these rules within 10 days after the end of the month.

(A) All systems using surface water or groundwater under the direct influence of surface water shall consult with the Authority within 24 hours, after learning:

(i) That the turbidity exceeded 5 NTU;

(ii) Of a waterborne disease outbreak potentially attributable to that water system;

(iii) That the disinfectant residual concentration in the water entering the distribution system fell below 0.2 mg/l and whether or not the residual was restored to at least 0.2 mg/l within four hours.

(B) In addition to the reporting and recordkeeping requirements in paragraph (1)(e)(A) of this rule, a public water system which provides conventional filtration treatment or direct filtration serving at least 10,000 people must report monthly to the Authority the information specified in subparagraphs (1)(e)(B)(i) and (ii) of this rule. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration, regardless of population served, must also meet the requirements of paragraph (1)(e)(A) of this rule and must report monthly to the Authority the information specified in subparagraph (1)(e)(B)(i) of this rule.

(i) Turbidity measurements as required by OAR 333-061-0036(5) must be reported within 10 days after the end of each month the system serves water to the public. Information that must be reported includes:

(I) The total number of filtered water turbidity measurements taken during the month;

(II) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified by OAR 333-061-0030(3)(b)(A) through (D);

(III) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or which exceed the maximum level set by the Authority specified in OAR 333-061-0030(3)(b)(D).

(IV) The date and value of any turbidity measurements taken during the month which exceed 5 NTU for systems using slow sand filtration or diatomaceous earth filtration.

(ii) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in subparagraphs (1)(e)(B)(ii)(I) through (IV) of this rule. Water systems that use lime softening may apply to the Authority for alternative exceedance levels for the levels specified in subparagraphs (1)(e)(B)(ii)(I) through (IV) of this rule if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must either produce a filter profile for the filter within seven days of the exceedance (if the water system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(II) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system must report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system must either produce a filter profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(III) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(IV) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must arrange to have a comprehensive performance evaluation by the Authority or a third party approved by the Authority conducted no later than 30 days following the exceedance and have the evaluation completed and submitted to the Authority no later than 90 days following the exceedance.

(iii) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system must inform the Authority as soon as possible, but no later than the end of the next business day.

(iv) If at any time the turbidity in representative samples of filtered water exceed the maximum level set by the Authority as specified in OAR 333-061-0030(3)(b)(D) for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the water system must inform the Authority as soon as possible, but no later than the end of the next business day.

(C) In addition to the reporting and recordkeeping requirements in paragraph (1)(e)(A) of this rule, a public water system which provides con-

ventional filtration treatment or direct filtration treatment serving less than 10,000 people must report monthly to the Authority the information specified in subparagraphs (1)(e)(B)(i) of this rule and beginning January 1, 2005 the information specified in subparagraph(1)(e)(C)(i) of this rule. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration regardless of population served must also meet the requirements of paragraph (1)(e)(A) of this rule and must report monthly to the Authority the information specified in subparagraph (1)(e)(B)(i) of this rule.

(i) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in subparagraphs (1)(e)(C)(i)(I) through (III) of this rule. Water systems that use lime softening may apply to the Authority for alternative exceedance levels for the levels specified in subparagraphs (1)(e)(C)(i)(I) through (III) of this rule if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report to the Authority by the 10th day of the following month the filter number(s), the turbidity value(s) that exceeded 1.0 NTU, the corresponding date(s) of occurrence, and the cause (if known) for the elevated turbidity values. The Authority may request the water system produce a turbidity profile for the filter(s) in question.

(II) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart for three consecutive months, the water system must conduct a filter self-assessment within 14 days of the date the turbidity exceeded 1.0 NTU during the third month, unless a CPE is performed in lieu of a filter self-assessment. Systems with two filters monitoring the CFE must conduct a filter self-assessment for both filters. The self-assessment must consist of the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report. When a self-assessment is required, the water system must report the date the self-assessment was triggered, the date the self-assessment was completed, and the conclusion(s) of the self-assessment by the 10th of the following month or 14 days after the self-assessment was triggered only if the self-assessment was triggered during the last four days of the month.

(III) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart for two consecutive months, the water system must report these turbidity results to the Authority by the 10th of the following month and arrange to have a comprehensive performance evaluation (CPE) by the Authority or a third party approved by the Authority conducted within 60 days of the date the turbidity exceeded 2.0 NTU during the second month. The CPE report must be submitted to the Authority no later than 120 days following the date the turbidity exceeded 2.0 NTU during the second month. A CPE is not needed if the Authority or approved third party has conducted a CPE within the last 12 months or the Authority and the water system are jointly participating in an on-going Comprehensive Technical Assistance (CTA) project as part of the Composite Correction Program with the water system. When a CPE is required, the water system must report that a CPE is required and the date that the CPE was triggered by the 10th day of the following month.

(e) The water supplier using a surface water source or a groundwater source under direct influence of a surface source which does not provide filtration treatment shall report according to subsection (1)(e) of this rule in addition to the requirements of this subsection. Monthly reporting to the Authority will begin January 1, 1991 for systems using surface water sources and January 1, 1991 or six months after the Authority determines surface influence for systems using groundwater under the direct influence of surface water.

(A) Report to the Authority within 10 days after the end of each month, the results or analysis of:

(i) Fecal coliform and/or total coliform bacteria test results on raw (untreated) source water.

(ii) Daily disinfection "CT" values including parameters such as pH measurements, temperature, and disinfectant residuals at the first customer used to compute the "CT" values.

(iii) Daily determinations using the "CT" values of the adequacy of disinfectant available for inactivation of Giardia lamblia or viruses as specified in OAR 333-061-0032(1)(a).

(B) Report to the Authority within 10 days after the end of each Federal Fiscal year (September 30), the results of:

(i) The watershed control program requirements as specified in OAR 333-061-0032(2)(c)(B).

(ii) The on-site inspection summary requirements as specified in OAR 333-061-0032(2)(c)(C).

(f) Special reporting requirements for groundwater systems.

(A) Groundwater systems conducting compliance monitoring in accordance with OAR 333-061-0032(7)(b) must notify the Authority any time the water system fails to meet any Authority-specified operating requirements including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria, if operation in accordance with the specified criteria is not restored within four hours. The groundwater system must notify the Authority as soon as possible, but in no case later than the end of the next business day.

(B) A groundwater system must notify the Authority within 30 days of completing any corrective action as prescribed by OAR 333-061-0032(6).

(C) A groundwater system subject to the requirements of OAR 333-061-0036(6)(v)(B) must provide documentation to the Authority within 30 days of a total coliform-positive sample that it met Authority criteria for exceptions to triggered source water monitoring requirements because the total coliform-positive sample was attributed to distribution system conditions.

(D) A groundwater system conducting compliance monitoring as prescribed by OAR 333-061-0032(7)(b) must report the results of daily residual disinfectant concentration measurements at the entry point within 10 days after the end of each month.

(g) All Community and Non-Transient Non-Community public water systems shall report all of the following information pertaining to lead and copper to the Authority in accordance with the requirements of this subsection.

(A) Except as provided in subparagraph (1)(h)(A)(vii) of this rule, a public water system shall report the information below for all tap water samples and for all water quality parameter samples within 10 days following the end of each applicable monitoring period. For monitoring periods with a duration less than six-months, the end of the monitoring period is the last date samples can be collected during that period.

(i) The results of all tap samples for lead and copper including the location of each site and the criteria under which the site was selected for the system's sampling pool. With the exception of initial tap sampling, the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed. By the applicable date specified in OAR 333-061-0036(2)(c)(D)(i) for commencement of initial monitoring, each Community Water System which does not complete its targeted sampling pool meeting the criteria for tier 1 sampling sites shall send a letter to the Authority justifying its selection of tier 2 and/or tier 3 sampling sites. By the applicable date specified in OAR 333-061-0036(2)(c)(D)(i) for commencement of initial monitoring, each Non-Transient Non-Community water system which does not complete its sampling pool meeting the criteria for tier 1 sampling sites shall send a letter to the Authority justifying its selection of sampling sites.

(ii) A certification that each first draw sample collected by the water system is one-liter in volume and, to the best of their knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least six hours. Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures according to OAR 333-061-0036(2)(c)(B)(ii).

(iii) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica, and the results of all samples collected at the entry point(s) to the distribution

system for applicable water quality parameters according to OAR 333-061-0036(2)(c)(F)(iii) through (vi).

(iv) Each water system that requests that the Authority reduce the number and frequency of sampling shall provide the information required in OAR 333-061-0036(2)(c)(D)(iv).

(v) Documentation for each tap water lead and copper sample for which the water system requests invalidation.

(vi) The 90th percentile lead and copper tap water samples collected during each monitoring period.

(vii) A water system shall report the results of all water quality parameter samples collected for follow-up tap monitoring prescribed in OAR 333-061-0036(2)(c)(F)(iv) through (vii) during each six-month monitoring period within 10 days following the end of the monitoring period unless the Authority specifies a more frequent monitoring requirement.

(B) A water system shall report the sampling results for all source water samples collected for lead and copper within the first 10 days following the end of each source water monitoring period according to OAR 333-061-0036(2)(c)(G). With the exception of the first round of source water sampling, the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

(C) Corrosion control treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(2)(a) through (e), systems shall report the following information: for systems demonstrating that they have already optimized corrosion control, the information required in OAR 333-061-0034(2)(d)(B) or (C); for systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment according to OAR 333-061-0034(3)(a); for systems required to evaluate the effectiveness of corrosion control treatments, the information required in OAR 333-061-0034(3)(c) of these rules; for systems required to install optimal corrosion control designated by the Authority according to OAR 333-061-0034(3)(i), a letter certifying that the system has completed the installation.

(D) Source water treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(4)(a), systems shall report the following information to the Authority: the system's recommendation regarding source water treatment if required according to OAR 333-061-0034(4)(b)(A); for systems required to install source water treatment according to OAR 333-061-0034(4)(b)(B), a letter certifying that the system has completed the installation of the treatment designated by the Authority within 24 months after the Authority designated the treatment.

(E) Public education program reporting requirements.

(i) Any water system that is subject to the public education requirements in OAR 333-061-0034(5) shall, within 10 days after the end of each period in which the system is required to perform public education tasks in accordance with OAR 333-061-0034(5)(c), send written documentation to the Authority that contains:

(I) A demonstration that the system has delivered the public education materials that meet the content and delivery requirements specified in OAR 333-061-0034(5)(a) through (c); and

(II) A list of all the newspapers, radio stations, television stations, and facilities and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(ii) Unless required by the Authority, a system that previously has submitted the information in subparagraph (1)(g)(E)(i)(II) of this rule need not resubmit the information, as long as there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list submitted previously.

(iii) No later than three months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the Authority along with a certification that the notification has been distributed in a manner consistent with the requirements of OAR 333-061-0034(5)(e).

(F) Any system which collects sampling data in addition to that required by this subsection shall report the results to the Authority within the first 10 days following the end of the applicable monitoring period under OAR 333-061-0036(2)(c)(A) through (H) during which the samples are collected.

(G) At a time specified by the Authority prior to the addition of a new source or any long-term change in water treatment, a water system deemed to have optimized corrosion control, or is subject to reduced monitoring, shall submit written documentation to the Authority describing the change or addition. The Authority must review and approve the addition or change before it is implemented by the water system.

(H) Each ground water system that limits water quality parameter monitoring to a subset of entry points shall provide written correspondence to the Authority that identifies the selected entry points and includes information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system. This correspondence must be submitted to the Authority prior to commencement of such monitoring.

(h) The water supplier shall report to the Authority the results of any test, measurement or analysis required by these rules that is performed on site (e.g. supplemental fluoride) by trained personnel within 10 days after the end of the month, except that reports which indicate that fluoride levels exceed 4.0 mg/l shall be reported within 48 hours:

(i) The water supplier shall submit to the Authority within 10 days after completing any public notification action as prescribed in OAR 333-061-0042 a representative copy of each type of notice distributed to the water users or made available to the public and the media along with certification that the system has fully complied with the distribution and public notification requirements.

(j) Water systems required to sample for the contaminants listed in OAR 333-061-0036(4)(c) through (4)(f) and (4)(k) through (4)(n) must report the information listed in Tables 41 through 43 to the Authority. Water systems monitoring quarterly or more frequently must report to the Authority within 10 days after the end of each quarter in which samples were collected. Water systems required to sample less frequently than quarterly must report to the Authority within 10 days after the end of each monitoring period in which samples were collected. Beginning on the date set forth in Table 22 in OAR 333-061-0036(4)(d)(A), water systems are required to submit the information listed in Tables 41 through 43, within 10 days of the end of any quarter in which monitoring is required. [Table not included. See ED. NOTE.]

(A) Disinfection byproducts. Water systems must report the information specified in Table 41 as follows: [Table not included. See ED. NOTE.]

(B) Disinfectants. Water systems must report the information specified in Table 42 as follows: [Table not included. See ED. NOTE.]

(C) Disinfection byproduct precursors and enhanced coagulation or enhanced softening. Water systems must report the information specified in Table 43 as follows: [Table not included. See ED. NOTE.]

(D) The Authority may choose to perform calculations and determine whether the MCL was exceeded or the system is eligible for reduced monitoring in lieu of having the system report that information.

(k) Systems using surface water or GWUDI sources must respond to the Authority or local county health department within 45 days of receiving a sanitary survey report or comprehensive performance evaluation report that identifies significant deficiencies. The response must meet the criteria specified in OAR 333-061-0076(6)(a). Failure to report to the Authority requires a Tier 2 public notice as prescribed in OAR 333-061-0042(2)(b)(D).

(l) Reporting source water monitoring results for Cryptosporidium and E. coli collected in accordance with OAR 333-061-0036(5)(e). Water systems must report results from the source water monitoring no later than 10 days after the end of the first month following the month when the sample is collected as prescribed by this subsection.

(A) Water systems must report the following data elements for each Cryptosporidium analysis: PWS ID, facility ID, sample collection date, sample type (field or matrix spike), sample volume filtered in Liters (to nearest 250 mL), whether 100 percent of the filtered volume was examined, and the number of oocysts counted.

(i) For matrix spike samples, water systems must also report the sample volume spiked and estimated number of oocysts spiked. These data are not required for field samples.

(ii) For samples in which less than 10 L is filtered or less than 100 percent of the sample volume is examined, systems must also report the number of filters used and the packed pellet volume.

(iii) For samples in which less than 100 percent of sample volume is examined, systems must also report the volume of re-suspended concentrate and volume of this re-suspension processed through immunomagnetic separation.

(B) Water systems must report the following data elements for each E. coli analysis: PWS ID, facility ID, sample collection date, analytical method number, method type, source type (flowing stream, lake/reservoir, or GWUDI), E. coli/100 mL, and turbidity (if required).

(m) Reporting requirements relating to Cryptosporidium protection.

(A) Water systems must report sampling schedules prescribed by OAR 333-061-0036(5)(f) and source water monitoring results in accordance with subsection (1)(m) of this rule unless they notify the Authority

that they will not conduct source water monitoring due to meeting the criteria of OAR 333-061-0036(5)(e)(D).

(B) Filtered water systems must report their Cryptosporidium bin classification as described in OAR 333-061-0032(4)(f).

(C) Unfiltered water systems must report their mean source water Cryptosporidium level as described in OAR 333-061-0032(2)(d).

(D) Water systems must report disinfection profiles and benchmarks to the Authority as prescribed by OAR 333-061-0036(4)(g) and OAR 333-061-0060(1)(e) prior to making a significant change in disinfection practice.

(E) Water systems must report to the Authority any microbial toolbox options as specified in Table 44 used to comply with treatment requirements under OAR 333-061-0032(2)(d), (3)(e) through (g), and (4)(g). Alternatively, the Authority may approve a water system to operate within required parameters for treatment credit rather than reporting monthly operational data for toolbox options. [Table not included. See ED. NOTE.]

(n) Water systems must report the use of uncovered finished water storage facilities to the Authority as described in OAR 333-061-0032(12).

(2) Record Maintenance by Water Suppliers:

(a) Water suppliers of public water systems shall retain records relating to the quality of the water produced and the condition of the physical components of the system. These records shall be kept at a convenient location within or near the area served by the water system;

(b) Records of microbiological analyses shall be kept for at least five years. Records of chemical analyses, secondary contaminants, turbidity, radioactive substances, and monitoring plans shall be kept for at least 10 years. Data may be transferred to tabular summaries provided the following information is included:

(A) Date, place and time of sampling, and the name of the person who collected the sample;

(B) Identification of the sample as to whether it was a routine finished water sample, repeat sample, raw water sample or special purpose sample;

(C) Date and time of the analysis, the laboratory and person performing the analysis; and,

(D) Analytical method used and results of the analysis.

(c) Records of actions taken to correct items of non-compliance shall be kept for at least three years after the last action taken with respect to the particular violation;

(d) Reports, summaries or communications on sanitary surveys shall be kept for at least 10 years;

(e) Records concerning variances or permits shall be kept for at least five years after the expiration of the variance or permit;

(f) Records of residual disinfectant measurements shall be kept for at least two years.

(g) All public water systems subject to the requirements of subsection (1)(f) of this rule shall retain the original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, Authority determinations, and any other information required for no fewer than 12 years.

(h) Copies of public notices issued pursuant to OAR 333-061-0042 and certifications made to the Authority must be kept for three years after issuance.

(i) Water systems using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener, supernatant, or liquids from dewatering processes must collect and retain on file recycle flow information specified in paragraphs (2)(i)(A) through (F) of this rule for review and evaluation by the Authority beginning June 8, 2004:

(A) Copy of the recycle notification and information submitted to the Authority as required by OAR 333-061-0032(10)(b);

(B) List of all recycle flows and the frequency with which they are returned;

(C) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes;

(D) Typical filter run length and a written summary of how filter run length is determined;

(E) The type of treatment provided for the recycle flow;

(F) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(j) In addition to the requirements of subsections (2)(a) through (h) of this rule, groundwater systems must maintain the following information in their records:

(A) Documentation of corrective actions for a period of not less than 10 years;

(B) Documentation of notice to the public as prescribed by OAR 333-061-0042(8) for a period of not less than three years;

(C) Records of decisions made in accordance with OAR 333-061-0036(6)(v)(B) and records of invalidation of E. coli -positive groundwater source samples in accordance with OAR 333-061-0036(6)(x) for a period of not less than five years;

(D) For purchasing water systems, documentation of notification to the wholesale system(s) of total-coliform positive samples not invalidated in accordance under OAR 333-061-0036(6)(j) for a period of not less than five years; and

(E) For any water system required to perform compliance monitoring in accordance with OAR 333-061-0032(7)(b):

(i) Records of the Authority-specified minimum disinfectant residual for a period of not less than ten years;

(ii) Records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the Authority-prescribed minimum residual disinfectant concentration for a period of more than four hours for a period of not less than five years; and

(iii) Records of Authority-specified compliance requirements for membrane filtration, parameters specified by the Authority for Authority-approved alternative treatment, and records of the date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than four hours for a period of not less than five years.

(k) For systems required to compile a disinfection profile, the results of the profile (including raw data and analysis) must be kept indefinitely as well as the disinfection benchmark (including raw data and analysis) determined from the profile.

(l) Recordkeeping requirements pertaining to Cryptosporidium protection. Water systems must keep:

(A) Results from the source water monitoring prescribed by OAR 333-061-0036(5)(e) for three years after bin classification in accordance with OAR 333-061-0032(4)(f) for filtered systems, or determination of the mean Cryptosporidium level in accordance with OAR 333-061-0032(2)(d) for unfiltered systems for the particular round of monitoring.

(B) Any notification to the Authority that they will not conduct source water monitoring due to meeting the criteria specified in OAR 333-061-0036(5)(e)(D) for three years.

(C) The results of treatment monitoring associated with microbial toolbox options as prescribed by OAR 333-061-0032(14) through (18) and with uncovered finished water reservoirs in accordance with OAR 333-061-0032(12)(b), as applicable, for three years.

(m) IDSE reports (including Authority modifications) must be kept for at least 10 years. IDSE standard monitoring plans and IDSE system specific study plans must be retained at least as long as the IDSE report or any Authority modifications, whichever is longer. IDSE reports and any Authority modification must be made available for review by the Authority or the public.

(n) Water systems must retain a complete copy of any 40/30 certification submitted to the EPA for 10 years after the date the certification was submitted. The certification, all data upon which the certification is based, and any EPA notification must be available for review by the Authority or the public.

(3) Records kept by the Authority.

(a) Records of turbidity measurements must be kept for not less than one year. The information retained must be set forth in a form which makes possible comparison with the limits specified by OAR 333-061-0030, 0032, and 0036.

(b) Records of disinfectant residual measurements and other parameters necessary to document disinfection effectiveness in accordance with OAR 333-061-0032(3) or (4), 0036(5)(a)(C) through (F), or 0036(5)(b)(B) through (C) of these rules must be kept for not less than one year. Records of decisions made on a system-by-system and case-by-case basis must be made in writing and kept by the Authority.

(c) Any decisions made in accordance with consultations made with the Authority concerning modifications to disinfection practices including the status of the consultation.

(d) Records of decisions that a water system using alternative filtration technologies, as determined by OAR 333-061-0030(3)(b)(D), can consistently achieve a 99.9 percent removal and/or inactivation of Giardia lamblia cysts, 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of Cryptosporidium oocysts. The decisions must include enforceable turbidity limits for each water system by the Authority. A copy

of the decision must be kept until the decision is reversed or revised. The Authority must provide a copy of the decision to the water system.

(e) Records of water systems required to do a filter self-assessment, required to conduct a comprehensive performance evaluation as required by subsection (1)(e) of this rule, or required to participate in the Composite Correction Program.

(f) Records of the Authority's determinations, including all supporting information and an explanation of the technical basis for the control of disinfectants and disinfection byproducts. These records must also include interim measures toward installation.

(A) Records of water systems that are installing GAC or membrane technology in accordance with OAR 333-061-0030(3)(b)(D). These records must include the date by which the water system is required to have completed installation.

(B) Records of water systems required to meet alternative minimum TOC removal requirements or for whom the Authority has determined that the source water is not amenable to enhanced coagulation in accordance with OAR 333-061-0032(10)(e)(C) and (D), respectively. These records must include the alternative limits and rationale for establishing the alternative limits.

(C) Records of water systems using surface water or groundwater under the direct influence of surface water using conventional treatment meeting any of the alternative compliance criteria specified in OAR 333-061-0032(10)(d)(A).

(D) Any decisions made pursuant to the provisions of OAR 333-061-0036(4)(b), (4)(d), (4)(f), (4)(h), (4)(i), or (4)(q) and OAR 333-061-0040(1)(j) including, but not limited to:

(i) IDSE monitoring plans, plus any modifications required by the Authority, must be kept until replaced by approved IDSE reports;

(ii) IDSE reports and 40/30 certifications, plus any modifications required by the Authority, must be kept until replaced or revised in their entirety; and

(iii) Operational evaluations submitted by a system must be kept for 10 years following submission.

(E) Records of written determinations that a ground water system may discontinue 4-log treatment of viruses (using inactivation, removal, or an Authority approved combination of 4-log inactivation and removal).

(g) Monitoring plans for water systems using surface water or groundwater under the direct influence of surface water serving more than 3,300 persons in accordance with OAR 333-061-0036(4)(c)(C) or (4)(d)(D).

(h) Records of decisions made on a water system-by-water system and case-by-case basis under provisions of these rules must be made in writing and kept by the Authority. Records of decisions made under this paragraph shall be kept for 40 years (or until one year after the decision is reversed or revised) and a copy of the decision must be provided to the water system. This includes decisions made to approve alternate recycle locations, require modifications to recycle return locations, or to require modifications to recycle practices.

(i) Records pertaining to Cryptosporidium protection including:

(A) Results of source water E. coli and Cryptosporidium monitoring;

(B) The bin classification after the initial and second round of source water monitoring for each filtered system, as described in OAR 333-061-0032(4)(f);

(C) Any change in treatment requirements for filtered systems due to watershed assessment during sanitary surveys, as described in OAR 333-061-0032(4)(g)(C)(ii);

(D) The determination of whether the mean Cryptosporidium level is greater than 0.01 oocysts/L after the initial and second round of source water monitoring for each unfiltered system, as described in OAR 333-061-0032(2)(d); and

(E) The treatment processes or control measures that water systems use to meet their Cryptosporidium treatment requirements as prescribed by OAR 333-061-0032(3)(e) or (4)(g).

(j) A list of water systems required to cover or treat the effluent of an uncovered finished water storage facility, as specified in OAR 333-061-0032(12).

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0212, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 3-1988(Temp), f. & cert. ef. 2-12-88; HD 17-1988, f. & cert. ef. 7-27-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0042
Public Notice

(1) The owner or operator of a public water system must provide public notice to persons served by the water system for all violations and situations established by these rules.

(a) Public water systems that provide drinking water to purchasing water systems are required to give public notice to the owner or operator of the purchasing water system who is responsible for providing public notice to the persons it serves.

(b) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the Authority may, in writing, allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance.

(c) A copy of any public notice must be sent to the Authority as required in OAR 333-061-0040(1)(i).

(2) Public notice requirements are divided into three tiers to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved:

(a) Tier 1: A Tier 1 notice is required for violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure and include the following:

(A) Violation of the MCL for total coliforms when fecal coliforms or E. Coli are present in the water distribution system as specified in OAR 333-061-0030(4)(b) or when the water system fails to test for fecal coliforms or E. coli when any repeat sample tests positive for coliform as specified in OAR 333-061-0036(6)(m);

(B) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, or when the water system fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL;

(C) Violation of the MRDL for chlorine dioxide as prescribed in OAR 333-061-0031(1) when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water system does not take the required samples in the distribution system;

(D) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed filtration treatment as defined by these rules when the Authority determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(E) Violation of the Surface Water Treatment Rule (SWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), or Interim Enhanced Surface Water Treatment Rule (IESWTR) treatment technique requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum allowable turbidity limit, where the Authority determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;

(F) Occurrence of a waterborne disease outbreak or other waterborne emergency, such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination;

(G) Detection of E. coli in source water samples as specified in OAR 333-061-0036(6)(r) and OAR 333-061-0036(6)(w); and

(H) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short term exposure, as determined by the Authority.

(b) Tier 2: required for all violations and situations with potential to have serious adverse effects on human health and include:

(A) All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required or where the Authority determines that a Tier 1 notice is required.

(B) Violations of the monitoring and testing procedure requirements, where the Authority determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation.

(C) Failure to comply with the terms and conditions of any variance or permit in place.

(D) Failure to respond to sanitary survey reports or comprehensive performance evaluation reports prepared by the Authority as required in OAR 333-061-0076 and 333-061-0077.

(E) Use of an emergency groundwater source that has been identified as potentially under the direct influence of surface water, but has not been fully evaluated.

(F) All violations of groundwater treatment technique requirements as specified in OAR 333-061-0032(6)(g) through (6)(i).

(c) Tier 3: required for other violations or situations not included in Tier 1 and 2 and include:

(A) Monitoring violations prescribed in these rules except where a Tier 1 notice is required or where the Authority determines that a Tier 2 notice is required;

(B) Failure to comply with a testing procedure established in these rules except where a Tier 1 notice is required or where the Authority determines that a Tier 2 notice is required;

(C) Operation under a variance or permit granted by the Authority;

(D) Availability of unregulated contaminant monitoring results as required under section (6) of this rule;

(E) Exceedance of the fluoride secondary MCL as required under section (7) of this rule; and

(F) Disinfection profiling and benchmarking monitoring and testing violations.

(d) The Authority may require public notice for violations or other situations not listed in this section, or a higher tier of public notice for specific violations and situations listed in this section.

(3) All public notices established by these rules shall be distributed in the form, manner and frequency as described in this section:

(a) Tier 1 notices: public water systems required to distribute Tier 1 notices must:

(A) Provide the notice as soon as practical, but no later than 24 hours after learning of the violation or situation;

(B) Initiate consultation with the Authority as soon as practical, but no later than 24 hours after learning of the violation or situation;

(C) Comply with any additional notification requirements established as a result of consultation with the Authority;

(D) The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, one or more of the following forms of delivery must be used:

(i) Appropriate broadcast media such as radio and television;

(ii) Posting of the notice in conspicuous locations throughout the area served by the water system;

(iii) Hand delivery of the notice to persons served by the water system; or

(iv) Another delivery method approved in writing by the Authority.

(b) Tier 2 notices: public water systems required to distribute Tier 2 notices must:

(A) Provide the public notice as soon as practical, but no later than 30 days after learning of the violation or situation. The Authority may, in writing, extend additional time for the initial notice of up to three months in appropriate circumstances;

(B) If the public notice is posted, leave the notice in place as long as the violation or situation exists, but in no case for less than seven days, even if the violation or situation is resolved;

(C) Repeat the notice every three months as long as the violation or situation persists unless the Authority determines in writing that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year.

(D) For the turbidity violations specified in subparagraphs (3)(b)(D)(i) and (ii) of this rule, public water systems must consult with the Authority as soon as practical, but no later than 24 hours after learning of the violation to determine whether a Tier 1 public notice is required to protect public health. When consultation with the Authority does not take place within the 24 hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours as prescribed in subsection (3)(a) of this rule:

(i) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed treatment as defined by these rules; or

(ii) Violation of the SWTR, LT1ESWTR, or IESWTR treatment technique requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum allowable turbidity limit.

(E) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(i) Unless directed otherwise by the Authority in writing, community water systems must provide notice by:

(I) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(II) Any other method reasonably calculated to reach other persons regularly served by the water system who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.

(ii) Unless directed otherwise by the Authority in writing, non-community water systems must provide notice by:

(I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and

(II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and multiple copies in central locations.

(c) Tier 3 notices: public water systems required to distribute Tier 3 notices must:

(A) Provide the public notice not later than one year after learning of the violation or situation or begins operating under a variance or permit. Following the initial notice, the system must repeat the notice annually for as long as the violation, variance, permit or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, permit, or other situation persists, but in no case less than seven days even if the violation or situation is resolved.

(B) Instead of individual Tier 3 public notices, a community public water system may use its annual Consumer Confidence Report (CCR) for the initial and all repeat notices detailing all violations and situations that occurred during the previous twelve months. This method may be used as long as it is distributed within the one year requirement in paragraph (3)(c)(A) of this rule, follows the public notice content required under section (4) of this rule and is delivered to users as required under paragraph (3)(c)(C) of this rule.

(C) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:

(i) Unless directed otherwise by the Authority in writing, community water systems must provide notice by:

(I) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and

(II) Any other method reasonably calculated to reach other persons regularly served by the water system who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.

(ii) Unless directed otherwise by the Authority in writing, non-community water systems must provide notice by:

(I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and

(II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and delivery of multiple copies in central locations.

(4) Content of Public Notice:

(a) When a public water system has a violation or situation prescribed in these rules requiring a public notice, each public notice must include the following elements:

(A) A description of the violation or situation, including the contaminant(s) of concern, and the contaminant level;

(B) When the violation or situation occurred;

(C) Any potential adverse health effects including the standard language required under paragraphs (4)(d)(A) and (B) of this rule;

(D) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;

(E) Whether alternative water supplies should be used;

(F) What actions consumers should take, including when they should seek medical help, if known;

(G) What the system is doing to correct the violation or situation;

(H) When the water system expects to return to compliance or resolve the situation;

(I) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

(J) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (4)(d)(C) of this rule.

(b) Content of public notices for public water systems operating under a variance or permit:

(A) If a public water system has been granted a variance or permit, the public notice must contain:

(i) An explanation of the reasons for the variance or permit;

(ii) The date on which the variance of permit was issued;

(iii) A brief status report on the steps the system is taking to install treatment, find alternative sources of water or otherwise comply with the terms and schedules of the variance or permit; and

(iv) A notice of any opportunity for public input in the review of the variance or permit.

(B) If a public water system violates the conditions of a variance or permit, the public notice must contain the ten elements listed in subsection (4)(a) of this rule.

(c) Public notice presentation:

(A) Each public notice required by these rules must:

(i) Be displayed in a conspicuous way when printed or posted;

(ii) Not contain overly technical language or very small print;

(iii) Not be formatted in a way that defeats the purpose of the notice;

(iv) Not contain language which nullifies the purpose of the notice.

(B) Each public notice required by these rules must comply with multilingual requirements as follows:

(i) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Authority, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate language.

(ii) In cases where the Authority has not determined what constitutes a large proportion of non-English speaking consumers, the public water system must include in the public notice the same information required in subparagraph (4)(c)(B)(i) of this rule where appropriate to reach a large proportion of non-English speaking persons served by the water system.

(d) Standard language: public water systems are required to include the following standard language in their public notice:

(A) Public water systems must include in each public notice the specific health effects language as prescribed in OAR 333-061-0097 for each MCL, MRDL, and treatment technique violation and for each violation of a condition of a variance or permit.

(B) Public water systems must include the following language in their notice, including the language necessary to fill in the blanks, for all monitoring and testing procedure violations:

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During {compliance period}, we "did not monitor or test" or "did not complete all monitoring or testing" for {contaminants(s)}, and therefore cannot be sure of the quality of your drinking water during that time.

(C) Public water systems are required where applicable to include the following standard language to encourage the distribution of the public notice to all persons served:

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

(5) Notice to new billing units or new customers:

(a) Community water systems must give a copy of the most recent public notice for any continuing violation, the existence of a variance or permit, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.

(b) Non-community water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or permit, or other situations requiring a public notice for as long as the violation, variance, permit, or other situation persists.

(6) Special notice of availability of unregulated contaminant monitoring results:

(a) The owner or operator of a community water system or non-transient, non-community water systems required by EPA to monitor for unregulated contaminants must notify persons served by the system of the availability of the results of such sampling no later than 12 months after the monitoring results are known.

(b) The form and manner of the public notice must follow the requirements for a tier 3 public notice as prescribed in paragraphs (3)(c)(B) and (C) of this rule. The notice must also identify a person and provide the telephone number to contact for information on the monitoring results.

(7) Special notice for exceedance of the SMCL for fluoride:

(a) Community water systems that exceed the fluoride secondary MCL of 2 mg/l, determined by the last single sample taken in accordance with OAR 333-061-0036(2), but do not exceed the MCL of 4 mg/l for fluoride must provide the public notice in subsection (7)(d) of this rule to persons served by the water system. Public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance. The public water system must repeat the notice at least annually for as long as the exceedance persists. The Authority may require an initial notice sooner than 12 months and repeat notices more frequently than annually on a case-by-case basis;

(b) A copy of the notice must also be sent to all new billing units and new customers at the time service begins and to the Authority. If the public notice is posted, the notice must remain in place for as long as the secondary MCL is exceeded, but in no case less than seven days, even if the exceedance is eliminated;

(c) The form and manner of the public notice, including repeat notices must follow the requirements for tier 3 public notice;

(d) The notice must contain the following language, including the language necessary to fill in the blanks:

This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 mg/l of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system {name} has a fluoride concentration of {insert value} mg/l.

Dental fluorosis, in its moderate or severe forms, may result in a brown staining and/or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.

Drinking water containing more than 4 mg/l of fluoride (the U.S. EPA's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we're required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.

For more information, please call {name of water system contact} of {name of community water system} at {phone number}. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.

(8) Special notice to the public for significant deficiencies or source water fecal contamination.

(a) A community water system that uses groundwater and that receives notification from the Authority of a significant deficiency or of an E. coli-positive groundwater source sample, that is not invalidated in accordance with OAR 333-061-0036(6)(x), must inform the public served by the water system of the E. coli-positive source sample or the significant deficiency that has not been corrected as prescribed by OAR 333-061-0043(5). The water system must continue to inform the public annually until the significant deficiency is corrected, or the fecal contamination in the groundwater source is determined by the Authority to be corrected in accordance with OAR 333-061-0032(6)(e).

(b) A non-community groundwater system that receives notice from the Authority of a significant deficiency must inform the public served by the water system in a manner approved by the Authority of the significant deficiency if it has not been corrected within 12 months of the notification by the Authority. The water system must continue to inform the public annually until the significant deficiency is corrected. The information must include:

(A) The nature of the significant deficiency and the date the significant deficiency was identified by the Authority;

(B) The Authority-approved plan and schedule for correction of the significant deficiency, including any interim measures, progress to date, and any interim measures completed; and

(C) For water systems with a large proportion of non-English speaking consumers as determined by the Authority, information must be distributed in the appropriate language(s) regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

(c) If directed by the Authority, a non-community water system with significant deficiencies that have been corrected must inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction under subsection (8)(b) of this rule.

(9) Special notice for repeated failure to conduct monitoring of the source water for Cryptosporidium and for failure to determine bin classification or mean Cryptosporidium level.

(a) Special notice for repeated failure to monitor. The owner or operator of a community or non-community water system that is required to monitor source water in accordance with OAR 333-061-0036(5)(e) must notify persons served by the water system that monitoring has not been completed as required no later than 30 days after the system has failed to collect any three months of monitoring as specified in Table 39. The notice must be repeated as specified in subsection (3)(b) of this rule. [Table not included. See ED. NOTE.]

(b) Special notice for failure to determine bin classification or mean Cryptosporidium level. The owner or operator of a community or non-community water system that is required to determine a bin classification in accordance with OAR 333-061-0032(4)(f), or to determine a mean Cryptosporidium level as prescribed by OAR 333-061-0032(2)(d), must notify persons served by the water system that the determination has not been made as required no later than 30 days after the system has failed to report the determination in accordance with OAR 333-061-0032(2)(d)(A) through (D) or OAR 333-061-0032(4)(f)(G) and (H).

(A) The notice must be repeated as specified in subsection (3)(b) of this rule.

(B) The notice is not required if the system is complying with an Authority approved schedule to address the violation.

(c) The form and manner of the special notice must follow the requirements for a Tier 2 public notice as prescribed in subsection (3)(b) of this rule. The special notice must be presented as required by subsection (4)(c) of this rule.

(d) The special notice must contain the following language, including system specific language for the text within the braces.

(A) The special notice for repeated failure to conduct monitoring must contain:

{Water system name} is required to monitor the source of your drinking water for Cryptosporidium. Results of the monitoring are to be used to determine whether water treatment at the {treatment plant name} is sufficient to adequately remove Cryptosporidium from your drinking water. We are required to complete this monitoring and make this determination by {required bin determination date}. We ``did not monitor or test" or ``did not complete all monitoring or testing" on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made to ensure adequate Cryptosporidium removal. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required, {date}. For more information, please call {name of water system contact} of { water system name} at {phone number}.

(B) The special notice for failure to determine bin classification or mean Cryptosporidium level must contain the following language:

{Water system name} is required to monitor the source of your drinking water for Cryptosporidium in order to determine by {date} whether water treatment at the {treatment plant name} is sufficient to adequately remove Cryptosporidium from your drinking water. We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of {date}. For more information, please call {name of water system contact} of {water system name} at {phone number}.

(C) Each special notice must also include a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation.

(10) Public notification by the Authority. The Authority may give notice to the public required by this section on behalf of the owner or operator of the public water system. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this section are met.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0043

Consumer Confidence Reports

This rule establishes the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. For the purpose of this rule, customers are defined as billing units or service connections to which water is delivered by a Community Water System.

(1) Delivery deadlines:

(a) Community water systems must deliver their reports by July 1, annually. The report must contain data collected during, or prior to, the previous calendar year;

(b) A new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter;

(c) A community water system that sells water to another community water system must deliver the applicable information to the buyer system:

(A) No later than April 1, annually; or

(B) On a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

(2) Content of the Reports:

(a) Each community water system must provide to its customers an annual report that contains the information specified in sections (2), (3), (4), and (5) of this rule;

(b) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(A) The type of water: e.g., surface water, ground water; and

(B) The commonly used name (if any) and location of the body (or bodies) of water.

(c) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant potential sources of contamination in the drinking water protection area if they have readily available information. Where a system has received a source water assessment from the Authority, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the Authority or written by the operator;

(d) Each report must contain the following definitions:

(A) Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety;

(B) Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(C) Variance: A system operating under a variance as prescribed in OAR 333-061-0045 must include the following definition in its report: Variances: State permission not to meet an MCL or a treatment technique under certain conditions;

(D) Treatment Technique or Action Level: A system which has a detection for a contaminant for which EPA has set a treatment technique or an action level must include one or both of the following definitions as applicable:

(i) Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water;

(ii) Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(E) Maximum Residual Disinfectant Level Goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(F) Maximum Residual Disinfectant Level or MRDL: The highest level of disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(3) Detected Contaminants:

(a) The following information must be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). Detected means at or above the detection level prescribed by each EPA approved analytical method set forth in 40 CFR 141:

(A) Contaminants and disinfection by-products subject to an MCL, action level, MRDL, or treatment technique (regulated contaminants); and

(B) Unregulated contaminants for which monitoring is required.

(b) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(c)The data must be derived from data collected to comply with state monitoring and analytical requirements during the calendar year except that where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulation. No data older than five years need be included.

(d) For detected regulated contaminants (listed in Table 45 of this rule), the table(s) in the report must contain: [Table not included. See ED. NOTE.]

(A) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in Table 45); [Table not included. See ED. NOTE.]

(B) The MCLG for that contaminant expressed in the same units as the MCL;

(C) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph (2)(d)(D) of this rule;

(D) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with OAR 333-061 and the range of detected levels, as follows:

(i) When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL;

(ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a monitoring location: the highest average at any of the monitoring locations and the range of all monitoring locations must be expressed in the same unit of measure as the MCL. For the MCL for TTHM and HAA5 as specified by OAR 333-061-0030(2)(b), water systems must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same unit of measure as the MCL. If more than one location exceeds the MCL for TTHM or HAA5, the water system must include the locational running annual averages for all locations that exceed the MCL;

(iii) When compliance with the MCL is determined on a system wide basis by calculating a running annual average of all samples at all monitoring locations: the average and range of detections must be expressed in the same units as the MCL. The water system is required to include individual sample results for an IDSE conducted in accordance with OAR 333-061-0036(4)(b) of this rule when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken;

(iv) When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Table 45 of this rule. [Table not included. See ED. NOTE.]

(e) Turbidity:

(A) When it is reported pursuant to OAR 333-061-0030(3)(a), 333-061-0032(2), and 333-061-0036(5)(a): the highest monthly value. The report should include an explanation of the reasons for measuring turbidity. This includes water systems currently without filtration treatment, but required to install filtration through a Notice of Violation and Remedial Order.

(B) When it is reported pursuant to OAR 333-061-0030(3): The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in OAR 333-061-0030(3) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

(f) Lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level and the lead-specific information as prescribed in subsection (4)(c) of this rule.

(g) Total coliform:

(A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(B) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(h) Fecal coliform: the total number of positive samples.

(i) The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in Table 46 which are most applicable to the system. [Table not included. See ED. NOTE.]

(j) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(k) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation, the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language in Table 46 of this rule. [Table not included. See ED. NOTE.]

(l) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

(m) Information on Cryptosporidium, radon, and other contaminants:

(A) If the system has performed any monitoring for Cryptosporidium, which indicates that Cryptosporidium may be present in the source water or the finished water, the report must include:

(i) A summary of the results of the monitoring, and

(ii) An explanation of the significance of the results.

(B) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results.

(C) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, the system is strongly encouraged to report any results which may indicate a health concern. To determine if results may indicate a health concern, EPA recommends that systems find out if EPA has proposed a National Primary Drinking Water Regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). EPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, EPA recommends that the report include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

(n) Compliance with OAR 333-061: In addition to subsection (3)(k) of this rule, the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(A) Monitoring and reporting of compliance data;

(B) Filtration and disinfection prescribed by OAR 333-061-0032: For systems which have failed to install adequate filtration or disinfection equipment or processes which constitutes a violation or have an equipment failure constituting a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches;

(C) Lead and copper control requirements: For systems which fail to take one or more actions prescribed by OAR 333-061-0034 the report must include the applicable language in Table 46 of this rule for lead, copper, or both; [Table not included. See ED. NOTE.]

(D) Treatment techniques for Acrylamide and Epichlorohydrin: For systems which violate the requirements of OAR 333-061-0030(7), the

report must include the relevant health effects language in Table 46 of this rule. [Table not included. See ED. NOTE.]

(E) Recordkeeping of compliance data;

(F) Special monitoring requirements prescribed by OAR 333-061-0036(2)(f) and for unregulated contaminants as required by EPA;

(G) Violation of the terms of a variance, administrative order or judicial order.

(o) Variances: If a system is operating under the terms of a variance as prescribed in OAR 333-061-0045, the report must contain:

(A) An explanation of the reasons for the variance;

(B) The date on which the variance was issued;

(C) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance; and

(D) A notice of any opportunity for public input in the review, or renewal, of the variance.

(p) Additional information:

(A) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language in subparagraphs (3)(p)(A)(i), (ii) and (iii) of this rule, or systems may use their own comparable language. The report also must include the language of subparagraph (3)(p)(A)(iv) of this rule.

(i) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity;

(ii) Contaminants that may be present in source water include:

(I) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife;

(II) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming;

(III) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses;

(IV) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems;

(V) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

(iii) In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water which must provide the same protection for public health;

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(B) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report;

(C) In communities with a large proportion of non-English speaking residents the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language;

(D) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water;

(E) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

(4) Required additional health information:

(a) All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(b) A system which detects nitrate at levels above 5 mg/l, but does not exceed the MCL:

(A) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 mg/l is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

(B) May write its own educational statement, but only in consultation with the Authority.

(c) Every report must include the following lead-specific information:

(A) A short informational statement about the lead in drinking water and its effects on children. The statement must include the following information: If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. {NAME OF WATER UTILITY} is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at http://www.epa.gov/safewater/lead.

(B) The water system may write its own educational statement, but only in consultation with the Authority.

(5) Special requirements for groundwater systems:

(a) Any groundwater system that receives notification of a significant deficiency that is not corrected at the time of the next report, or of an E. coli-positive groundwater source sample that was not invalidated in accordance OAR 333-061-0036(6)(x) must inform its customers in the next report. The water system must continue to inform the public annually until the Authority determines that the particular significant deficiency is corrected or that the fecal contamination in the groundwater source is addressed in accordance with OAR 333-061-0032(6). Each report must include the following elements:

(A) The nature of the particular significant deficiency or the source of the fecal contamination (if the source is known), and the date the significant deficiency was identified by the Authority or the dates of the E. coli-positive groundwater source samples;

(B) If the fecal contamination in the groundwater source has been addressed as prescribed by OAR 333-061-0032(6) and the date of such action;

(C) The Authority-approved plan and schedule for correction, including interim measures, progress to date, and any interim measures completed for any significant deficiency or fecal contamination in the groundwater source that has not been addressed as prescribed by OAR 333-061-0032(6); and

(D) The potential health effects language specified in OAR 333-061-0097(4)(b) if the system received notice of a E. coli-positive groundwater source sample that was not invalidated by the Authority in accordance with OAR 333-061-0036(6)(x).

(b) The Authority may require a water system with significant deficiencies that have been corrected before the next report is issued to inform its customers of the significant deficiency, how the deficiency was corrected, and the date of correction in accordance with subsection (5)(a) of this rule.

(6) Report delivery and recordkeeping:

(a) Except as provided in subsection (6)(g) of this rule, each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(b) The system must make a good faith effort to reach consumers who do not get water bills, using means recommended by the Authority. EPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system such as: Posting the

reports on the Internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by singularly-billed customers such as apartment buildings or large private employers; delivery to community organizations.

(c) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the Authority, followed within three months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Authority.

(d) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the Authority.

(e) Each community water system must make its reports available to the public upon request.

(f) Each community water system serving 100,000 or more persons must post its current year's report to a publicly-accessible site on the Internet.

(g) The Governor of a State or his designee, can waive the requirement of subsection (6)(a) of this rule for community water systems serving fewer than 10,000 persons.

(A) Such systems must:

(i) Publish the reports in one or more local newspapers serving the area in which the system is located;

(ii) Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the State; and

(iii) Make the reports available to the public upon request.

(B) Systems serving 500 or fewer persons may forego the requirements of subparagraphs (6)(g)(A)(i) and (ii) of this rule if they provide notice at least once per year to their customers by mail, door-to-door delivery or by posting in an appropriate location that the report is available upon request.

(h) Any system subject to this rule must retain copies of its consumer confidence report for no less than five years.

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150

Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0045

Variances

(1) Variances from the maximum contaminant levels may be granted by the Authority to public water systems under the following circumstances where:

(a) An evaluation satisfactory to the Authority indicates that alternative sources of water are not reasonably available to the system;

(b) There will be no unreasonable risk to health;

(c) The water supplier has provided sufficient evidence to confirm that the best available treatment techniques which are generally available are unable to treat the water in question so that it meets maximum contaminant levels;

(d) The water supplier agrees to notify the water users at least once every three months, or more frequently if determined by the Authority, that the water system is not in compliance;

(e) A compliance schedule is submitted which outlines how the water supplier intends to achieve compliance, and the water supplier agrees to review this schedule once every three years to determine whether changes have occurred in the conditions which formed the basis for the schedule; and

(f) A plan is submitted which outlines interim control measures including application of the best technology treatment technique to be implemented during the period that the variance is in effect.

(2) The Authority shall document all findings of its determinations and if the Authority prescribes a schedule requiring compliance with a contaminant level for which the variance is granted later than five years from the date of issuance of the variance the Authority shall:

(a) Document the rationale for the extended compliance schedule;

(b) Discuss the rationale for the extended compliance schedule in the required public notice and opportunity for public hearing; and

(c) Provide the shortest practicable time schedule feasible under the circumstances.

(3) Before denying a request for a variance, the Authority shall advise the water supplier of the reasons for the denial and shall give the supplier an opportunity to present additional information. If the additional information is not sufficient to justify granting the variance, the variance shall be denied.

(4) If the Authority determines that the variance should be granted, it shall announce its intention to either hold a public hearing in the affected area prior to granting the variance; or serve notice of intent to grant the variance either personally, or by registered or certified mail to all customers connected to the water system, or by publication in a newspaper in general circulation in the area. If no hearing is requested within 10 days of the date that notice is given, the Authority may grant the variance.

(5) When a variance has been granted, and a water supplier fails to meet the compliance schedule, or fails to implement the interim control measures, or fails to undertake the monitoring required under the conditions of the variance, the Authority may initiate enforcement action authorized by these rules.

(6) Variances from the maximum contaminant levels for volatile organic chemicals, organic chemicals and inorganic chemicals shall be issued by the Authority as follows:

(a) The Authority shall require Community water systems and Non-Transient Non-Community water systems to install and/or use any treatment method identified in OAR 333-061-0050(4)(b)(B), (E) and (F) as a condition for granting a variance except as provided in subsection (6)(b) of this rule. If, after the system's installation of the treatment method, the system cannot meet the MCL, that system shall be eligible for a variance.

(b) If a system can demonstrate through comprehensive engineering assessments, which may include pilot plant studies, that the treatment methods identified in OAR 333-061-0050(4)(b)(B), (E) and (F) would only achieve an insignificant reduction in contaminants, the Authority may issue a schedule of compliance that requires the system being granted the variance to examine other treatment methods as a condition of obtaining the variance.

(c) If the Authority determines that a treatment method identified in subsection (6)(b) of this rule is technically feasible, the Authority may require the system to install and/or use that treatment method in connection with a compliance schedule. The Authority's determination shall be based upon studies by the system and other relevant information.

(d) The Authority may require a public water system to use bottled water, point-of-use devices, point-of-entry devices or other means as a condition of granting a variance to avoid an unreasonable risk to health.

(7) The variances from the maximum contaminant level for fluoride shall be granted by the Authority as follows:

(a) The Authority shall require a Community water system to install and/or use any treatment method identified in OAR 333-061-0050(4)(b)(C) as a condition for granting a variance unless the Authority determines that such treatment method is not available and effective for fluoride control for the system. A treatment method shall not be considered to be "available and effective" for an individual system if the treatment method would not be technically appropriate and technically feasible for that system. If, upon application by a system for a variance, the Authority determines that none of the treatment methods identified in OAR 333-061-0050(4)(b)(C) are available and effective for the system, that system shall be entitled to a variance. The Authority's determination as to the availability and effectiveness of such treatment methods shall be based upon studies by the system and other relevant information. If a system submits information to demonstrate that a treatment method is not available and effective for fluoride control for that system, the Authority shall make a finding whether this information supports a decision that such treatment method is not available and effective for that system before requiring installation and/or use of such treatment method.

(b) The Authority shall issue a schedule of compliance that may require the system being granted the variance to examine the following treatment methods to determine the probability that any of the following methods will significantly reduce the level of fluoride for that system, and if such probability exists, to determine whether any of these methods are technically feasible and economically reasonable, and that the fluoride reductions obtained will be commensurate with the costs incurred with the installation and use of such treatment methods for that system: Modification of lime softening; Alum coagulation; Electrodialysis; Anion exchange resins; Well field management; Alternate source; or Regionalization.

(c) If the Authority determines that a treatment method identified in subsection (6)(b) of this rule or any other treatment method is technically feasible, economically reasonable, and will achieve fluoride reductions commensurate with the costs incurred with the installation and/or use of such treatment method for the system, the Authority shall require the system to install and/or use that treatment method in connection with a compliance schedule. The Authority's determination shall be based upon studies by the system and other relevant information.

(8) Public water systems that use bottled water as a condition for receiving a variance must meet the following requirements.

(a) The public water system must develop and put in place a monitoring program approved by the Authority that provides reasonable assurances that the bottled water meets all MCLs. The public water system must monitor a representative sample of the bottled water for all applicable contaminants under OAR 333-061-0036 the first quarter that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the Authority annually.

(b) As an alternative to subsection (7)(a) of this rule, the public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3(a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80(g)(1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 103.35, 110, and 129. The public water system shall provide the certification to the Authority the first quarter after it supplies bottled water and annually thereafter.

(c) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system, via door-to-door bottled water delivery.

(9) Public water systems that use point-of-use devices as a condition for obtaining a variance must meet the following requirements:

(a) It is the responsibility of the public water system to operate and maintain the point-of-use treatment system.

(b) The public water system must develop a monitoring plan and obtain Authority approval for the plan before point-of-use devices are installed for compliance. This monitoring plan must provide health protection equivalent to a monitoring plan for central water treatment.

(c) Effective technology must be properly applied under a plan approved by the Authority and the microbiological safety of the water must be maintained.

(d) The water system must submit adequate certification of performance, field testing and, if not included in the certification process, a rigorous engineering design review to the Authority for approval prior to installation.

(e) The design and application of the point-of-use devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(f) All consumers shall be protected. Every building connected to the system must have a point-of-use device installed, maintained, and adequately monitored. The Authority must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(10) Public water systems shall not use bottled water to achieve compliance with an MCL. Bottled water or point-of-use devices may be used on a temporary basis to avoid an unreasonable risk to health.

(11) The Authority may grant a variance from the requirements of OAR 333-061-0030(4) "Microbiological Contaminants" for any system that demonstrates to the satisfaction of the Authority that violations of the total coliform MCL are due to persistent growth of total coliform in the distribution system rather than fecal or pathogenic contamination, a treatment lapse or deficiency, or a problem in the operation or maintenance of the distribution system. This demonstration, made by the system in writing and submitted to the Authority for review, shall show that the system meets the following conditions:

(a) The system meets treatment level requirements of OAR 333-061-0032,

(b) The system shows no occurrence of coliforms at the entry point to the distribution system,

(c) The system meets the turbidity MCL,

(d) The system maintains a detectable disinfectant residual in the distribution system,

(e) The system has no history of waterborne disease outbreaks using the current treatment and source configuration,

(f) The system maintains regular contact with the Authority to assess possible illness outbreaks,

(g) The system complies with coliform monitoring requirements and shows no occurrence of E. coli positive samples during the previous six months,

(h) The system has addressed requirements and recommendations of the previous sanitary survey conducted by the Authority,

(i) The system fully complies with cross connection control program requirements contained in OAR 333-061-0070,

(j) The system agrees to submit a biofilm control plan to the Authority within 12 months of the granting of the first request for a variance,

(k) The system monitors heterotrophic plate count weekly in conjunction with routine coliform sample collection and maintains HPC counts at levels less than 500 colonies per ml at any point where the disinfectant residual is less than 0.2 mg/l, and

(l) The system has a microbiological contaminant sampling plan approved by the Authority.

(12) The Authority is not permitted to issue any variances to the requirements of OAR 333-061-0030(3) and (4), OAR 333-061-0032, or OAR 333-061-0034 except as provided by section (13) of this rule. The Authority is also not permitted to issue any variances to the requirements of OAR 333-061-0036 pertaining to the treatment of surface water and groundwater under the direct influence of surface water. In addition, no permits will be granted for OAR 333-061-0030(4), OAR 333-061-0032(3)(c) or OAR 333-061-0032(5)(b).

(13) The Authority may grant variances from the standards specified in OAR 333-061-0032(3)(e) through (g) requiring the use of a specified water treatment technique if the Authority determines that the use of a specified water treatment technique is not necessary to protect public health based on the nature of the raw water source for a public water system. A variance granted under this section shall be conditioned on such monitoring and other requirements as the Administrator of the U.S. Environmental Protection Agency or the Director of the Oregon Health Authority may prescribe.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 448.115, 448.135
Hist.: HD 9-1981(Temp), f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0213, HD 2-1983, f. & ef. 2-23-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0050
Construction Standards

(1) General:

(a) These standards shall apply to the construction of new public water systems and to major additions or modifications to existing public water systems and are intended to assure that the system facilities, when constructed, will be free of public health hazards and will be capable of producing water which consistently complies with the maximum contaminant levels;

(b) Facilities at public water systems must comply with the construction standards in place at the time the facility was constructed or installed for use at a public water system. A public water system shall not be required to undertake alterations to existing facilities, unless the standard is listed as a significant deficiency as prescribed in OAR 333-061-0076(4) and that creates a public health hazard, or if maximum contaminant levels are being exceeded.

(c) Non-public water systems that are converted to public water systems shall be modified as necessary to conform to the requirements of this rule.

(d) Facilities at public water systems shall be designed and constructed in a manner such that contamination will be effectively excluded, and the structures and piping will be capable of safely withstanding external and internal forces acting upon them;

(e) Only materials designed for potable water service and meeting NSF Standard 61, Section 9 -Drinking Water System Components — Health Effects (Revised September, 1994) or equivalent shall be used in those elements of the water system which are in contact with potable water;

(f) New tanks, pumps, equipment, pipe valves and fittings shall be used in the construction of new public water systems, major additions or major modifications to existing water systems. The Authority may permit

the use of used items when it can be demonstrated that they have been renovated and are suitable for use in public water systems;

(g) Prior to construction of new facilities, the water supplier shall submit plans to the Authority for approval as specified in OAR 333-061-0060(1)(a).

(h) Construction may deviate from the requirements of this section provided that documentation is submitted, to the satisfaction of the Authority, that the deviation is equal to or superior to the requirements of this section as specified in OAR 333-061-0055 (variances from construction standards).

(i) A public water system or other Responsible Management Authority using groundwater, or groundwater under the direct influence of surface water, derived from springs, confined or unconfined wells that wish to have a state certified wellhead protection program shall comply with the requirements as specified in OAR 333-061-0057, 0060, and 0065, as well as OAR 340-040-0140 through 0200. Additional technical information is available in the Oregon Wellhead Protection Guidance Manual.

(j) All new groundwater sources are subject to consideration for potential direct influence of surface water as prescribed in OAR 333-061-0032(7).

(2) Groundwater:

(a) Wells:

(A) For the purpose of this rule, wells are defined as holes or other excavations that are drilled, dug or otherwise constructed for the purpose of capturing groundwater or groundwater in hydraulic connection with surface water as a source of public drinking water.

(B) The area within 100 feet of the well shall be owned by the water supplier, or a perpetual restrictive easement shall be obtained by the water supplier for all land (with the exception of public rights-of-way) within 100 feet of the well. The easement shall be recorded with the county in which the well is located and with the recorded deed to the property. A certified true copy shall be filed with the Authority;

(C) Not withstanding paragraph (2)(a)(A) of this rule, wells located on land owned by a public entity, (Federal, State, County, Municipality) which is not the water supplier, a permit issued by the public entity to the water supplier shall suffice in lieu of an easement. Said permit shall state that no existing or potential public health hazard shall be permitted within a minimum of 100 feet of a well site;

(D) Public or private roadways may be allowed within 100 feet of a confined well, provided the well is protected against contamination from surface runoff or hazardous liquids which may be spilled on the roadway and is protected from unauthorized access;

(E) The following sanitary hazards are not allowed within 100 feet of a well which serves a public water system unless waived by the Authority: any existing or proposed pit privy, subsurface sewage disposal drain field; cesspool; solid waste disposal site; pressure sewer line; buried fuel storage tank; animal yard, feedlot or animal waste storage; untreated storm water or gray water disposal; chemical (including solvents, pesticides and fertilizers) storage, usage or application; fuel transfer or storage; mineral resource extraction, vehicle or machinery maintenance or long term storage; junk/auto/scrap yard; cemetery; unapproved well; well that has not been properly abandoned or of unknown or suspect construction; source of pathogenic organisms or any other similar public health hazards. No gravity sewer line or septic tank shall be permitted within 50 feet of a well which serves a public water system. Clearances greater than indicated above shall be provided when it is determined by the Authority that the aquifer sensitivity and degree of hazard require a greater degree of protection. Aboveground fuel storage tanks provided for emergency water pumping equipment may be exempted from this requirement by the Authority provided that a secondary containment system is in place that will accommodate 125 percent of the fuel tank storage;

(F) Except as in paragraph (2)(a)(A) and (2)(a)(E) of this rule, in those areas served by community gravity sanitary sewers, the area of ownership or control may be reduced to 50 feet;

(G) Wells shall not be located at sites which are prone to flooding. In cases where the site is subject to flooding, the area around the well shall be mounded, and the top of the well casing shall be extended at least two feet above the anticipated 100-year (1 percent) flood level;

(H) Except as otherwise provided herein, wells shall be constructed in accordance with the general standards for the construction and maintenance of water wells in Oregon as prescribed in OAR chapter 690, divisions 200 through 220;

(I) Wells as defined in paragraph (2)(a)(A) of this rule that are less than 12 feet in depth must be constructed so as to be cased and sealed from the surface to a minimum of three feet above the bottom of the well. The casing may consist of concrete or metal culvert pipe or other pre-approved materials. The seal shall be watertight, be a minimum of four inches in thickness and may consist of cement, bentonite or concrete (see concrete requirements prescribed in OAR 690-210-315). The construction and placement of these wells must comply with all requirements of this rule.

(J) Before a well is placed into operation as the source of supply at a public water system, laboratory reports as required by OAR 333-061-0036 shall be submitted by the water supplier;

(K) Water obtained from wells which exceed the maximum contaminant levels shall be treated as outlined in section (4) of this rule;

(L) The pump installation, piping arrangements, other appurtenances, and well house details at wells which serve as the source of supply for a public water system, shall meet the following requirements:

(i) The line shaft bearings of turbine pumps shall be water-lubricated, except that bearings lubricated with non-toxic approved food-grade lubricants may be permitted in wells where water-lubricated bearings are not feasible due to depth to the water;

(ii) Where turbine pumps are installed, the top of the casing shall be sealed into the pump motor. Where submersible pumps are installed, the top of the casing shall be provided with a watertight sanitary seal;

(iii) A casing vent shall be provided and shall be fitted with a screened return bend;

(iv) Provisions shall be made for determining the depth to water surface in the well under pumping and static conditions;

(v) A sampling tap shall be provided on the pump discharge line;

(vi) Piping arrangements shall include provisions for pumping the total flow from the well to waste;

(vii) A method of determining the total output of each well shall be provided. This requirement may be waived by the Authority at confined wells which serve as the source of supply for Transient Non-Community water systems;

(viii) A reinforced concrete slab shall be poured around the well casing at ground surface. The slab shall be sloped to drain away from the casing;

(ix) The ground surface around the well slab shall be graded so that drainage is away from the well;

(x) The top of the well casing shall extend at least 12 inches above the concrete slab;

(xi) Provisions shall be made for protecting pump controls and other above-ground appurtenances at the well head. Where a wellhouse is installed for this purpose, it shall meet applicable building codes and shall be insulated, heated and provided with lights, except that where the wellhouse consists of a small removable box-like structure the requirement for lights may be waived by the Authority;

(xii) The wellhouse shall be constructed so that the well pump can be removed.

(xiii) Wells equipped with pitless adaptors or units are not required to meet the requirements of subparagraphs (2)(a)(L)(iii) and (viii) of this rule.

(M) The area in the vicinity of a well, particularly the area uphill or upstream, shall be surveyed by the water supplier to determine the location and nature of any existing or potential public health hazards;

(N) The requirements with respect to land ownership, clearances from public health hazards, and protection against flooding for wells in an unconfined aquifer shall be the same or more restrictive than those prescribed for wells in confined aquifers, as determined by the Authority.

(O) Before a well is placed into operation as the source of supply for a public water system, the following documents shall be submitted by the water supplier:

(i) Reports on pumping tests for yield and drawdown for unconfined wells;

(ii) Reports of laboratory analyses on contaminants in the water as required by OAR 333-061-0036;

(iii) Performance data on the pumps and other equipment;

(iv) Proposals for disinfection as required by section (5) of this rule, if applicable.

(v) Reports on determination of potential direct influence by surface water into groundwater source as prescribed in section (3) of this rule.

(b) Springs:

(A) In addition to those requirements under subsection (2)(a) of this rule, construction of spring supplies shall meet the following requirements:

(i) An intercepting ditch shall be provided above the spring to effectively divert surface water;

(ii) A fence shall be installed around the spring area unless other provisions are made to effectively prevent access by animals and unauthorized persons;

(iii) The springbox shall be constructed of concrete or other impervious durable material and shall be installed so that surface water is excluded;

(iv) The springbox shall be provided with a screened overflow which discharges to daylight, an outlet pipe provided with a shutoff valve, a bottom drain, an access manhole with a tightly fitting cover, and a curb around the manhole.

(v) Spring collection facilities that meet the definition of a well in paragraph (2)(a)(A) of this rule must comply with construction requirements specified in paragraph (2)(a)(I) of this rule.

(B) Reports on flow tests shall be provided to establish the yield of springs.

(3) Surface water and groundwater under direct surface water influence source facilities:

(a) In selecting a site for an infiltration gallery, or for a direct intake from a stream, lake, or impounding reservoir, consideration shall be given to land use in the watershed. A sanitary survey of the watershed shall be made by the water supplier to evaluate natural and man-made factors which may affect water quality and investigations shall also be made of seasonal variations in water quality and quantity. A report giving the results of this survey shall be submitted for review and approval by the Authority.

(b) A determination shall be made as to the status of water rights, and this information shall be submitted to the Authority for review.

(c) Impounding reservoirs shall be designed and constructed so that they include the following features:

(A) The capacity shall be sufficient to meet projected demands during drought conditions;

(B) Outlet piping shall be arranged so that water can be withdrawn from various depths;

(C) Facilities shall be provided for releasing undesirable water.

(d) Direct intake structures shall be designed and constructed so that they include the following features:

(A) Screens shall be provided to prevent fish, leaves and debris from entering the system;

(B) Provisions shall be made for cleaning the screens, or self-cleaning screens shall be installed;

(C) Motors and electrical controls shall be located above flood level;

(D) Provisions shall be made to restrict swimming and boating in the vicinity of the intake;

(E) Valves or sluice gates shall be installed at the intake to provide for the exclusion of undesirable water when required.

(4) Water treatment facilities (other than disinfection):

(a) General:

(A) Water treatment facilities shall be capable of producing water which consistently does not exceed maximum contaminant levels. The type of treatment shall depend on the raw water quality. The Authority shall make determinations of treatment capabilities based upon recommendations in the USEPA SWTR Guidance Manual.

(B) Investigations shall be undertaken by the water supplier prior to the selection or installation of treatment facilities to determine the physical, chemical and microbiological characteristics of the raw water as appropriate. These investigations shall include a determination of the seasonal variations in water quality, as well as a survey to identify potential sources of contamination which may affect the quality of the raw water.

(C) Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed the maximum contaminant levels, may be used without treatment at public water systems;

(D) Laboratory equipment shall be provided so that the water supplier can perform analyses necessary to monitor and control the treatment processes.

(E) A sampling tap shall be provided following the treatment process and before the first user when any form of water treatment is in use at a water system.

(b) Best Available Technology:

(A) Pilot studies or other supporting data shall be used to demonstrate the effectiveness of any treatment method other than that defined as best available technology. Pilot study protocol shall be approved beforehand by the Authority. When point-of-use (POU) or point-of-entry (POE) devices are used for compliance, programs to ensure proper long-term operation, maintenance, and monitoring shall be provided by the water system to ensure adequate performance.

(B) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for volatile organic chemicals:

(i) Central treatment using packed tower aeration for all these chemicals.

(ii) Central treatment using granular activated carbon for all these chemicals except vinyl chloride.

(C) The Authority identifies the following as the best available technology, treatment techniques or other means generally available for achieving compliance with the Maximum Contaminant Level for fluoride.

(i) Activated alumina absorption, centrally applied.

(ii) Reverse osmosis, centrally applied.

(D) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant level for total coliforms.

(i) Protection of wells from contamination by coliforms by appropriate placement and construction;

(ii) Maintenance of a disinfectant residual throughout the distribution system;

(iii) Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, and maintaining a minimum pressure of 20 psi at all service connections.

(iv) Filtration treatment and/or disinfection of surface water or groundwater under the direct influence of surface water, or disinfection of groundwater using strong oxidants such as chlorine, chlorine dioxide, or ozone; and

(v) For systems using groundwater, compliance with the requirements of an Authority approved wellhead protection program.

(E) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for organic chemicals.

(i) Central treatment using packed tower aeration for Dibromochloropropane, Ethylene Dibromide, Hexachlorocyclopentadiene and Di(2-ethylhexyl)adipate.

(ii) Central treatment using granular activated carbon for all these chemicals except Trihalomethanes and Glyphosate.

(iii) Central treatment using oxidation (chlorination or ozonation) for Glyphosate.

(F) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for inorganic chemicals. Preoxidation may be required to convert Arsenic III to Arsenic V.

(i) Central treatment using coagulation/filtration for systems with 500 or more service connections for Antimony, Arsenic V (for systems with populations 501-10,000), Asbestos, Beryllium, Cadmium, Chromium, Mercury (influent concentration ≥ 10ug/L), and Selenium (Selenium IV only).

(ii) Central treatment using direct and diatomite filtration for Asbestos.

(iii) Central treatment using granular activated carbon for Mercury.

(iv) Central treatment using activated alumina for Arsenic V (for systems with populations l0,000 or less), Beryllium, Selenium and Thallium.

(v) Central treatment using ion exchange for Arsenic V (for systems with populations 10,000 or less), Barium, Beryllium, Cadmium, Chromium, Cyanide, Nickel, Nitrate, Nitrite and Thallium.

(vi) Central treatment using lime softening for systems with 500 or more service connections for Arsenic V (for systems with populations of 501-10,000), Barium, Beryllium, Cadmium, Chromium (Chromium III only), Mercury (influent concentration ≥ 10ug/L), Nickel and Selenium.

(vii) Central treatment using reverse osmosis for Antimony, Arsenic V (for systems with populations of 501-10,000), Barium, Beryllium, Cadmium, Chromium, Cyanide, Mercury (influent concentration ≥ 10ug/L), Nickel, Nitrate, Nitrite, and Selenium.

(viii) Central treatment using corrosion control for Asbestos and Lead and Copper.

(ix) Central treatment using electrodialysis for Arsenic V (for systems with populations of 501-10,000), Barium, Nitrate, and Selenium.

(x) Central treatment using alkaline chlorination (pH≥8.5) for Cyanide.

(xi) Central treatment using coagulation-assisted microfiltration for Arsenic V (for systems with populations 501-10,000).

(xii) Central treatment using oxidation/filtration for Arsenic V (to obtain high removals, iron to Arsenic ratio must be at least 20:1).

(xiii) Point-of-use treatment using activated alumina for Arsenic V (for systems with populations 10,000 or less).

(xiv) Point-of-use treatment using reverse osmosis for Arsenic V (for systems with populations 10,000 or less).

(G) The Authority identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for disinfection byproducts:

(i) For TTHM and HAA5, when monitoring in accordance with OAR 333-061-0036(4)(c): enhanced coagulation, enhanced softening or GAC10, with chlorine as the primary and residual disinfectant.

(ii) For bromate concentrations: control of ozone treatment process to reduce production of bromate.

(iii) For chlorite concentrations: control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels .

(iv) For TTHM and HAA5, for water systems that disinfect their source water and monitor in accordance with OAR 333-061-0036(4)(d): enhanced coagulation or enhanced softening plus GAC10; or nanofiltration with a molecular weight cutoff less than or equal to 1000 Daltons; or GAC20.

(v) For TTHMs and HAA5, for purchasing water systems with populations greater than or equal to 10,000 and that monitor in accordance with OAR 333-061-0036(4)(d) improved distribution system and storage tank management to reduce residence time, plus the use of chloramines for disinfectant residual maintenance. This applies only to the disinfected water that purchasing water systems receive from a wholesale system.

(vi) For TTHMs and HAA5, for purchasing water systems with populations less than 10,000 and that monitor in accordance with OAR 333-061-0036(4)(d): improved distribution system and storage tank management to reduce residence time. This applies only to the disinfected water that purchasing water systems receive from a wholesale system.

(H) The Authority identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum residual disinfectant levels: Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

(I) The Authority identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the MCLs for radionuclides.

(i) Central treatment using ion exchange for combined radium-226/228, beta particle/photon activity and uranium.

(ii) Central treatment using reverse osmosis for combined radium-226/228, gross alpha particle activity, beta particle/photon activity, and uranium (for systems with populations 501-10,000).

(iii) Central treatment using lime softening for combined radium-226/228, and uranium (for systems with populations 501-10,000).

(iv) Central treatment using enhanced coagulation/filtration for uranium.

(v) Central treatment using activated alumina for uranium (for systems with populations of 10,000 or less).

(vi) Central treatment using greensand filtration for combined radium-226/228.

(vii) Central treatment using electrodialysis for combined radium-226/228.

(viii) Central treatment using pre-formed hydrous manganese oxide filtration for combined radium-226/228.

(ix) Central treatment using co-precipitation with barium for combined radium-226/228.

(x) Point-of-use treatment using ion exchange for combined radium-226/228, beta particle/photon activity, and uranium.

(xi) Point-of use treatment using reverse osmosis for combined radium-226/228, gross alpha particle activity, beta particle/ photon activity, and uranium (for systems with populations of 10,000 or less).

(c) Filtration of Surface Water Sources and Groundwater Sources Under the Direct Influence of Surface Water

(A) All water systems using surface water or groundwater sources under the direct influence of surface water that fail to meet the criteria for avoiding filtration prescribed in OAR 33-061-0032(2) and (3) must meet all requirements of this subsection for installing filtration treatment.

(B) There are four standard filtration methods: conventional filtration, direct filtration, slow sand, and diatomaceous earth. Other filtration technologies are only acceptable if their efficiency at removing target organisms and contaminants can be demonstrated to be equal to or more efficient than these. The assumed log removals credited to filtration of Giardia lamblia and viruses will be based on recommendations in the USEPA SWTR Guidance Manual. In all cases, filtration processes must be designed and operated to achieve at least 2.0 log removal of Giardia lamblia. For membrane filtration, removal credits shall be verified by a challenge study according to paragraphs (4)(c)(H) and (I) of this rule. Bag and Cartridge Filtration must have removal credits demonstrated in a challenge study according to paragraph (4)(c)(J) of this rule. The combination of filtration and disinfection must meet the inactivation levels prescribed in OAR 333-061-0032(1). Any water system wishing to challenge the assumed log removal credits must conduct demonstration studies based on the recommendations in the USEPA SWTR Guidance Manual and have the study protocol approved by the Authority.

(C) Pilot studies shall be conducted by the water supplier to demonstrate the effectiveness of any filtration method other than conventional filtration. Pilot study protocol shall be approved in advance by the Authority. Results of the pilot study shall be submitted to the Authority for review and approval.

(D) Regardless of the filtration method used, the water system must achieve a minimum of 0.5-log reduction of Giardia lamblia and a 1.0-log reduction of viruses from disinfection alone after filtration treatment.

(E) All filtration systems shall be designed and operated so as to meet the requirements prescribed in OAR 333-061-0032(4) and (5). Design of the filtration system must be in keeping with accepted standard engineering references acknowledged by the Authority such as the Great Lakes Upper Mississippi River "Recommended Standards for Water Works" technical reports by the International Reference Center for Community Water Supply and Sanitation, or publications from the World Health Organization. A list of additional references is available from the Authority upon request.

(F) Requirements for water systems using conventional or direct filtration

(i) Systems that employ multiple filters shall be designed such that turbidity measurements are monitored for each filter independently of the other filter(s). Each filter shall have a provision to discharge effluent water as waste.

(ii) All water treatment plants shall have an auto-dial call out alarm or an automatic shut-off for high turbidity.

(G) Additional requirements for membrane filtration. Each membrane filter system must have a turbidimeter installed after each filter unit for continuous indirect integrity monitoring. Once operating, direct and indirect integrity testing must be conducted on each unit as described in OAR 333-061-0036(5)(d). The operation and maintenance manual must include a diagnosis and repair plan such that the ability to remove pathogens is not compromised.

(H) Challenge Study criteria for Membrane Filtration. Water systems receive Cryptosporidium treatment credit for membrane filtration, as defined in OAR 333-061-0020(122), that meets the criteria of this paragraph. The level of treatment credit a water system receives is equal to the lower of the values determined in this paragraph.

(i) The removal efficiency demonstrated during challenge testing conducted under the conditions in accordance with paragraph (4)(c)(I) of this rule.

(ii) The maximum removal efficiency that can be verified through direct integrity testing of the membrane filtration process under the conditions prescribed by OAR 333-061-0036(5)(d)(B).

(I) Challenge Testing. The membrane filter used by the water system must undergo challenge testing to evaluate removal efficiency, and results of the challenge testing must be reported to the Authority. Challenge testing must be conducted according to the criteria specified in this paragraph. Water systems may use data from challenge testing conducted prior to June 1, 2009 if the prior testing was consistent with the criteria specified in this paragraph.

(i) Challenge testing must be conducted on a full-scale membrane module, identical in material and construction to the membrane modules used in the water system's treatment facility, or a smaller-scale membrane module, identical in material and similar in construction to the full-scale module. A module is defined as the smallest component of a membrane unit in which a specific membrane surface area is housed in a device with a filtrate outlet structure.

(ii) Challenge testing must be conducted using Cryptosporidium oocysts or a surrogate that is removed no more efficiently than Cryptosporidium oocysts. Cryptosporidium or the surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge particulate, in both the feed and filtrate water, must be determined using a method capable of discretely quantifying the specific challenge particulate used in the test; gross measurements such as turbidity may not be used.

(iii) The maximum feed water concentration that can be used during a challenge test is based on the detection limit of the challenge particulate in the filtrate and must be determined according to the following equation:

Maximum Feed Concentration = 3.16 x 106 x (Filtrate Detection Limit)

(iv) Challenge testing must be conducted according to representative hydraulic conditions at the maximum design flux and maximum design process recovery specified by the manufacturer for the membrane module. Flux is defined as the throughput of a pressure driven membrane process expressed as flow per unit of membrane area. Recovery is defined as the volumetric percent of feed water that is converted to filtrate over the course of an operating cycle uninterrupted by events such as chemical cleaning or a solids removal process (i.e., backwashing).

(v) Removal efficiency of a membrane module must be calculated from the challenge test results and expressed as a log removal value according to the following equation:

LRV = LOG10(Cf) - LOG10(Cp)

Where:

LRV = log removal value demonstrated during the challenge test;

Cf = the feed concentration measured during the challenge test; and

Cp = the filtrate concentration measured during the challenge test. Equivalent units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, the term Cp is set equal to the detection limit for the purpose of calculating the LRV. An LRV must be calculated for each membrane module evaluated during the challenge test.

(vi) The removal efficiency of a membrane filtration process demonstrated during challenge testing must be expressed as a log removal value (LRVC-Test). If fewer than 20 modules are tested, then LRVC-Test is equal to the lowest of the representative LRVs among the modules tested. If 20 or more modules are tested, then LRVC-Test is equal to the 10th percentile of the representative LRVs among the modules tested. The percentile is defined by (i/(n+1))where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(vii) The challenge test must establish a quality control release value (QCRV) for a non-destructive performance test that demonstrates the Cryptosporidium removal capability of the membrane filtration module. This performance test must be applied to each production membrane module used by the system that was not directly challenge tested in order to verify Cryptosporidium removal capability. Production modules that do not meet the established QCRV are not eligible for the treatment credit demonstrated during the challenge test.

(viii) If a previously tested membrane is modified in a manner that could change the removal efficiency of the membrane or the applicability of the non-destructive performance test and associated QCRV, additional challenge testing to demonstrate the removal efficiency of, and determine a new QCRV for, the modified membrane must be conducted and submitted to the Authority.

(J) Challenge Study requirements for Bag and Cartridge Filtration.

(i) The Cryptosporidium treatment credit awarded to bag or cartridge filters must be based on the removal efficiency demonstrated during challenge testing that is conducted according to the criteria specified in this paragraph. A factor of safety equal to 1-log for individual bag or cartridge filters and 0.5-log for bag or cartridge filters in series must be applied to challenge testing results to determine removal credit. Water systems may use results from challenge testing conducted prior to June 1, 2009 if the prior testing was consistent with the criteria specified in this paragraph.

(ii) Challenge testing must be performed on full-scale bag or cartridge filters and the associated filter housing or pressure vessel, that are identical in material and construction to the filters and housings the water system will use for removal of Cryptosporidium. Bag or cartridge filters must be challenge tested in the same configuration that the system will use, either as individual filters or as a series configuration of filters.

(iii) Challenge testing must be conducted using Cryptosporidium or a surrogate that is removed no more efficiently than Cryptosporidium. The microorganism or surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge particulate must be determined using a method capable of discreetly quantifying the specific microorganism or surrogate used in the test; gross measurements such as turbidity may not be used.

(iv) The maximum feed water concentration that can be used during a challenge test must be based on the detection limit of the challenge particulate in the filtrate (i.e., filtrate detection limit) and must be calculated using the following equation:

Maximum Feed Concentration = 1 x 104 x (Filtrate Detection Limit)

(v) Challenge testing must be conducted at the maximum design flow rate for the filter as specified by the manufacturer.

(vi) Each filter evaluated must be tested for a duration sufficient to reach 100 percent of the terminal pressure drop, which establishes the maximum pressure drop under which the filter may be used to comply with the requirements of this paragraph.

(vii) Removal efficiency of a filter must be determined from the results of the challenge test and expressed in terms of log removal values using the following equation:

LRV = LOG10(Cf)-LOG10(Cp)

Where:

LRV = log removal value demonstrated during challenge testing;

Cf = the feed concentration measured during the challenge test; and

Cp = the filtrate concentration measured during the challenge test. In applying this equation, the same units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, then the term Cp must be set equal to the detection limit.

(viii) Each filter tested must be challenged with the challenge particulate during three periods over the filtration cycle: within two hours of start-up of a new filter; when the pressure drop is between 45 and 55 percent of the terminal pressure drop; and at the end of the cycle after the pressure drop has reached 100 percent of the terminal pressure drop. An LRV must be calculated for each of these challenge periods for each filter tested. The LRV for the filter (LRVfilter) must be assigned the value of the minimum LRV observed during the three challenge periods for that filter.

(ix) If fewer than 20 filters are tested, the overall removal efficiency for the filter product line must be set equal to the lowest LRVfilter among the filters tested. If 20 or more filters are tested, the overall removal efficiency for the filter product line must be set equal to the 10th percentile of the set of LRVfilter values for the various filters tested. The percentile is defined by (i/(n+1))where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(x) If a previously tested filter is modified in a manner that could change the removal efficiency of the filter product line, challenge testing to demonstrate the removal efficiency of the modified filter must be conducted and submitted to the Authority.

(K) Water systems using cartridge filtration must have pressure gauges installed before and after each cartridge filter.

(L) Water systems using diatomaceous earth filtration must add the body feed with the influent flow.

(d) Criteria and procedures for public water systems using point-of-entry (POE) or point-of-use (POU) devices.

(A) Public water systems may use POE or POU devices to comply with maximum contaminant levels, where specified in subsection (4)(b) of this rule, only if they meet the requirements of this subsection.

(B) It is the responsibility of the public water system to operate and maintain the POE or POU treatment system.

(C) The public water system must develop and obtain Authority approval for a monitoring plan before POE or POU devices are installed for compliance. Under the plan approved by the Authority, POE or POU devices must provide health protection equivalent to central water treatment. “Equivalent” means that the water would meet all Maximum Contaminant Levels as prescribed in OAR 333-061-0030 and would be of acceptable quality similar to water distributed by a well-operated central treatment plant. Monitoring must include contaminant removal efficacy, physical measurements and observations such as total flow treated and mechanical condition of the treatment equipment.

(D) Effective technology must be properly applied under a plan approved by the Authority and the microbiological safety of the water must be maintained.

(i) The water supplier must submit adequate certification of performance, field testing, and, if not included in the certification process, a rigorous engineering design review of the POE or POU devices to the Authority for approval prior to installation.

(ii) The design and application of the POE or POU devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(iii) The POE or POU device must be evaluated to assure that the device will not cause increased corrosion of lead and copper bearing materials located between the device and the tap that could increase contaminant levels of lead and copper at the tap.

(E) All consumers shall be protected. Every building connected to the system must have a POE or POU device installed, maintained, and adequately monitored. The Authority must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(5) Facilities for continuous disinfection and disinfectant residual maintenance:

(a) Water obtained from surface sources or groundwater sources under the direct influence of surface water shall, as a minimum, be provided with continuous disinfection before such water may be used as a source of supply for a public water system. Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed microbiological maximum contaminant levels, may be used without treatment at public water systems;

(b) Water obtained from wells and springs shall be considered groundwater unless determined otherwise by the Authority. Wells and springs may be utilized without continuous disinfection if the construction requirements of section (2) of this rule are met and analyses indicate that the water consistently meets microbiological standards. A well or spring that is inadequately constructed, shows a history of microbiological contamination, and where the Authority determines that reconstruction will add a significant measure of public health protection, must be upgraded to meet current construction standards or disconnected from the water system.

(c) In public water systems where continuous disinfection is required as the sole form of treatment, or as one component of more extensive treatment to meet the requirements prescribed in OAR 333-061-0032(1), the facilities shall be designed so that:

(A) The disinfectant applied shall be capable of effectively destroying pathogenic organisms;

(B) The disinfectant is applied in proportion to water flow; and

(C) Disinfectants, other than ultraviolet light and ozone disinfection treatment, shall be capable of leaving a residual in the water which can be readily measured and which continues to serve as an active disinfectant; and

(D) Sufficient contact time shall be provided to achieve "CT" values capable of the inactivation required by OAR 333-061-0032(1). For ultraviolet light disinfection treatment, sufficient irradiance expressed in milliwatts per square centimeter (mWs/cm2) and exposure time expressed in seconds shall be provided to achieve UV dose levels expressed as (mWs/cm2) or millijoules per square centimeter (mJ/cm2) capable of the inactivation required by OAR 333-061-0032(1).

(d) When continuous disinfection, other than ultraviolet light disinfection, is required for reasons other than the treatment of surface water sources or groundwater sources under the direct influence of surface water, in addition to the requirements of paragraphs (5)(c)(A) through (C) of this rule, the facilities shall be designed so that:

(A) The primary disinfection treatment is sufficient to ensure at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Authority, or;

(B) There is sufficient contact time provided to achieve disinfection under all flow conditions between the point of disinfectant application and the point of first water use:

(i) When chlorine is used as the primary disinfectant, the system shall be constructed to achieve a free chlorine residual of 0.2 mg/l after 30 minutes contact time under all flow conditions before first water use;

(ii) When ammonia is added to the water with the chlorine to form a chloramine as the disinfectant, the system shall be constructed to achieve a combined chlorine residual of at least 2.0 mg/l after three hours contact time under all flow conditions before first water use;

(e) Provisions shall be made to alert the water supplier before the chlorine supply is exhausted. Water systems serving more than 3,300 people shall have an auto-dial call out alarm or an automatic shut-off for low chlorine residual when chlorine is used as a disinfectant.

(f) For continuous disinfection only, provisions shall be made for sampling the water before and after chlorination;

(g) Testing equipment shall be provided to determine the chlorine residual;

(h) Chlorinator piping shall be designed to prevent the contamination of the potable water system by backflow of untreated water or water having excessive concentrations of chlorine;

(i) The disinfectant must be applied in proportion to water flow;

(j) Chlorine gas feeders and chlorine gas storage areas shall:

(A) Be enclosed and separated from other operating areas;

(B) Chlorine cylinders shall be restrained in position to prevent upset by chaining 100 and 150 pound cylinders two-thirds of their height up from the floor and by double chocking one ton cylinders;

(C) The room housing the feeders and cylinders shall be above ground surface, shall have doors which open outward and to the outside and shall be ventilated by mechanical means at floor level and shall have an air intake located higher than the exhaust ventilation;

(D) Be located so that chlorine gas, if released, will not flow into the building ventilation systems;

(E) Have corrosion resistant lighting and ventilation switches located outside the enclosure, adjacent to the door;

(F) Be provided with a platform or hydraulic scale for measuring the weight of the chlorine cylinders;

(G) Be provided with a gas mask or self contained breathing apparatus approved by the National Institute of Occupational Safety and Health (NIOSH) for protection against chlorine gas and kept in good working condition. Storage of such equipment shall be in an area adjoining the chlorine room and shall be readily available. (Also see the Oregon Occupational Health and Safety regulations contained in OAR chapter 437.)

(k) When continuous disinfection treatment is provided through ultraviolet light (UV) disinfection, the facilities shall be designed to meet the requirements of this subsection:

(A) The UV unit must achieve the dosage indicated in Table 38 for the required pathogen inactivation. [Table not included. See ED.NOTE.]

(B) Ultraviolet lamps are insulated from direct contact with the influent water and are removable from the lamp housing;

(C) The treatment unit must have an upstream valve or device that prevents flows from exceeding the manufacturer's maximum rated flow rate, an ultraviolet light sensor that monitors light intensity through the water during operation, and a visual and audible alarm;

(D) There must be a visual means to verify operation of all ultraviolet lamps;

(E) The lamps, lamp sleeves, housings and other equipment must be able to withstand the working pressures applied through the unit;

(F) The treatment facility must be sheltered from the weather and accessible for routine maintenance as well as routine cleaning and replacement of the lamp sleeves and cleaning of the sensor windows/lenses;

(G) The lamps must be changed as per the manufacturer's recommendation; and

(H) The treatment unit must have shut-off valves at both the inlet side and the outlet side of the treatment unit. There shall be no bypass piping around the treatment unit.

(I) Reactor validation testing. All water systems, except those specified in paragraph (5)(k)(J) of this rule, must use UV reactors that have undergone validation testing to determine the operating conditions under which the reactor delivers the UV dose required in OAR 333-061-0036(5)(c) (i.e., validated operating conditions). These operating conditions must include flow rate, UV intensity as measured by a UV sensor, UV Transmittance, and UV lamp status.

(i) When determining validated operating conditions, water systems must account for the following factors: UV absorbance by the water; lamp fouling and aging; measurement uncertainty of on-line sensors; UV dose distributions arising from the velocity profiles through the reactor; failure of UV lamps or other critical system components; and inlet and outlet piping or channel configurations of the UV reactor.

(ii) Validation testing must include the following: full scale testing of a reactor that conforms uniformly to the UV reactors used by the water system and inactivation of a test microorganism whose dose response characteristics have been quantified with a low pressure mercury vapor lamp.

(iii) The Authority may approve an alternative approach to validation testing.

(J) Non-Community water systems using only groundwater sources, and having minimal distribution systems as determined by the Authority, may use ultraviolet light as the only disinfectant when total coliforms but no E. coli have been detected in the source water. UV units must meet the specifications of a Class A UV system under the NSF Standard 55. The minimum ultraviolet light failsafe dosage set point shall be equivalent to 40 mW-s/cm2 (40 mJ/cm2) with a wavelength between 200 and 300 nanometers. The UV unit must automatically shut-off water flow if dosage drops below this failsafe set point.

(6) Finished water storage:

(a) Distribution reservoirs and treatment plant storage facilities for finished water shall be constructed to meet the following requirements:

(A) They shall be constructed of concrete, steel, wood or other durable material capable of withstanding external and internal forces which may act upon the structure;

(B) Ground-level reservoirs shall be constructed on undisturbed soil, bedrock or other stable foundation material capable of supporting the structure when full;

(C) Steel reservoirs, standpipes and elevated tanks shall be constructed in conformance with the AWWA Standards D100 and D103;

(D) Concrete reservoirs shall be provided with sufficient reinforcing to prevent the formation of cracks, and waterstops and dowels shall be placed at construction joints. Poured-in-place wall castings shall be provided where pipes pass through the concrete;

(E) Wooden reservoirs shall be redwood or other equally durable wood and shall be installed on a reinforced concrete base. Where redwood reservoirs are used, separate inlet and outlet pipes are required and the water entering the reservoir must be have a disinfectant continuously applied so as to result in a detectable residual in the water leaving the reservoir;

(F) Start-up procedures for new redwood tanks shall consist of filling the tank with a solution of water containing a minimum of two pounds of sodium carbonate per 1,000 gallons of water and retaining this solution in the tank a minimum of seven days before flushing;

(G) Where ground-level reservoirs are located partially below ground, the bottom shall be above the ground water table and footing drains discharging to daylight shall be provided to carry away ground water which may accumulate around the perimeter of the structure;

(H) The finished water storage capacity shall be increased to accommodate fire flows when fire hydrants are provided;

(I) Finished water storage facilities shall have watertight roofs;

(J) An access manhole shall be provided to permit entry to the interior for cleaning and maintenance. When the access manhole is on the roof of the reservoir there shall be a curbing around the opening and a lockable watertight cover that overlaps the curbing;

(K) Internal ladders of durable material, shall be provided where the only access manhole is located on the roof;

(L) Screened vents shall be provided above the highest water level to permit circulation of air above the water in finished water storage facilities;

(M) A drain shall be provided at the lowest point in the bottom, and an overflow of sufficient diameter to handle the maximum flow into the tank shall be provided at or near the top of the sidewall. The outlet ends of the drain and overflow shall be fitted with angle-flap valves or equivalent protection and shall discharge with an airgap to a watercourse or storm drain capable of accommodating the flow;

(N) A silt stop shall be provided at the outlet pipe;

(O) Where a single inlet/outlet pipe is installed and the reservoir floats on the system, provisions shall be made to insure an adequate exchange of water and to prevent degradation of the water quality and to assure the disinfection levels required in subparagraph (5)(c)(D)(i) of this rule;

(P) A fence or other method of vandal deterrence shall be provided around distribution reservoirs;

(Q) When interior surfaces of finished water storage tanks are provided with a protective coating, the coating shall meet the requirements of NSF Standard 61, Section 9 - Drinking Water System Components — Health Effects (Revised September 1994) or equivalent.

(R) Reservoirs and clearwells that are to be used for disinfection contact time to treat surface water shall use a tracer study to determine the actual contact time. The Authority must approve procedures and protocols for the tracer study prior to the initiation of the study. The Authority recommends the USEPA SWTR Guidance Manual for tracer study procedure and protocol.

(S) Reservoirs and clearwells that are to be used for disinfection contact time to treat surface water shall have a means to adequately determine the flow rate on the effluent line.

(b) Pressure tanks for finished water shall meet the following requirements:

(A) Pressure tanks shall be installed above normal ground surface;

(B) Bypass piping around the pressure tank shall be provided to permit operation of the system while the tank is being maintained or repaired;

(C) Pressure tanks greater than 1,000 gallons shall be provided with an access manhole and a water sight-glass.

(D) All pressure tanks shall be provided with a drain, a pressure gauge, an air blow-off valve, means for adding air and pressure switches for controlling the operation of the pump(s);

(E)Pressure tanks shall be constructed of steel or an alternative material provided the tank is NSF 61 certified and shall be designed for pressure at least 50 percent greater than the maximum system pressure anticipated.

(7) Pumping facilities:

(a) Wherever possible, booster pumps shall take suction from tanks and reservoirs to avoid the potential for negative pressures on the suction line which result when the pump suction is directly connected to a distribution main;

(b) Pumps which take suction from distribution mains for the purpose of serving areas of higher elevation shall be provided with a low pressure cut-off switch on the suction side set at no less than 20 psi;

(c) Suction lift at pumping stations shall be avoided as far as possible, and pumps shall be installed so that the suction line is under a positive head. If suction lift cannot be avoided, provision shall be made for priming with water which does not exceed maximum contaminant levels;

(d) Pumping stations shall be located above maximum anticipated 100-year (1 percent) flood level, and the area around the pumping station shall be graded so that surface drainage is away from the station;

(e) Pumping stations shall be of durable construction so as to protect the equipment from the elements. The door to the pumping station shall be lockable, and facilities for heating and lighting shall be provided. The floor of the pumping station shall be sloped to provide adequate drainage.

(8) Distribution systems:

(a) Wherever possible, distribution pipelines shall be located on public property. Where pipelines are required to pass through private property, easements shall be obtained from the property owner and shall be recorded with the county clerk;

(b) Pipe, pipe fittings, valves and other appurtenances utilized at Community water systems shall be manufactured, installed and tested in conformance with the latest standards of the American Water Works Association, NSF International or other equivalent standards acceptable to the Authority;

(c) In Community water systems, distribution mains located in public roadways or easements, and the portion of the service connections from the distribution main to the customer's property line or service meter where provided are subject to the requirements of these rules. The piping from the customer's property line, or the meter where provided, to the point of water use (the building supply line) is subject to the requirements of the State Plumbing Code;

(d) In all Public Water Systems where the system facilities and the premises being served are both on the same parcel of property, requirements relating to pipe materials and pipe installation shall comply with the State Plumbing Code;

(e) Distribution piping shall be designed and installed so that the pressure measured at the property line in the case of Community water systems, or at the furthest point of water use, in the case of a Transient Non-Community water system of the type described in subsection (d) of this section, shall not be reduced below 20 psi;

(f) Distribution piping shall be carefully bedded and fully supported in material free from rocks and shall be provided with a cover of at least 30 inches. Select backfill material shall be tamped in layers around and over the pipe to support and protect it. Large rocks or boulders shall not be used as backfill over the pipe;

(g) Provision shall be made at all bends, tees, plugs, and hydrants to prevent movement of the pipe or fitting;

(h) Wherever possible, dead ends shall be minimized by looping. Where dead ends are installed, or low points exist, blow-offs of adequate size shall be provided for flushing;

(i) Air-relief valves shall be installed at high points where air can accumulate. The breather tube on air-relief valves shall be extended above ground surface and provided with a screened, downward facing elbow;

(j) Yarn, oakum, lead or other material which may impair water quality shall not be used where it will be in contact with potable water;

(k) Nonconductive water pipe (plastic or other material) that is not encased in conductive pipe or casing must have an electrically conductive wire or other approved conductor for locating the pipe when the pipeline is underground. The wire shall be No. 18 AWG (minimum) solid copper with blue colored insulation. Ends of wire shall be accessible in water meter boxes, valve boxes or casings, or outside the foundation of buildings where the pipeline enters the building. The distance between tracer lead access locations shall not be more than 1,000 feet. Joints or splices in wire shall be waterproof.

(l) Piping that is to be used for disinfection contact time shall be verified by plug flow calculations under maximum flow conditions.

(9) Crossings-Sanitary sewers and water lines:

(a) All reference to sewers in this section shall mean sanitary sewers;

(b) In situations involving a water line parallel to a sewer main or sewer lateral, the separation between the two shall be as indicated in Figure 1; [Figure not included. See ED NOTE.]

(c) In situations where a water line and a sewer main or sewer lateral cross, the separation between the two shall be as follows:

(A) Wherever possible, the bottom of the water line shall be 1.5 feet or more above the top of the sewer line and one full length of the water line shall be centered at the crossing;

(B) Where the water line crosses over the sewer line but with a clearance of less than 1.5 feet, the sewer line shall be exposed to the sewer line joints on both sides of the crossing to permit examination of the sewer pipe. If the sewer pipe is in good condition and there is no evidence of leakage from the sewer line, the 1.5-foot separation may be reduced. However, in this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report of the findings and indicating the reasons for reducing the separation. If the water supplier determines that the conditions are not favorable or finds evidence of leakage from the sewer line, the sewer line shall be replaced with a full length of pipe centered at the crossing point, of PVC pressure pipe (ASTM D-2241, SDR 32.5), high-density PE pipe (Drisco pipe 1000), ductile-iron Class 50 (AWWA C-51), or other acceptable pipe; or the sewer shall be encased in a reinforced concrete jacket for a distance of 10 feet on both sides of the crossing.

(C) Where the water line crosses under the sewer line, the water supplier shall expose the sewer line and examine it as indicated in paragraph (9)(c)(B) of this rule. If conditions are favorable and there is no evidence of leakage from the sewer line, the sewer line may be left in place, but special precautions must be taken to assure that the backfill material over the water line in the vicinity of the crossing is thoroughly tamped in order to prevent settlement which could result in the leakage of sewage. In this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report recording the manner in which the sewer line was supported at the crossing and the material and methods used in backfilling and tamping to prevent settlement of the sewer. If the water supplier determines that conditions are not favorable or finds evidence of leakage from the sewer line, the provisions of paragraph (9)(c)(B) of this rule apply.

(d) When a water main is installed under a stream or other watercourse, a minimum cover of 30 inches shall be provided over the pipe. Where the watercourse is more than 15 feet wide, the pipe shall be of special construction with flexible watertight joints, valves shall be provided on both sides of the crossing so that the section can be isolated for testing or repair, and test cocks shall be provided at the valves.

(10) Disinfection of facilities:

(a) Following completion of new facilities and repairs to existing facilities, those portions of the facilities which will be in contact with the water delivered to users shall be disinfected with chlorine before they are placed into service. Other disinfectants may be used if it is demonstrated that they can also achieve the same result as chlorine;

(b) Prior to disinfection, the facilities shall be cleaned and flushed with potable water according to AWWA Standards C651 through C654;

(c) For new construction and installation of wells, pumps, and water mains (with any associated service connections and other appurtenances installed at the time of construction), disinfection by chlorination shall be accomplished according to AWWA standards C651 through C654 which includes, but is not limited to the following:

(A) The introduction of a chlorine solution with a free chlorine residual of 25 mg/l into the system in a manner which will result in a thorough wetting of all surfaces and the discharge of all trapped air. The solution shall remain in place for 24 hours.

(B) After the 24-hour period, the free chlorine residual shall be checked, and if it is found to be 10 mg/l or more, the chlorine solution shall be drained and the facility flushed with potable water. If the check measurement taken after the 24-hour contact period indicates a free chlorine residual of less than 10 mg/l, the facilities shall be flushed, rechlorinated and rechecked until a final residual of 10 mg/l or more is achieved after a 24-hour standing time.

(C) After the final residual is confirmed at 10 mg/l or more, and after the facility is flushed and filled with potable water, bacteriological samples shall be taken to provide a record for determining the procedures' effectiveness. A minimum of two consecutive samples must be collected at least 24 hours apart from the new facilities for microbiological analysis. If the results of both analyses indicate that the water is free of coliform organisms, the facility may be put into service. Likewise, if the microbiological analysis indicates the presence of coliform organisms, the flushing and disinfection must be repeated until a sample free of coliform organisms is obtained.

(d) For repaired wells, pumps, and completely depressurized water mains, disinfection by chlorination shall be accomplished according to AWWA standards C651 through C654. Following thorough flushing, a minimum of one sample must be collected from each direction of flow downstream from the repaired facilities for microbiological analysis. If the direction of flow is unknown, then samples shall be taken on each side of the repaired facility. If the microbiological analysis indicates the presence of coliform organisms, a follow-up sample shall be taken. If the follow-up sample indicates a presence of coliform organisms, then the repaired components shall be flushed and resampled until a sample free of coliform organisms is obtained.

(e) For reservoirs and tanks, disinfection by chlorination shall be accomplished according to AWWA Standard C652 which includes, but is not limited to, the following methods:

(A) Filling the reservoir or tank and maintaining a free chlorine residual of not less than 10 mg/l for the appropriate 6 or 24 hour retention period; or

(B) Filling the reservoir or tank with a 50 mg/l chlorine solution and leaving for six hours; or

(C) Directly applying by spraying or brushing a 200 mg/l solution to all surfaces of the storage facility in contact with water if the facility were full to the overflow elevation.

(f) When the procedures described in paragraphs (10)(e)(A) and (B) of this rule are followed, the reservoir or tank shall be drained after the prescribed contact period and refilled with potable water, and a sample taken for microbiological analysis. If the results of the analysis indicate that the water is free of coliform organisms, the facility may be put into service. If not, the procedure shall be repeated until a sample free of coliform organisms is obtained;

(g) When the procedure described in paragraph (10)(e)(C) of this rule is followed, the reservoir or tank shall be filled with potable water and a sample taken for microbiological analysis. It will not be necessary to flush the reservoir or tank after the chlorine solution is applied by spraying or brushing. Microbiological analysis shall indicate that the water is free of coliform organisms before the facility can be put into service;

(h) When a reservoir is chlorinated following routine maintenance, inspection, or repair, it may be put back into service prior to receiving the report on the microbiological analysis provided the water leaving the reservoir has a free chlorine residual of at least 0.4 mg/l or a combined chlorine residual of at least 2.0 mg/l.

(i) Underwater divers used for routine maintenance, inspection, or repair of reservoirs shall use a full body dry suit with hardhat scuba and an external air supply. The diver shall be disinfected by spraying a 200 mg/l solution of chlorine on all surfaces that will come into contact with drinking water.

(j) A water line may be returned to service, following repairs or routine maintenance, prior to receiving a report on the microbiological analysis if the following procedures have been completed.

(A) Customer meters were shut off prior to placing the water line out of service;

(B) The area below the water line to be repaired was excavated and dewatered;

(C) The exposed pipe was treated with a hypochlorite solution;

(D) The water line and any other appurtenance or item affected by the repair and/or maintenance was disinfected by chlorination according to AWWA standards C651 through C654;

(E) The water line was flushed thoroughly, and a concentration of residual chlorine has been re-established that is comparable to the level normally maintained by the water system, if applicable; and

(F) Microbiological analysis has been conducted as a record of repair effectiveness.

[ED. NOTE: Tables & Figures referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273, 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 12-1979, f. & ef. 9-11-79; HD 10-1981, f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0215, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85 HD 3-1987, f. & ef. 2-17-87; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0065

Operation and Maintenance

(1) Public water systems shall be operated and maintained in a manner that assures continuous production and delivery of potable water by:

(a) Operating all phases and components of the system effectively in the manner for which they were designed;

(b) Assuring that all leaks are promptly repaired and, broken or malfunctioning equipment is promptly repaired or replaced;

(c) Making readily available and in good condition the proper equipment, tools and parts to make repairs to the system. When possible, notice shall be given to the water users of impending repairs that will affect the quality of the water or the continuity of the water service. All repairs must meet the construction standards of these rules and comply with disinfection requirements of OAR 333-061-0050 prior to reestablishing use of the repaired portion of the system;

(d) Implementing actions to assure safe drinking water during emergencies. Water systems wishing to have a state certified wellhead protection program shall comply with the contingency planning requirements as prescribed in OAR 333-061-0057(4).

(2) Personnel:

(a) Personnel responsible for maintenance and operation of public water systems shall be competent, knowledgeable of all the functions of that particular facility and shall have the training and experience necessary to assure continuous delivery of water which does not exceed the maximum contaminant levels;

(b) Certification in the Oregon Water System Operator's Certification Program is required for personnel in responsible charge of operations for all Community and Non-Transient Non-Community water systems. See Certification Rules OAR 333-061-0205 through 333-061-0295.

(c) Personnel in responsible charge of Transient Non-Community water systems that use surface water sources or ground sources under the direct influence of surface water are required to attend the Authority's Small Water System Training Course or equivalent training.

(3) The identity of ownership of a water system shall be filed with the Authority. Notification of changes in ownership shall be filed immediately with the Authority upon completion of the transaction.

(4) All public water systems shall maintain a current water system operations manual.

(a) The water system operations manual shall be completed according to the requirements of the capacity assessment or sanitary survey and shall be reviewed and updated at least every five years. If a public water system applying for funds from the Safe Drinking Water Revolving Loan Fund Program is required to develop a water system operations manual as a part of a capacity assessment, then the water system operations manual is required to be completed before final payout of the loan.

(b) As evidence of completion, public water systems shall submit a statement to the Authority certifying that the water system operations manual has been completed according to the requirements in this rule, and that staff have been instructed in the use of the water system operations manual.

(c) The water system operations manual shall include, but is not limited to, the following elements if they are applicable:

(A) Source operation and maintenance;

(B) Water treatment operation and maintenance;

(C) Reservoir operation and maintenance;

(D) Distribution system operation and maintenance; and

(E) Written protocols for on-site operators describing the operational decisions the operator is allowed to make under OAR 333-061-0225.

(d) Water system staff shall be instructed and trained in the use of the water system operations manual.

(5) Documents and records:

(a) The following documents and records shall be retained by the water supplier at the Community water system facility and shall be available when the system is inspected or upon request by the Authority:

(A) Complete and current as-built plans and specifications of the entire system and such other documents as are necessary for the maintenance and operation of the system;

(B) Current operating manuals covering the general operation of each phase of the water system;

(C) A current master plan and/or revisions thereof;

(D) Data showing production capabilities of each water source and system component;

(E) Current records of the number, type and location of service connections;

(F) Current records of raw water quality, both chemical and microbiological;

(G) Current records of all chemicals and dosage rates used in the treatment of water;

(H) Reports on maintenance work performed on water treatment and delivery facilities;

(I) Records relating to the sampling and analysis undertaken to assure compliance with the maximum contaminant levels;

(J) Record of residual disinfectant measurements, where applicable;

(K) Records of cross connection control and backflow prevention device testing, where applicable;

(L) Records of customer complaints pertaining to water quality and follow-up action undertaken;

(M) Fluoridation records, where applicable;

(N) Other records as may be required by these rules.

(6) Water Treatment Operations:

(a) Chlorinators and other equipment used to apply chemicals at a public water system shall be operated and maintained in accordance with the manufacturers' specifications and recommendations for efficient operation and safety.

(b) When chlorine is used as the disinfectant, the procedures shall be as follows:

(A) Chlorine shall be applied in proportion to the flow;

(B) For reasons other than the treatment of surface water sources or groundwater sources under the direct influence of surface water, the rate of application shall be sufficient to result in a free chlorine residual of at least 0.2 mg/l after a 30-minute contact time and throughout the distribution system;

(c) When ammonia is added to the water with the chlorine to form a chloramine as the disinfectant, for reasons other than the treatment of surface water sources or groundwater sources under the direct influences of surface water, the rate of application shall result in a combined chlorine residual of at least 2.0 mg/l after a three-hour contact time;

(d) When corrosion control chemicals are applied to achieve compliance with the lead and copper rule, the point of application shall be after all other treatment processes unless determined otherwise by the Authority.

(e) At water systems where cartridge filters are used, the filters must be changed according to the manufacturer's recommended pressure differential.

(7) When an emergency arises within a water system which affects the quality of water produced by the system, the water supplier shall notify the Authority immediately.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273 & 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0225, HD 2-1983, f. & ef. 2-23-83; HD 20-1983, f. 10-20-83, ef. 11-1-83; HD 1-1988, f. & cert. ef. 1-6-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0070

Cross Connection Control Requirements

(1) Water suppliers shall undertake cross connection control programs to protect the public water systems from pollution and contamination.

(2) The water supplier's responsibility for cross connection control shall begin at the water supply source, include all public treatment, storage, and distribution facilities under the water supplier's control, and end at the point of delivery to the water user's premise.

(3) Water suppliers shall develop and implement cross connection control programs that meet the minimum requirements set forth in these rules.

(4) Water suppliers shall develop a procedure to coordinate cross connection control requirements with the appropriate local administrative authority having jurisdiction.

(5) The water supplier shall ensure that inspections of approved air gaps, approved devices, and inspections and tests of approved backflow prevention assemblies protecting the public water system are conducted:

(a) At the time of installation, any repair or relocation;

(b) At least annually;

(c) More frequently than annually for approved backflow prevention assemblies that repeatedly fail, or are protecting health hazard cross connections, as determined by the water supplier;

(d) After a backflow incident; or

(e) After an approved air gap is re-plumbed.

(6) Approved air gaps, approved devices, or approved backflow prevention assemblies, found not to be functioning properly shall be repaired, replaced or re-plumbed by the water user or premise owner, as defined in the water supplier's local ordinance or enabling authority, or the water supplier may take action in accordance with subsection (9)(a) of these rules.

(7) A water user or premise owner who obtains water from a water supplier must notify the water supplier if they add any chemical or substance to the water.

(8) Premise isolation requirements:

(a) For service connections to premises listed or defined in Table 48 (Premises Requiring Isolation), the water supplier shall ensure an approved backflow prevention assembly or an approved air gap is installed; [Table not included. See ED. NOTE.]

(A) Premises with cross connections not listed or defined in Table 48 (Premises Requiring Isolation), shall be individually evaluated. The water supplier shall require the installation of an approved backflow prevention assembly or an approved air gap commensurate with the degree of hazard on the premise, as defined in Table 49 (Backflow Prevention Methods); [Table not included. See ED. NOTE.]

(B) In lieu of premise isolation, the water supplier may accept an in-premise approved backflow prevention assembly as protection for the public water system when the approved backflow prevention assembly is installed, maintained and tested in accordance with these rules.

(b) Where premise isolation is used to protect against a cross connection, the following requirements apply;

(A) The water supplier shall:

(i) Ensure the approved backflow prevention assembly is installed at a location adjacent to the service connection or point of delivery;

(ii) Ensure any alternate location used must be with the approval of the water supplier and must meet the water supplier's cross connection control requirements; and

(iii) Notify the premise owner and water user, in writing, of thermal expansion concerns.

(B) The premise owner shall:

(i) Ensure no cross connections exist between the point of delivery from the public water system and the approved backflow prevention assemblies, when these are installed in an alternate location; and

(ii) Assume responsibility for testing, maintenance, and repair of the installed approved backflow prevention assembly to protect against the hazard.

(c) Where unique conditions exist, but not limited to, extreme terrain or pipe elevation changes, or structures greater than three stories in height, even with no actual or potential health hazard, an approved backflow prevention assembly may be installed at the point of delivery; and

(d) Where the water supplier chooses to use premise isolation by the installation of an approved backflow prevention assembly on a one- or two-family dwelling under the jurisdiction of the Oregon Plumbing Specialty Code and there is no actual or potential cross connection, the water supplier shall:

(A) Install the approved backflow prevention assembly at the point of delivery;

(B) Notify the premise owner and water user in writing of thermal expansion concerns; and

(C) Take responsibility for testing, maintenance and repair of the installed approved backflow prevention assembly.

(9) In community water systems, water suppliers shall implement a cross connection control program directly, or by written agreement with another agency experienced in cross connection control. The local cross connection program shall consist of the following elements:

(a) Local ordinance or enabling authority that authorizes discontinuing water service to premises for:

(A) Failure to remove or eliminate an existing unprotected or potential cross connection;

(B) Failure to install a required approved backflow prevention assembly;

(C) Failure to maintain an approved backflow prevention assembly; or

(D) Failure to conduct the required testing of an approved backflow prevention assembly.

(b) A written program plan for community water systems with 300 or more service connections shall include the following:

(A) A list of premises where health hazard cross connections exist, including, but not limited to, those listed in Table 48 (Premises Requiring Isolation); [Table not included. See ED. NOTE.]

(B) A current list of certified cross connection control staff members;

(C) Procedures for evaluating the degree of hazard posed by a water user's premise;

(D) A procedure for notifying the water user if a non-health hazard or health hazard is identified, and for informing the water user of any corrective action required;

(E) The type of protection required to prevent backflow into the public water supply, commensurate with the degree of hazard that exists on the water user's premise, as defined in Table 49 (Backflow Prevention Methods); [Table not included. See ED. NOTE.]

(F) A description of what corrective actions will be taken if a water user fails to comply with the water supplier's cross connection control requirements;

(G) Current records of approved backflow prevention assemblies installed, inspections completed, backflow prevention assembly test results on backflow prevention assemblies and verification of current Backflow Assembly Tester certification; and

(H) A public education program about cross connection control.

(c) The water supplier shall prepare and submit a cross connection control Annual Summary Report to the Authority, on forms provided by the Authority, before the last working day of March each year.

(d) In community water systems having 300 or more service connections, water suppliers shall ensure at least one person is certified as a Cross Connection Control Specialist, unless specifically exempted from this requirement by the Authority.

(10) Fees: Community water systems shall submit to the Authority an annual cross connection program implementation fee, based on the number of service connections, as follows:

Service Connections — Fee:
15-99 — $30.
100-999 — $75.
1,000-9,999 — $200.
10,000 or more — $350.

(a) Billing invoices will be mailed to water systems in the first week of November each year and are due by January first of the following year;

(b) Fees are payable to Oregon Health Authority by check or money order;

(c) A late fee of 50 percent of the original amount will be added to the total amount due and will be assessed after January 31 of each year.

(11) In transient or non-transient non-community water systems, the water supplier that owns and/or operates the system shall:

(a) Ensure no cross connections exist, or are isolated from the potable water system with an approved backflow prevention assembly, as required in section (12) of this rule;

(b) Ensure approved backflow prevention assemblies are installed at, or near, the cross connection; and

(c) Conduct an annual cross connection survey and inspection to ensure compliance with these rules, and test all backflow assemblies annually. All building permits and related inspections are to be made by the Department of Consumer and Business Services, Building Codes Division, as required by ORS 447.020.

(12) Approved backflow prevention assemblies and devices required under these rules shall be approved by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, or other equivalent testing laboratories approved by the Authority.

(13) Backflow prevention assemblies installed before the effective date of these rules that were approved at the time of installation, but are not currently approved, shall be permitted to remain in service provided the assemblies are not moved, the piping systems are not significantly remodeled or modified, the assemblies are properly maintained, and they are commensurate with the degree of hazard they were installed to protect. The assemblies must be tested at least annually and perform satisfactorily to the testing procedures set forth in these rules.

(14) Tests performed by Authority-certified Backflow Assembly Testers shall be in conformance with procedures established by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research, Manual of Cross-Connection Control, 10th Edition, or other equivalent testing procedures approved by the Authority.

(15) Backflow prevention assemblies shall be tested by Authority-certified Backflow Assembly Testers, except as otherwise provided for journeyman plumbers or apprentice plumbers in OAR 333-061-0072 of these rules (Backflow Assembly Tester Certification). The Backflow Assembly Tester must produce three copies of all test reports. One copy must be maintained in the Tester's permanent records, one copy must be provided to the water user or property owner, and one copy must be provided to the water supplier.

(a) Test reports must be provided within 10 working days; and

(b) The test reports must be in a manner and form acceptable to the water supplier.

(16) All approved backflow prevention assemblies subject to these rules shall be installed in accordance with OAR 333-061-0071 and the Oregon Plumbing Specialty Code.

(17) The Authority shall establish an advisory board for cross connection control issues consisting of not more than nine members, and including representation from the following:

(a) Oregon licensed Plumbers;

(b) Authority certified Backflow Assembly Testers;

(c) Authority certified Cross Connection Specialists;

(d) Water Suppliers;

(e) The general public;

(f) Authority certified Instructors of Backflow Assembly Testers or Cross Connection Specialists;

(g) Backflow assembly manufacturers or authorized representatives;

(h) Engineers experienced in water systems, cross connection control and/or backflow prevention; and

(i) Oregon certified Plumbing Inspectors.

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

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.271, 448.273, 448.278, 448.279, 448.295 & 448.300

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0230, HD 2-1983, f. & ef. 2-23-83; HD 20-1983, f. 10-20-83, ef. 11-1-83; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 1-1988, f. & cert. ef. 1-6-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 1-1994, f. & cert. ef. 1-7-94; HD 1-1996, f. 1-2-96, cert. ef. 1-2-96; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0071

Backflow Prevention Assembly Installation and Operation Standards

(1) Any approved backflow prevention assembly required by OAR 333-061-0070 shall be installed in a manner that:

(a) Facilitates its proper operation, maintenance, inspection, and in-line testing using standard installation procedures approved by the Authority, such as, but not limited to, University of Southern California, Manual of Cross-Connection Control, 10th Edition, the Pacific Northwest Section American Water Works Association, Cross Connection Control Manual, 7th Edition, or the local administrative authority having jurisdiction;

(b) Precludes the possibility of continuous submersion of an approved backflow prevention assembly, and precludes the possibility of any submersion of the relief valve on a reduced pressure principle backflow prevention assembly; and

(c) Maintains compliance with all applicable safety regulations and the Oregon Plumbing Specialty Code.

(2) For premise isolation installation:

(a) The approved backflow prevention assembly shall be installed at a location adjacent to the service connection or point of delivery; or

(b) Any alternate location must be with the advance approval of the water supplier and must meet the water supplier's cross connection control requirements; and

(c) The premise owner shall ensure no cross connections exist between the point of delivery from the public water system and the approved backflow prevention assembly.

(3) Bypass piping installed around any approved backflow prevention assembly must be equipped with an approved backflow prevention assembly to:

(a) Afford at least the same level of protection as the approved backflow prevention assembly being bypassed; and

(b) Comply with all requirements of these rules.

(4) All Oregon Plumbing Specialty Code approved residential multipurpose fire suppression systems constructed of potable water piping and materials do not require a backflow prevention assembly.

(5) Stand-alone fire suppression systems shall be protected commensurate with the degree of hazard, as defined in Table 49 (Backflow Prevention Methods). [Table not included. See ED. NOTE.]

(6) Stand-alone irrigation systems shall be protected commensurate with the degree of hazard, as defined in Table 49 (Backflow Prevention Methods). [Table not included. See ED. NOTE.]

(7) A Reduced Pressure Principle Backflow Prevention Assembly (RP) or Reduced Pressure Principle-Detector Backflow Prevention Assembly (RPDA): [Figure 1 not included. See ED. NOTE.]

(a) Shall conform to bottom and side clearances when the assembly is installed inside a building. Access doors may be provided on the top or sides of an above-ground vault;

(b) Shall always be installed horizontally, never vertically, unless they are specifically approved for vertical installation;

(c) Shall always be installed above the 100 year (1 percent) flood level unless approved by the appropriate local administrative authority having jurisdiction;

(d) Shall never have extended or plugged relief valves;

(e) Shall be protected from freezing when necessary;

(f) Shall be provided with an approved air gap drain;

(g) Shall not be installed in an enclosed vault or box unless a boresighted drain to daylight is provided;

(h) May be installed with reduced clearances if the pipes are two inches in diameter or smaller, are accessible for testing and repairing, and approved by the appropriate local administrative authority having jurisdiction;

(i) Shall not be installed at a height greater than five feet unless there is a permanently installed platform meeting Oregon Occupational Safety and Health Administration (OR-OSHA) standards to facilitate servicing the assembly; and

(j) Be used to protect against a non-health hazard or health hazard for backsiphonage or backpressure conditions.

(8) A Double Check Valve Backflow Prevention Assembly (DC) or Double Check Detector Backflow Prevention Assembly (DCDA): [Figure 2 not included. See ED. NOTE.]

(a) Shall conform to bottom and side clearances when the assembly is installed inside a building;

(b) May be installed vertically as well as horizontally provided the assembly is specifically listed for that orientation in the Authority's Approved Backflow Prevention Assembly List.

(c) May be installed below grade in a vault, provided that water-tight fitted plugs or caps are installed in the test cocks, and the assembly shall not be subject to continuous immersion;

(d) Shall not be installed at a height greater than five feet unless there is a permanently installed platform meeting Oregon Occupational Safety and Health Administration (OR-OSHA) standards to facilitate servicing the assembly;

(e) May be installed with reduced clearances if the pipes are two inches in diameter or smaller, provided that they are accessible for testing and repairing, and approved by the appropriate local administrative authority having jurisdiction;

(f) Shall have adequate drainage provided except that the drain shall not be directly connected to a sanitary or storm water drain. Installers shall check with the water supplier and appropriate local administrative authority having jurisdiction for additional requirements;

(g) Shall be protected from freezing when necessary; and

(h) Be used to protect against non-health hazards under backsiphonage and backpressure conditions.

(9) A Pressure Vacuum Breaker Backsiphonage Prevention Assembly (PVB) or Spill-Resistant Pressure Vacuum Breaker Backsiphonage Prevention Assembly (SVB) shall: [Figure 3 not included. See ED. NOTE.]

(a) Be installed where occasional water discharge from the assembly caused by pressure fluctuations will not be objectionable;

(b) Have adequate spacing available for maintenance and testing;

(c) Not be subject to flooding;

(d) Be installed a minimum of 12 inches above the highest downstream piping and outlets;

(e) Have absolutely no means of imposing backpressure by a pump or other means. The downstream side of the pressure vacuum breaker backsiphonage prevention assembly or spill-resistant pressure vacuum breaker backsiphonage prevention assembly may be maintained under pressure by a valve; and

(f) Be used to protect against backsiphonage only, not backpressure.

(10) An Atmospheric Vacuum Breaker (AVB) shall: [Figure 4 not included. See ED. NOTE.]

(a) Have absolutely no means of shut-off on the downstream or discharge side of the atmospheric vacuum breaker;

(b) Not be installed in dusty or corrosive atmospheres;

(c) Not be installed where subject to flooding;

(d) Be installed a minimum of six inches above the highest downstream piping and outlets;

(e) Be used intermittently;

(f) Have product and material approval under the Oregon Plumbing Specialty Code for non-testable devices.

(g) Not be pressurized for more than 12 hours in any 24-hour period; and

(h) Be used to protect against backsiphonage only, not backpressure.

[ED. NOTE: Tables, Figures & Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131
Stats. Implemented:: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.273, & 448.279
Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 1-1994, f. & cert. ef. 1-7-94, Renumbered from 333-061-0099; HD 1-1996, f. 1-2-96, cer.t. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0072
Backflow Assembly Tester Certification

(1) The Authority shall certify individuals who successfully complete all the requirements of these rules for testing backflow prevention assemblies. Only persons certified by the Authority to test backflow prevention assemblies shall perform the required field-testing on backflow prevention assemblies, except as otherwise provided that:

(a) Journeyman plumbers defined as those who hold a certificate of competency issued under ORS chapter 693 or apprentice plumbers, as defined under ORS 693.010; and

(b) Journeyman plumbers or apprentice plumbers who test backflow prevention assemblies shall satisfactorily complete an Authority approved Backflow Assembly Tester training course, according to rules adopted by the Director of Consumer and Business Services.

(2) Requirements for initial application for Backflow Assembly Tester certification shall include:

(a) Satisfactory completion of an Authority approved Backflow Assembly Tester training course within 12 months prior to the Authority receiving the applicant's completed application;

(b) Satisfactory completion of all written and physical-performance examinations, including questions specific to OAR 333-061-0070 through 333-061-0073, administered by an Authority approved training facility;

(A) A minimum score of 75 percent is required to pass the Authority-approved Backflow Assembly Tester written examination;

(B) A minimum score of 90 percent is required to pass the Authority-approved Backflow Assembly Tester physical-performance examination; and

(C) The Authority will make available a list of approved certification training and testing sources.

(c) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of proof of high school graduation, GED, associate's degree, bachelor's degree, or PhD;

(e) Submission of a completed initial application with all required documentation as specified on the initial application form and in these rules; and

(f) Submission of an initial application fee as defined in OAR 333-061-0072(5).

(3) Requirements for Backflow Assembly Tester certification renewal shall include:

(a) All Backflow Assembly Tester certificates will expire on June 30 of every odd-numbered year, beginning June 30, 2005. Backflow Assembly Testers can only perform tests if they possess a current, valid certificate;

(b) Satisfactory completion of either the Tester Renewal course or the Initial Tester course at an Authority approved training facility. These courses are to be taken within the two year period prior to the first day of the new Tester certification time period;

(c) Satisfactory completion of all written and physical-performance examinations, including questions specific to OAR 333-061-0070 through 333-061-0073, administered by an Authority approved training facility;

(A) A minimum score of 75 percent is required to pass the Authority approved Backflow Assembly Tester written examination;

(B) A minimum score of 90 percent is required to pass the Authority approved Backflow Assembly Tester physical performance examination; and

(C) The Authority will provide information on approved training and testing facilities.

(d) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(e) Submission of yearly test gauge calibration reports performed in the same month every year, as determined by the Backflow Assembly Tester;

(f) Submission of a completed renewal application with all required documentation as specified on the renewal application form and in these rules;

(g) Submission of a renewal application fee, as defined in OAR 333-061-0072(5);

(h) The Authority may grant certification renewal without a reinstatement fee for up to 30 days after the expiration date of a certificate. A reinstatement fee of $50 will be added to the renewal fee for all renewal application fees received after the 30 day period; and

(i) A Backflow Assembly Tester who does not renew within 12 months of the expiration date of his or her certificate will be required to meet all requirements of an initial applicant in section (2) of these rules.

(4) The Authority may issue Backflow Assembly Tester certification based on reciprocity if the Authority determines the issuing state or entity has certification training and testing standards and qualifications substantially equivalent to the Authority's certification training and testing standards and qualifications, and the applicant/Backflow Assembly Tester meets all requirements set forth in these rules, including:

(a) Submission of current certification from a state or entity having substantially equivalent certification training and testing standards, as determined by the Authority;

(b) Submission of attendance and successful completion of an Oregon Authority-approved Backflow Assembly Tester certification renewal class, including questions specific to OAR 333-061-0070 through 333-061-0073, within the 12 months prior to submitting the completed reciprocity application;

(A) A minimum score of 75 percent is required to pass the Authority-approved Backflow Assembly Tester written examination;

(B) A minimum score of 90 percent is required to pass the Authority-approved Backflow Assembly Tester physical-performance examination; and

(C) The Authority will make available a list of approved certification training and testing sources.

(c) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of proof of high school graduation, GED, associate's degree, bachelor's degree, master's degree, or PhD;

(e) Submission of yearly test gauge calibration reports performed in the same month every year, as determined by the Backflow Assembly Tester;

(f) Submission of a completed reciprocity application form with all required documentation as specified on the reciprocity application form and in these rules; and

(g) Submission of a reciprocity application fee, as defined in OAR 333-061-0072(5).

(5) Application fees for Backflow Assembly Tester certification.

(a) Applicants for certification shall pay an application fee, made payable to the Oregon Health Authority, Public Health Division;

(b) The Authority will not refund any fees once it has initiated processing an application;

(c) The application fees are:

(A) Initial Certification (2-years) $70;

(B) Certificate Renewal (2-years) $70;

(C) Reciprocity Review $35 + Initial Certification fee;

(D) Reinstatement $50 + Certificate Renewal fee; and

(E) Combination Certificate Renewal $110.

(d) Initial certification fees shall be prorated to the nearest year for the remainder of the 2-year certification period; and

(e) The Authority shall apply the Combination Certificate Renewal fee when an applicant simultaneously applies for renewal of his or her Backflow Assembly Tester and Cross Connection Specialist certifications.

(6) Enforcement actions for applicant/Backflow Assembly Tester.

(a) The Authority may deny an initial application for certification, an application for renewal of certification, an application for certification based on reciprocity, or revoke a certification if the Authority determines:

(A) The applicant/Backflow Assembly Tester provided false information to the Authority;

(B) The applicant/Backflow Assembly Tester certification issued by another state or entity was revoked;

(C) The applicant/Backflow Assembly Tester has permitted another person to use his or her certificate number;

(D) The applicant/Backflow Assembly Tester has failed to properly perform backflow prevention assembly testing;

(E) The applicant/Backflow Assembly Tester has falsified a backflow assembly test report;

(F) The applicant/Backflow Assembly Tester has failed to obtain and maintain a Construction Contractor's Board registration or a Landscape Contractor's Board license, as required by ORS 448.279(2);

(G) The applicant/Backflow Assembly Tester has failed to comply with these rules or other applicable Federal, State or local laws or regulations; or

(H) The applicant/Backflow Assembly Tester performs backflow assembly tests with a gauge that was not calibrated for accuracy within the 12-month period prior to testing the assembly.

(b) A person whose initial or renewal application has been denied, whose application for reciprocity has been denied, or whose certification has been revoked, has the right to appeal under the provisions of chapter 183, Oregon Revised Statutes;

(c) Applicants or Backflow Assembly Testers who have been denied initial, renewal, or reciprocity certification or whose certifications have been revoked, may not reapply for certification for one year from the date of denial or revocation of certification; and

(d) Applicants or Backflow Assembly Testers may petition the Authority prior to a year from the date of denial or revocation and may be allowed to reapply at an earlier date, at the discretion of the Authority.

(e) Backflow Assembly Tester test reports shall be made available to the Authority upon request.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.279, 448.280, 448.285, 448.290

Hist.: HD 1-1994, f. & cert. ef. 1-7-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0073

Cross Connection Specialist Certification

(1) The Authority shall certify individuals who successfully complete all the requirements of these rules as Cross Connection Specialists. Only persons certified by the Authority shall administer cross connection control programs for community water systems. Community water systems with 300 or more service connections are required to have a Cross Connection Specialist administer the water system's cross connection control program, unless specifically exempted from this requirement by the Authority.

(2) Requirements for initial application for Cross Connection Specialist certification shall include:

(a) Satisfactory completion of an Authority approved Cross Connection Specialist training course within 12 months prior to the Authority receiving the applicant's completed application;

(A) A minimum score of 85 percent is required to pass the Authority-approved Cross Connection Specialist written examination; and

(B) The Authority will make available a list of approved certification training and testing sources.

(b) Registration with the Construction Contractor's Board or licensure by the Landscape Contractor's Board, as required by ORS 448.279(2);

(c) Submission of proof of high school graduation, GED, associate's degree, bachelor's degree, master's degree, or PhD;

(d) Submission of documentation of one-year of experience in water systems or plumbing;

(e) Submission of a completed initial application with all required documentation, as specified on the initial application form and in these rules; and

(f) Submission of an initial application fee, as defined in OAR 333-061-0073(5).

(3) Requirements for Cross Connection Specialist certification renewal shall include:

(a) All Cross Connection Specialist certificates will expire on June 30 of every odd numbered year, beginning June 30, 2005;

(b) Satisfactory completion of a total of at least 0.6 CEU in cross connection-related fields taken within the two year period immediately prior to the date of the certification renewal application. Training courses must be taken at an Authority approved training facility or be Oregon Environmental Services Advisory Council approved courses;

(A) A minimum score of 85 percent is required to pass the Authority-approved Cross Connection Specialist written examination; and

(B) The Authority will provide information on approved training and testing facilities.

(c) Registration with the Construction Contractor's Board or licensure by the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of a completed renewal application with all required documentation, as specified on the renewal application form and in these rules;

(e) Submission of a renewal application fee as defined in OAR 333-061-0073(5);

(f) The Authority may grant certification renewal without a reinstatement fee for up to 30 days after the expiration date of a certificate. A reinstatement fee of $50 will be added to the renewal fee for all renewal application fees received after the 30 day period; and

(g) A Cross Connection Specialist who does not renew within 12 months of the expiration date of his or her certificate will be required to meet all requirements of an initial applicant in section (2) of this rule.

(4) The Authority may issue Cross Connection Specialist certification based on reciprocity if the Authority determines the issuing state or entity has certification training and testing standards and qualifications substantially equivalent to the Authority's certification training and testing standards and qualifications, and the applicant meets all requirements in these rules:

(a) Submission of current certification from a state or entity having substantially equivalent certification training and testing standards, as determined by the Authority;

(b) Submission of attendance and successful completion of an Authority approved Cross Connection Specialist certification renewal class within the 12 months prior to submitting the completed application;

(A) A minimum score of 85 percent is required to pass the Authority-approved Cross Connection Specialist written examination; and

(B) The Authority will make available a list of approved certification training and testing sources.

(c) Except for an employee of a water supplier, registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of proof of high school graduation, GED, associate's degree, bachelor's degree, master's degree, or PhD;

(e) Submission of a completed reciprocity application form with all required documentation as specified on the reciprocity application form and in these rules; and

(f) Submission of a reciprocity application fee as defined in OAR 333-061-0073(5).

(5) Application fees for Cross Connection Specialist certification.

(a) Applicants shall pay an application fee, made payable to the Oregon Health Authority, Public Health Division;

(b) The Authority will not refund any fees once it has initiated processing an application;

(c) The fees are:

(A) Initial Certification (2-years) $70;

(B) Certificate Renewal (2-years) $70;

(C) Reciprocity Review $35 + Initial Certification fee;

(D) Reinstatement $50 + Certificate Renewal fee; and

(E) Combination Certificate Renewal $110.

(d) Initial certification fees shall be prorated to the nearest year for the remainder of the 2-year certification period; and

(e) The Authority shall apply the Combination Certification Renewal fee when an applicant simultaneously applies for renewal of his or her Backflow Assembly Tester and Cross Connection Specialist certifications.

(6) Enforcement actions for applicant/Cross Connection Specialist.

(a) The Authority may deny an initial application for certification, an application for renewal of certification, an application for certification based on reciprocity, or revoke a certification if the Authority determines:

(A) The applicant/Cross Connection Specialist provided false information to the Authority;

(B) The applicant/Cross Connection Specialist certification issued by another state or entity was revoked;

(C) The applicant/Cross Connection Specialist has permitted another person to use his or her certificate number;

(D) The applicant/Cross Connection Specialist has falsified a survey/inspection/Annual Summary Report;

(E) The applicant/Cross Connection Specialist has failed to obtain and maintain a Construction Contractor's Board registration or a Landscape Contractor's Board license, as required by ORS 448.279(2); or

(F) The applicant/Cross Connection Specialist has failed to comply with these rules or other applicable Federal, State or local laws or regulations.

(b) A person whose initial or renewal application has been denied, whose application for reciprocity has been denied, or whose certification has been revoked, has the right to appeal under the provisions of chapter 183, Oregon Revised Statutes;

(c) Applicants or Cross Connection Specialists who have been denied initial, renewal, or reciprocity certification or who have had their certification revoked may not reapply for certification for one year from the date of denial or revocation of certification; and

(d) Applicants or Cross Connection Specialists may petition the Authority prior to a year from the date of denial or revocation and may be allowed to reapply at an earlier date, at the discretion of the Authority.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.273, 448.278, & 448.279
Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0074
Cross Connection Training Programs, Course, and Instructor Requirements

(1) In order to qualify as an Authority approved Cross Connection Specialist training program or facility or Backflow Assembly Tester training program or facility, the following requirements must be met:

(a) The training program must keep permanent records on attendance and performance of each student that enrolls in a course;

(b) The training program must submit the names of students who have successfully completed the training course to the Authority upon completion of the training course;

(c) The training schedule must be set in advance and the schedule must be submitted to the Authority quarterly for review and publication;

(d) The backflow training program must maintain a proper ratio of student-to-training equipment. A maximum ratio of three students for each backflow assembly test station is allowed for the Backflow Assembly Tester-training course;

(e) The training program must provide uniform training at all course locations;

(f) The training program shall provide the training materials necessary to complete the course. The training materials must be updated annually and submitted to the Authority for approval; and

(g) The training program must have the following minimum training equipment available for each course:

(A) Each test station for Backflow Assembly Tester initial training and certification renewal courses shall include:

(i) An operating pressure vacuum breaker backsiphonage prevention assembly, spill resistant pressure vacuum breaker backsiphonage prevention assembly, double check valve backflow prevention assembly, and a reduced pressure principle backflow prevention assembly, with appropriate test gauges for each assembly; and

(ii) A backflow prevention assembly failure simulator shall also be provided that is capable of simulating leaking check valves, shutoff valves, and relief valve failures.

(B) The training aids for the Backflow Assembly Tester training program or facility and Cross Connection Specialist training program or facility shall include the atmospheric vacuum breaker, pressure vacuum breaker backsiphonage prevention assembly, spill resistant pressure vacuum breaker backsiphonage prevention assembly, double check valve backflow prevention assembly, reduced pressure principle backflow prevention assembly, and a variety of test gauges.

(h) The training program must maintain uniform course curriculum according to sections (2), (3), (4) and (5) of this rule section, and maintain uniform instructor requirements according to section (6) of this rule section, subject to approval by the Authority.

(2) Requirements for the Cross Connection Specialist initial training course shall include:

(a) A minimum of 30 hours of training;

(b) The course content shall contain, but is not limited to, the following topics:

(A) Definitions, identification of cross connection hazards, and the hydraulics of backflow;

(B) Approved cross connection control methods, backflow prevention assembly specifications, and testing methods used for Authority-approved backflow prevention assemblies;

(C) Cross connection control requirements for public water systems, implementation of a cross connection control program, and writing a local cross connection control ordinance;

(D) Public education and record keeping requirements for an effective cross connection control program;

(E) Facility water use inspection techniques and hands on inspection of local facilities to identify actual or potential cross connections;

(F) Cross connection control program enforcement and managing a Backflow Assembly Tester program; and

(G) Review and discussion of Cross Connection Specialist safety issues.

(c) A minimum score of 85 percent is required to pass the Authority approved Cross Connection Specialist written examination.

(3) Requirements for the Backflow Assembly Tester initial training course shall include:

(a) A minimum of 40 hours of training;

(b) The course content shall contain, but is not limited to, the following topics:

(A) Definitions, identification of cross connections, and the hydraulics of backflow;

(B) Hazards associated with backflow pollution and contamination of potable water, approved cross connection control methods, and cross connection control program requirements for public water systems;

(C) Backflow prevention assembly approval requirements, specifications and installation requirements for approved backflow prevention assemblies, and backflow prevention assembly repair techniques;

(D) Complete disassembly and reassembly of each type of backflow prevention assembly;

(E) Hands-on demonstration of the correct test procedures, troubleshooting for each type of backflow prevention assembly, and diagnosis of two failure and/or abnormal conditions during the hands- on backflow assembly test of each type of backflow prevention assembly;

(F) Test gauge calibration and gauge accuracy verification methods; and

(G) Review and discussion of Backflow Assembly Tester safety issues.

(c) A minimum score of 75 percent is required to pass the Authority-approved Backflow Assembly Tester written examination; and

(d) A minimum score of 90 percent is required to pass the Authority-approved Backflow Assembly Tester physical performance examination.

(4) Requirements for Cross Connection Specialist certification renewal shall include:

(a) A minimum of 0.6 CEU of training;

(b) The course content shall contain, but is not limited to, the following topics:

(A) Review of cross connection control regulations OAR 333-061-0070 through 0073;

(B) Review and discussion of recent backflow incidents and identification of cross connections; and

(C) Review and discussion of Cross Connection Specialist safety issues.

(5) Requirements for Backflow Assembly Tester certification renewal shall include:

(a) A minimum of 0.5 CEU of training, excluding examination time;

(b) The course content shall contain, but is not limited to, the following topics:

(A) Review of cross connection control regulations OAR 333-061-0070 through 0073;

(B) Review of approved test procedures for backflow prevention assemblies;

(C) Hands-on demonstration of the correct test procedures for each type of backflow prevention assembly;

(D) The correct student diagnosis and explanation of two failure and/or abnormal conditions during the hands-on backflow prevention assembly test of each type of backflow prevention assembly;

(E) Review and discussion of Backflow Assembly Tester safety issues; and

(F) Written examination that includes questions on cross connection control regulations OAR 333-061-0070 through 0073.

(c) A minimum score of 75 percent is required to pass the Authority approved Backflow Assembly Tester written examination; and

(d) A minimum score of 90 percent is required to pass the Authority approved Backflow Assembly Tester physical performance examination.

(6) Instructor qualification requirements shall include:

(a) To be eligible as an instructor for Cross Connection Specialist initial training or certification renewal course, the following experience in the cross connection control field is required:

(A) Must be currently certified as a Cross Connection Specialist in Oregon;

(B) Must have 2 years experience in enforcement of cross connection control requirements, or as a certified Cross Connection Specialist, or have related experience, subject to approval by the Authority;

(C) Must participate in two complete Cross Connection Specialist training courses as a student instructor assigned to teach a portion of the curriculum. A student instructor training program schedule must be submitted to the Authority for approval before training begins;

(D) Must receive a recommendation from the instructor of record for approval as an instructor. An unfavorable recommendation must be docu-

mented by supporting information and may be challenged by the trainee or by the Authority; and

(E) Must attend at least one instructor update meeting provided by the Authority each year.

(b) To be eligible as an instructor for the Backflow Assembly Tester initial training or certification renewal course, the following experience in the backflow prevention field is required:

(A) Must be currently certified as a Backflow Assembly Tester in Oregon;

(B) Must have 2 years experience as a certified Backflow Assembly Tester and experience installing, testing backflow prevention assemblies, or as a vocational instructor, or have related experience, subject to approval by the Authority;

(C) Must participate in two complete Backflow Assembly Tester training courses as a student instructor assigned to teach a portion of the text curriculum and the physical performance portion of the curriculum. A student instructor training program schedule must be submitted to the Authority for approval before training begins;

(D) Must receive a recommendation from the instructor of record for approval as an instructor. An unfavorable recommendation must be documented by supporting information and may be challenged by the trainee or by the Authority; and

(E) Must attend at least one instructor update meeting provided by the Authority each year.

(c) The Authority shall maintain a list of qualified instructors.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.273, 448.278 & 448.279

Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0077

Composite Correction Program & Comprehensive Performance Evaluations

(1) All Comprehensive Performance Evaluation Reports (CPEs) as defined by OAR 333-061-0020(38) and this rule shall be conducted by the Authority or contract county health department staff.

(2) Any public water system using surface water or groundwater under direct surface water influence which treats the water using conventional or direct filtration treatment is subject to the Composite Correction Program, including CPEs, as determined necessary or appropriate by the Authority.

(3) Any public water system using surface water or groundwater under direct surface water influence which treats the water using conventional or direct filtration treatment that has a measured filtered water turbidity level greater than 2.0 NTU from any individual filter in two consecutive measurements taken 15 minutes apart in each of two consecutive months as stated in OAR 333-061-0040(1)(d)(B) (ii)(IV) is required to have a CPE conducted on that public water system's water treatment facility.

(4) The CPE report shall be completed by staff and sent to the water system following the site visit. The content of the CPE report shall include, at a minimum, the following components: An assessment of the water treatment plant performance from current and historical water quality data, an evaluation of each major (treatment) unit process, an identification and prioritization of the water treatment plant performance limiting factors, and an assessment by the Authority if additional comprehensive technical assistance would be beneficial to the water system. The CPE results must be written into a report and submitted to the public water system by the Authority.

(5) The public water system receiving the CPE report must respond in writing to the Authority or the local county health department within 45 days (for systems serving at least 10,000 people) or 120 days (for systems serving less than 10,000 people) of receiving the report as required by OAR 333-061-0040(1)(j). The response of the public water system must include:

(a) The plan the public water system will follow to resolve or correct the identified performance limiting factors that are within the water system's (and its governing body) ability to control; and

(b) The schedule the public water system will follow to execute the plan.

(6) The public water system must take corrective action through the CCP according to the schedule identified in subsection (5)(b) of this rule to resolve the performance limiting factors identified. Failure by the water system to take corrective action to resolve the performance limiting factors constitutes a violation of these rules.

Stat. Auth.: ORS 448.150

Stats. Implemented: ORS 431.123, 448.131, 448.175 & 448.273

Hist.: OHD 23-2001, f. & cert. ef. 10-31-01; PH 12-2003, f. & cert. ef. 8-15-03; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0087

Product Acceptability Criteria

(1) Any pipe, solder, or flux which is used in the installation or repair of:

(a) Any public water system, or

(b) Any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free. This subsection shall not apply to leaded joints necessary for the repair of cast iron pipes.

(2) Labeling of Solders. No solder containing more than 0.20 percent lead shall be sold in Oregon after July 1, 1985, unless said solder contains a warning label, prominently displayed, which states, "Contains Lead. Oregon Law prohibits the use of this solder in making up joints and fittings in any private or public potable water supply system or any individual water user's line". Solder to be used in making up joints and fittings in any private or public potable water supply system or any individual water user's line shall meet ASTM Specification B32-76.

(3) Plumbing piping shall not be used for electrical grounding in any new construction.

(4) Use of lead pipe prohibited. No lead pipe shall be used in any potable water system. Persons who own or operate a public water system shall submit a compliance schedule, acceptable to the Authority, for the identification and removal of all lead service pipes or they shall certify to the Authority that no lead service piping exists in the system. The compliance schedule or the certification shall be submitted for approval by July 1, 1985.

(5) Materials and products which come into contact with drinking water supplied by public water systems or which come into contact with drinking water treatment chemicals used by public water systems shall meet the requirements of NSF Standard 61 Drinking Water System Components — Health Effects (Revised October 1988) or equivalent. These materials and products include but are not limited to process media, protective materials, joining and sealing materials, pipes and related products, and mechanical devices used in treatment, transmission, and distribution systems.

(6) Products added to public water systems for treatment, purposes including but not limited to disinfection, oxidation, filtration, scale control, corrosion control, pH adjustment, softening, precipitation, sequestering, fluoridation, coagulation, flocculation, and water well treatment shall meet the requirements of NSF Standard 60 - Drinking Water Treatment Chemicals - Health Effects (Revised October 1988) or equivalent.

(7) Point-of-use reverse osmosis drinking water treatment systems and materials and components used in these systems designed to be used for the reduction of specific contaminants from public water supplies shall meet the requirements of NSF Standard 58 — Reverse Osmosis Drinking Water Treatment Systems — or equivalent.

(8) Point-of-use and point-of-entry drinking water treatment units, other than reverse osmosis units, designed to be used for the reduction of specific contaminants from public water supplies shall meet the requirements of NSF Standards 53 — Drinking Water Treatment Units -Health Effects — or equivalent.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.115 & 448.131

Hist.: HD 18-1984, f. & ef. 9-4-84; HD 3-1988(Temp), f. & cert. ef. 2-12-88; HD 17-1988, f. & cert. ef. 7-27-88; HD 9-1989, f. & cert. ef. 11-13-89; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0090

Penalties

(1) Violation of these rules shall be punishable as set forth in ORS 448.990 which stipulates that violation of any section of these rules is a Class A misdemeanor.

(2) Pursuant to ORS 448.280, 448.285 and 448.290, any person who violates these rules shall be subject to a civil penalty. Each and every violation is a separate and distinct offense, and each day's violation is a separate and distinct violation.

(3) Under ORS 448.290, only the Administrator can impose penalties and the penalties shall not become effective until after the person is given an opportunity for a hearing.

(4) The civil penalty for the following violations shall not exceed $1,000 per day for each violation:

(a) Failure to obtain approval of plans prior to the construction of water system facilities;

(b) Failure to construct water system facilities in compliance with approved plans;

(c) Failure to take immediate action to correct maximum contaminant level violations;

(d) Failure to comply with sampling and analytical requirements;

(e) Failure to comply with reporting and public notification requirements;

(f) Failure to meet the conditions of a compliance schedule developed under a variance or permit;

(g) Failure to comply with cross connection control requirements;

(h) Failure to comply with the operation and maintenance requirements;

(i) Failure to comply with an order issued by the Administrator.

(5) Civil penalties shall be based on the population served by public water systems and shall be in accordance with Table 51 below: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.120, 431.150, 448.150, 448.280, 448.285 & 448.290

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0245, HD 2-1983, f. & ef. 2-23-83; HD 3-1987, f. & ef. 2-17-87; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0098

References

All standards, listings and publications referred to in these rules are by those references made a part of these rules as though fully set forth. Copies are available from the Oregon Health Authority, Public Health Division.

(1) American Society for testing and materials (ASTM) specification B32-83 (solder)

(2) American Water Works Association (AWWA) Standards

(3) Clean Water Act (EPA)

(4) Code of Federal Regulations (40 CFR: 141.21-.25, 141.30 - Inorganics, etc.)

(5) Code of Federal Regulations (21 CFR: 103, 110 and 129 - Bottled water)

(6) Federal Insecticide, Fungicide and Rodenticide ACT (FIFRA-EPA)

(7) Manual of Cross Connection Control, USC 10th Edition, October 2009

(8) National Bureau of Standards (NBS) Handbook 69, - Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and Water for Occupational Exposure

(9) National Primary Drinking Water Regulations (40 CFR 141 and 142)

(10) NSF Standard 53 - Drinking Water Treatment Units - Health Effects

(11) NSF Standard 58 - Reverse Osmosis Drinking Water Treatment Systems

(12) NSF Standard 60 - Drinking Water Treatment Chemicals -Health Effects

(13) NSF Standard 61, Section 9 - Drinking Water System Components - Health Effects

(14) National Secondary Drinking Water Regulations (40 CFR 143)

(15) Oregon Administrative Rules Chapter 437 (Oregon OSHA)

(16) Oregon Administrative Rules Chapter 660, Division 011(Public Facilities Planning)

(17) Oregon Administrative Rules Chapter 660, Division 031(Land Conservation & Development)

(18) Oregon Administrative Rules Chapter 690, Divisions 200 through 220 (General standards for the construction and maintenance of water wells in Oregon, Water Resources Department)

(19) Oregon Revised Statutes 197 (Land Conservation & Development)

(20) Oregon Revised Statutes 215 and 227 (Land Use Planning)

(21) Oregon Revised Statutes 448 (Public Water Systems)

(22) Oregon Revised Statutes 468.700 to 468.990 (DEQ)

(23) Oregon Revised Statutes 527.610 to 527.990 (Dept. of Forestry)

(24) Oregon Revised Statutes 536.220 to 536.360 (Water Resources)

(25) Oregon Revised Statutes 634.992 (Dept. of Agriculture)

(26) Oregon State Plumbing Code

(27) Standard Methods for the Examination of Water and Wastewater, 22nd Edition, 2012.

(28) Supplement to the 19th Edition of Standard Methods for the Examination of Water and Wastewater, 1996.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273 & 448.279

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0220

Classification of Water Systems

Water systems are classified as small water, water distribution, and water treatment based on size and complexity, as determined by the Authority. The classification of these systems and treatment plants is as follows:

(1) A water system is classified, for certification purposes, as a Small Water System if it is a community or non-transient non-community water system with fewer than 150 connections and either uses only groundwater as its source or purchases its water from a community or non-transient non-community public water system without adding any additional treatment.

(2) Water distribution classification is based on the population served, as follows:

Classification: — Population Served:
Water Distribution 1 — 1 to 1,500
Water Distribution 2 — 1,501 to 15,000
Water Distribution 3 — 15,001 to 50,000
Water Distribution 4 — 50,001 or more

(3) Water treatment plant classification shall be based on a point system that reflects the complexity of treatment. Points are assigned for the treatment of contaminants with a health-based standard as follows:

Item — Points
Treatment system size: (population served or flow whichever is greater)
Population served — 1/10,000 (max 30)
Average daily flow — 1/1 mgd (max 30)
Treatment system water source:
Groundwater: — 3
Surface Water or Groundwater Under the Influence of Surface Water — 5
Chemical Treatment/Addition Process:
Fluoridation — 5
Disinfection:
Ultraviolet (UV) — 2
UV with Chlorine Residual — 5
Ammonia/Chloramination — 3
Chlorine — 5
Mixed Oxidants — 7
Ozonation (on-site generation) — 10
Residual Maintenance — 0
pH adjustment:
Slaked-Quicklime (Calcium Oxide) — 5
Hydrated Lime (Calcium Hydroxide) — 4
All others — 1
(hydrochloric acid, sodium hydroxide, sulfuric acid, sodium carbonate)
Coagulation & Flocculation processes:
Chemical addition — 1-5
(1 point for each type of chemical coagulant or polymer added, maximum 5 points)
Rapid mix units:
Mechanical mixers — 3
Injection mixers — 2
In-line blender mixers — 2
Flocculation units:
Hydraulic flocculators — 2
Mechanical flocculators — 3
Clarification and Sedimentation Processes:
Adsorption Clarifier — 10
Horizontal-flow (rectangular basins) — 5
Horizontal-flow (round basins) — 7
Up-flow solid contact sedimentation — 15
Inclined-plate sedimentation — 10
Tube sedimentation — 10
Dissolved air flotation — 10
Filtration Processes:
Single/mono media filtration — 3
Dual or mixed media filtration — 5
Membrane Filtration/Microscreens — 5
Direct — 5
Diatomaceous earth — 12
Slow sand filtration — 5
Cartridge/bag filters — 5
Pressure or greensand filtration — 10
Stability or Corrosion Control:
Slaked-Quicklime (calcium oxide) — 10
Hydrated Lime (calcium hydroxide) — 8
Caustic soda (sodium hydroxide) — 6
Orthophosphate — 5
Soda ash (sodium carbonate) — 4
Aeration: Packed tower, Diffusers — 3
Calcite — 2
Others: sodium bicarbonate, silicates — 4
Other Treatment Processes:

Aeration — 3
Packed tower aeration — 5
Ion exchange/softening — 5
Lime-soda ash softening — 20
Copper sulfate treatment — 5
Powdered activated carbon — 5
Potassium permanganate — 5
Special Processes (reverse osmosis, activated alumina, other) — 15
Sequestering (polyphosphates) — 3
Residuals Disposal:
Discharge to lagoons — 5
Discharge to lagoons and then raw water source — 8
Discharge to raw water — 10
Disposal to sanitary sewer — 3
Mechanical dewatering — 5
On-site disposal — 5
Land application — 5
Solids composting — 5
Facility characteristics Instrumentation:
The use of SCADA or similar instrumentation systems to provide data with no process control — 1
The use of SCADA or similar instrumentation systems to provide data with partial process control — 3
The use of SCADA or similar instrumentation systems to provide data with complete process control — 5
Clear well size less than average day design flow — 5
Classification of Water Treatment Plants
Class — Points:
Water Treatment 1 — 1 to 30
Water Treatment 2 — 31 to 55
Water Treatment 3 — 56 to 75
Water Treatment 4 — 76 or more

(4) Water systems using conventional or direct filtration treatment to treat surface water or groundwater under the influence of surface water are classified as Water Filtration and must have an operator with valid Water Treatment 2 or higher certification and a Filtration Endorsement.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994
Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 11-1989(Temp), f. & cert. ef. 12-29-89; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 4-2009, f. & cert. ef. 5-18-09; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0225
General Requirements Applying to Water Suppliers and Water Systems

(1) Water suppliers responsible for Community or Non-Transient Non-Community water systems must at all times employ, contract with or otherwise utilize an operator designated to supervise the water system, to be in direct responsible charge of the water system, and to be available during those periods of time when treatment processes and operational decisions that affect public health are made.

(2) The operator(s) described in section (1) above, must be certified at a level equal to or greater than the classification of that water system.

(3) Water systems are classified according to the size and complexity of the water system or water treatment plants to determine the classification type and level required for the operator.

(4) The owner of a water system subject to these rules must report to the Authority the name(s) of the operator(s) which they have designated to be in direct responsible charge of the system and notify the Authority within 30 days of any change of operator.

(5) The water supplier may employ, contract with, or utilize other operators as needed on-site in addition to those required under (1) and (2) above. For operators certified at less than the Authority-required level for treatment and/or distribution, the water supplier must establish a written protocol for each of these other operators that:

(a) Describes the operational decisions the operator is allowed to make;

(b) Describes the conditions under which the operator must consult with the certified operator in direct responsible charge, and when and how contact is made;

(c) Takes into account the certification level of the operator; their knowledge, skills, and abilities, and the range of expected operating conditions of the water system; and

(d) Is signed and dated by the operator in direct responsible charge and the other operator and is available for inspection by the Authority.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994
Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 11-1989(Temp), f. & cert. ef. 12-29-89; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 16-2001(Temp), f. 7-31-01, cert. ef. 8-1-01 thru 1-28-02; Administrative correction 3-14-02; OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 4-2009, f. & cert. ef. 5-18-09; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0228
Certification Requirements For Small Water System Operators

(1) An applicant for initial certification as an operator of a small water system must possess documentation of a high school diploma or an Authority approved equivalent, and must meet one of the following requirements:

(a) Complete an Authority approved training for small water system operation and water treatment processes; or

(b) Pass an Authority approved written examination covering basic small water system operation and water treatment; or

(c) Be certified as prescribed by OAR 333-061-0235 through OAR 333-061-0265 for water distribution or water treatment.

(2) A small water system operator certificate expires on July 31 of every third year. A certificate will be renewed upon satisfactory evidence presented to the Authority that the operator has completed six hours of Authority approved continuing education since the issuance date of the last certificate and submittal of the designated application form. When renewed, the new certificate will be valid for three years from the expiration date of the prior certificate.

(3) An operator certified in accordance with section (1) of this rule whose certificate has expired cannot be in direct responsible charge of any small water system.

(4) Small water system operators are exempt from fees.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994
Hist.: OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0235
Operator Requirements Levels 1–4

Certificates are awarded at four levels in each classification of water treatment (WT) and water distribution (WD), as well as a Filtration Endorsement, and are subject to the following requirements:

(1) Water Treatment or Distribution Level 1 Operator Certification qualifications:

(a) Education: High School Diploma or equivalent;

(b) Experience: 12 months of qualifying operating experience;

(c) An Associate Degree in Water Technology may be substituted for six months of experience. No other education or substitution will be credited for this level.

(d) Successful completion of a WT or WD Level 1 examination.

(2) Water Treatment or Distribution Level 2 Operator Certification qualifications:

(a) Education: High School Diploma or equivalent plus post high school education and/or qualifying operating experience in one of the following combinations:

(A) Three years of experience; or

(B) Two years of experience and one year of post high school education; and

(b) Successful completion of the WT or WD Level 2 examination.

(3) Water Treatment or Distribution Level 3 Operator Certification qualifications:

(a) Education: High school Diploma or equivalent plus post high school education and/or qualifying operating experience in one of the following combinations:

(A) One year post high school education and five years experience, of which two and one-half years must have been involved in operational decision making; or

(B) Two years of post high school education and four years of experience, of which at least two years must have been involved in operational decision making; or

(C) Three years of post high school education and three years of experience, of which one and one-half years must have been involved in operational decision making; or

(D) For WD Level 3 only, eight years of experience, of which two and one-half years must have been involved in operational decision making; and

(b) Successful completion of the WT or WD Level 3 examination.

(4) Water Treatment or Distribution Level 4 Operator Certification qualifications:

(a) Must be Oregon certified at Level 3; and

(b) Must have post high school education and/or qualifying operating experience in one of the following combinations:

(A) Four years post high school education and four years of experience, of which two years must have been involved in operational decision making; or

(B) Three years post high school education and five years experience, of which two and one-half years must have been involved in operational decision making; or

(C) Two years post high school education and six years experience, of which three years must have been involved in operational decision making; or

(D) For WD Level 4 only, 10 years of experience, of which three years must have been involved in operational decision making; and

(c) Successful completion of the WT or WD Level 4 examination.

(5) Filtration Endorsement qualifications:

(a) Must be certified at WT Level 2 or higher; and

(b) Must have one year qualifying experience in operational decision making at a Conventional or Direct Filtration Treatment Plant; and

(c) Must successfully pass an examination on conventional filtration treatment.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0245

Applications For Certification Levels 1–4

(1) Certification will be granted to applicants on the following basis:

(a) The information submitted on the application form as well as any information already on file with the Authority;

(b) An evaluation of the applicant's qualifications to take the examination by the Authority; and

(c) Successfully passing an examination approved and administered by the Authority or its designee.

(2) Certification by reciprocity is based on current, valid certification in another state or province which has a recognized certification program. Certification may be granted at the level where the examination, experience, and education requirements are equivalent to those outlined in these rules.

(a) Individuals requesting reciprocity must submit a complete reciprocity application and pay the reciprocity application fee for each certificate desired.

(b) Reciprocity applications are reviewed on a case-by-case basis.

(c) The Authority may issue a certificate without examination, when, in the judgment of the Authority, the certification examination requirements in the other state or province are substantially equivalent to, and the person's education and experience meet the requirements set forth herein.

(d) The applicant must pay an exam fee for any examination required.

(e) When reciprocity is granted, the person will be subject to the same requirements of renewal as any other persons certified under these rules.

(3) Each applicant for certification must meet the minimum requirements of experience and education as listed under OAR 333-061-0235 "Operator Requirements Levels 1-4" in order to be eligible for admission to an examination.

(4) Applicants denied admission to the certification examination or denied certification by reciprocity have the right to appeal such a decision to the Authority.

(5) Transcripts or proof of satisfactory completion of all education and documentation of experience claimed must be submitted with the application.

(6) Experience and education qualifications are based on the following:

(a) One year of experience is equivalent to 12 months full-time with 100 percent of time spent on activities directly relating to the certificate type for which application is made.

(b) The Authority may credit substitute experience, not to exceed one-half of the qualifying operating experience required, in any of the following areas:

(A) When applying for a Water Distribution Certificate:

(i) Wastewater Collection experience;

(ii) Water Treatment Plant experience; and

(iii) Cross Connection Control experience.

(iv) Industrial/commercial process water treatment experience.

(B) When applying for a Water Treatment Certificate:

(i) Wastewater Treatment Plant experience;

(ii) Wastewater Treatment Laboratory experience;

(iii) Water Distribution System experience; and

(iv) Industrial/commercial process water treatment experience.

(c) Post High School Education must be directly related to the field of water treatment or water distribution.

(A) One year of college education is equivalent to 30 semester hours or 45 quarter hours in the fields of engineering, chemistry, water/wastewater technology, or allied sciences.

(B) 45 valid Continuing Education Units (CEU), or any combination college credits and CEU totaling 45 CEU is equivalent to one year of post high school education.

(C) Any degree or accumulation of college credit hours must be from an educational institution accredited through an agency recognized by the U.S. Department of Education to be acceptable.

(d) Where education credit is earned for on-the-job training, the Authority will consider experience or education, but not both, in qualifying experience for an applicant.

(7) All applications for a new certificate or certificate at a higher grade, and some applications for reciprocity, require an examination and must be accompanied by a fee payment as prescribed by OAR 333-061-0265.

(8) All applications for exams must be accompanied by the appropriate fee(s) and documentation, and must be submitted to the Authority sixty (60) days prior to the desired examination date.

(9) The Authority will review the qualifications of each applicant for the purpose of determining whether the applicant has met the minimum requirements for experience, education, and special training as described in these rules.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 11-1989(Temp), f. & cert. ef. 12-29-89; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0250

Examinations Levels 1–4

(1) Examinations will be provided at locations and at times designated by the Authority or its designee.

(2) Applicants must submit the required fee(s) with all applications submitted to the Authority.

(3) The applicant must include documentation of all claims of education and experience.

(4) The applicant must obtain a minimum score of 70 percent to pass the examination.

(5) The Authority will act upon all application requests within sixty (60) days.

(6) An applicant may not take the same examination more than twice in a twelve month period unless they can demonstrate to the satisfaction of the Authority specific education completed in the subject area since taking the second examination.

(7) The Authority will deny any application for examination or reciprocity if the certificate requested is of the same type as an expired Oregon certificate that is still under the one-year reinstatement period. Once the expired certificate is reinstated, the application may be processed.

(8) The Authority will not accept incomplete, unsigned, or improperly signed applications or applications not accompanied by appropriate fee(s) and documentation for all claims of education and experience.

(9) The Authority or its designee will score all examinations and notify applicants of the results. Examinations will not be returned to the applicant.

(10) After passing an examination, the Authority will certify operators and issue a wall and a wallet certificate valid for the remainder of the year.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 4-2003, f. & cert. ef. 3-28-03; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08; PH 3-2013, f. & cert. ef. 1-25-13

333-061-0335

Sample Collection

(1) Only persons who have knowledge of the appropriate procedures for the collection and handling of the water samples for arsenic, nitrate, and

total coliform bacteria and who have experience in this area shall collect the samples. These persons include Registered Sanitarians, certified water system operators, well drillers, pump installers, and lab technicians. Specific instructions for the collection, preservation, handling and transport of the samples may be obtained from certified laboratories, county health departments or the Authority and must be strictly adhered to.

(2) The samples must be drawn from the source prior to any form of water treatment. Samples may be collected after treatment injection points where water treatment has been bypassed or temporarily disabled.

(3) In the event that the well has been shock chlorinated, no follow up samples shall be taken until five days have elapsed.

Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 431.110, 431.150, 448.131 & 448.271
Hist.: HD 24-1990, f. & cert. ef. 11-16-90; HD 14-1997, f. & cert. ef. 10-31-97; PH 7-2010, f. & cert. ef. 4-19-10; PH 3-2013, f. & cert. ef. 1-25-13

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Rule Caption: Edits, amendments and adoption of rules related to Radiation Protection Service's programs
Adm. Order No.: PH 4-2013
Filed with Sec. of State: 1-29-2013
Certified to be Effective: 1-29-13
Notice Publication Date: 12-1-2012
Rules Adopted: 333-119-0041, 333-123-0055, 333-123-0060, 333-123-0065, 333-123-0070, 333-123-0075, 333-123-0080, 333-123-0085, 333-123-0090, 333-123-0095, 333-123-0100, 333-123-0105, 333-123-0110, 333-123-0115
Rules Amended: 333-100-0005, 333-102-0115, 333-102-0203, 333-102-0250, 333-102-0285, 333-102-0340, 333-106-0045, 333-106-0101, 333-106-0305, 333-106-0315, 333-106-0325, 333-106-0370, 333-106-0720, 333-116-0040, 333-116-0050, 333-116-0090, 333-116-0640, 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0690, 333-116-0700, 333-116-0715, 333-116-0720, 333-116-0740, 333-116-0880, 333-116-0905, 333-118-0150, 333-119-0040, 333-119-0080, 333-120-0630, 333-120-0730, 333-123-0005
Rules Repealed: 333-116-0405
Subject: The Oregon Health Authority, Public Health Division, Center for Health Protection is permanently adopting, amending and repealing Oregon Administrative Rules (OAR) in chapter 333, divisions 100, 102, 106, 116, 118, 119, 120 and 123 related to programs within the Radiation Protection Services.

The Radiation Materials Licensing program is amending rules to comply with the Nuclear Regulatory Commission's 10 CFR Parts 1-50 to meet federal law pertaining to the medical use of radioactive material, clarifying the authorized material user's training requirements, and amending the rule pertaining to the "180 day" term by revising to state "180 consecutive days" in relationship to reciprocity activities performed within the state.

The X-ray program is amending rules to recognize the Oregon Board of Medical Imaging's ORS 688.405 relating to radiologic technology training and updating the website addresses. The program is adopting new rules in division 123 relating to the use of electronic brachytherapy machines. These units currently have no regulations to provide guidance to the user and the Authority's inspection staff. Also being revised is a rule to better define the definition of "Impracticable to transfer the patient to a stationary X-ray installation".

The Tanning program is amending rules to clarify construction and operations of tanning facilities by adding additional rules ensuring that clean sanitary towels and a receptacle be provided for soiled towels, and not allowing pets in the tanning facilities. A new rule is being adopted that allows the tanning registrant to follow the manufactures' guidelines for use of sanitation solutions and discontinue the regulation of requiring the Authority to maintain a list of approved sanitizers.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-100-0005
Definitions

The following definitions apply to OAR chapter 333 divisions 100, 102, 103, 106, 111, 116, 118, 119, 120, 121, 122, 123, and 124. Additional definitions used only in a certain division can be found in that division.

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, "particle accelerator" is an equivalent term.

(3) "Accelerator-produced material" means any material made radioactive by a particle accelerator.

(4) "Act" means Oregon Revised Statutes 453.605 through 453.807.

(5) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq), defined as one disintegration per second, and the curie (Ci), defined as 3.7×10^{10} disintegrations per second.

(6) "Adult" means an individual 18 or more years of age.

(7) "Agreement State" means any state with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(8) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(9) "Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive material, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DACs) specified in Appendix B, Table I, column 3, to 10 CFR Part 20.1001 to 20.2401; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

(10) "ALARA" (acronym for "As Low As Reasonably Achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.

(11) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(12) "Annual" means occurring every year or within a consecutive twelve month cycle.

(13) "Annual Limit on Intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that could result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Appendix B, Table I, Columns 1 and 2, to 10 CFR Part 20.1001 to 20.2401.

(14) "As Low As Reasonably Achievable" see "ALARA."

(15) "Authority" means the Oregon Health Authority.

(16) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive or special nuclear materials regulated by the Authority.

(17) "Becquerel" (Bq) means the International System of Units (SI) unit of activity. One becquerel is equal to one disintegration or transformation per second (dps or tps).

(18) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations, of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

(19) "Brachytherapy" means a method of radiation therapy in which sealed sources are utilized to deliver dose at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(20) "Byproduct material" means:

(a) Any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction process. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

(21) "Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year must begin in January and subsequent calendar quarters must be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant may change the method observed for determining calendar quarters except at the beginning of a calendar year.

(22) "Calibration" means the determination of:

(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) The strength of a source of radiation relative to a standard.

(23) "CFR" means Code of Federal Regulations.

(24) "Chelating agent" means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

(25) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. For purposes of these rules, "lung class" or "inhalation class" are equivalent terms. Materials are classified as D, W, or Y, which applies to a range of clearance half-times:

(a) For Class D, Days, of less than 10 days;

(b) For Class W, Weeks, from 10 to 100 days; and

(c) For Class Y, Years, of greater than 100 days.

(26) "Clinical laboratory" means a laboratory licensed pursuant to ORS 438.110 through 438.140.

(27) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(28) "Committed dose equivalent" ($H_{T,\,50}$) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(29) "Committed effective dose equivalent" ($H_{E,\,50}$) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,\,50} = \sum W_T, H_{T,50}$).

(30) "Contamination" (Radioactive) means deposition or presence of radioactive material in any place where it is not desired, and particularly in any place where its presence can be harmful. The harm may be in compromising the validity of an experiment or a procedure, or in being a source of danger to persons. Contamination may be divided into two types: Fixed and removable. Removable contamination may be transferred easily from one object to another by light rubbing or by the use of weak solvents such as water or alcohol. Removable contamination is evaluated and recorded in units of microcuries or dpm. Fixed contamination is not easily transferred from one object to another and requires mechanical or strong chemicals to remove it from its current location. Fixed contamination is evaluated and recorded in units of mR/hr.

(31) "Curie" means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material that decays at the rate of 3.7×10^{10} disintegrations or transformations per second (dps or tps).

(32) "Declared pregnant woman" means a woman who has voluntarily informed the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(33) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of license; or

(b) Release of the property under restricted conditions and termination of the license.

(34) "Deep dose equivalent" (H_d) which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm^2).

(35) "Depleted uranium" means source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

(36) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(37) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(38) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

(39) "Dose equivalent" (H_T) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem (see "Rem"). (See OAR 333-100-0070(2) for SI equivalent sievert.)

(40) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purposes of these rules, "limits" is an equivalent term.

(41) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.

(42) "Effective dose equivalent" (H_E) means the sum of the products of the dose equivalent to the organ or tissue (H_T) and the weighting factor (W_T) applicable to each of the body organs or tissues that are irradiated ($H_E = W_T H_T$).

(43) "Electronic product" means any manufactured product or device or component part of such a product or device that is capable of generating or emitting electromagnetic or sonic radiation such as, but not limited to, X-rays, ultrasonic waves, microwaves, laser light or ultraviolet light.

(44) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(45) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(46) "Exclusive use" (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

(47) "Explosive material" means any chemical compound, mixture, or device that produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

(48) "Exposure" means:

(a) The quotient of dQ by dm where "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air. The SI unit of exposure is the coulomb per kilogram.

(b) Being exposed to ionizing radiation or to radioactive material.

(49) "Exposure rate" means the exposure per unit of time, such as roentgen per minute (R/min) and milliroentgen per hour (mR/hr).

(50) "External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

(51) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(52) "Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm^2).

(53) "Fixed gauge" means a measuring or controlling device that is intended to be mounted at a specific location, stationary, not to be moved, and is not portable.

(54) "Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(55) "General license" means a license granted by rule, in contrast to an issued license, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(56) "Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(57) "Gray" (Gy) means the International System of Units (SI), unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram (100 rad). (See OAR 333-100-0070(2))

(58) "Hazardous waste" means those wastes designated as hazardous by U.S. Environmental Protection Agency regulations in 40 CFR Part 261.

(59) "Healing arts" means:

(a) The professional disciplines authorized by the laws of this state to use X-rays or radioactive material in the diagnosis or treatment of human or animal disease. For the purposes of this division they are Medical Doctors, Osteopaths, Dentists, Veterinarians, Chiropractors, and Podiatrists; or

(b) Any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.

(60) "Human use" means the internal or external administration of radiation or radioactive material to human beings.

(61) "Individual" means any human being.

(62) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(63) "Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(64) "Inhalation class" (see "Class").

(65) "Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Authority.

(66) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(67) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(68) "Ionizing radiation" means any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage through matter. It includes any or all of the following: Alpha particles, beta particles, electrons, positrons, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, fission fragments and other atomic and subatomic particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(69) "Laser" means any device which, when coupled with an appropriate laser energy source, can produce or amplify electromagnetic radiation by the process of controlled stimulated emission.

(70) "License" means a license issued by the Authority in accordance with rules adopted by the Authority.

(71) "Licensed material" means radioactive material received, possessed, used, transferred or disposed of under a general or specific license granted or issued by the Authority. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), Naturally Occurring and Accelerator Produced Radioactive Material (NARM) refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(72) "Licensee" means any person who is licensed by the Authority in accordance with these rules and the Act.

(73) "Licensing state" means any state with rules or regulations equivalent to the Suggested State Regulations for Control of Radiation relating to, and having an effective program for, the regulatory control of NARM.

(74) "Limits" (dose limits) means the permissible upper bounds of radiation doses.

(75) "Lost or missing licensed or registered source of radiation" means licensed or registered source(s) of radiation whose location is unknown. This definition includes licensed material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(76) "Lung class" (see "Class").

(77) "Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in division 118 of this chapter.

(78) "Member of the public" means an individual, except when that individual is receiving an occupational dose.

(79) "Minor" means an individual less than 18 years of age.

(80) "Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, "radiation monitoring" and "radiation protection monitoring" are equivalent terms.

(81) "NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material.

(82) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(83) "Naturally-occurring radioactive material" (NORM) means any nuclide that is found in nature as a radioactive material (i.e., not technologically produced).

(84) "Natural thorium" means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

(85) "Natural uranium" means a mixture of the uranium isotopes 234, 235 and 238 (approximately 0.7 weight percent uranium- 235 and the remainder by weight essentially uranium-238), found in nature, that is neither enriched nor depleted in the isotope uranium 235.

(86) "Nonstochastic effect" means a health effect that varies with the dose and a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, "deterministic effect" is an equivalent term.

(87) "Normal form radioactive material" means radioactive material that has not been demonstrated to qualify as "special form radioactive material". See "Special form."

(88) "NRC" is the acronym for Nuclear Regulatory Commission.

(89) "Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

(90) "Package" means the packaging together with its radioactive contents as presented for transport.

(91) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

(92) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

(93) "Personnel monitoring equipment" means devices such as film badges, pocket dosimeters, and thermoluminescent dosimeters designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual. See "Individual monitoring devices."

(94) "Pharmacist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(95) "Physician" means an individual licensed by the Oregon Medical Board to dispense drugs in the practice of medicine.

(96) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(97) "Portable gauge" means a measuring or controlling device that is intended to be portable and is not fixed to a specific location. All portable gauges require a specific license (there is no general license granted for portable generally licensed devices in the State of Oregon).

(98) "Program" means the Radiation Protection Services section of the Public Health Division of the Oregon Health Authority.

(99) "Pyrophoric liquid" means any liquid that ignites spontaneously in dry or moist air at or below 130^{O}F (54.4^{O}C).

(100) "Pyrophoric solid" means any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

(101) "Qualified expert" means an individual, approved by the Authority, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual must:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed one year of documented, full time training in the appropriate field and also one year of documented, full time work experience under the supervision of a qualified expert in the appropriate field. To meet this requirement, the individual must have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Authority for specific activities.

(102) "Quality factor" (Q) means the modifying factor (listed in Tables 1004(b).1 and 1004(b).2 of 10 CFR Part 20.1004 provided at the end of this division) that is used to derive dose equivalent from absorbed dose.

(103) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(104) "Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 gray). See OAR 333-100-0070(2) for SI equivalent gray.

(105) "Radiation" means:

(a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons, and other atomic or nuclear particles or rays;

(b) Any electromagnetic radiation which can be generated during the operations of electronic products and which the Authority has determined to present a biological hazard to the occupational or public health and safety but does not include electromagnetic radiation which can be generated during the operation of an electronic product licensed by the Federal Communications Commission;

(c) Any sonic, ultrasonic or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and which the Authority has determined to present a biological hazard to the occupational or public health and safety.

(106) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

(107) "Radiation machine" means any device capable of producing radiation except those which produce radiation only from radioactive material.

(108) "Radiation safety officer" means:

(a) An individual who has the knowledge, responsibility, and authority to apply appropriate radiation protection rules; or

(b) The representative of licensee management, authorized by the Authority, and listed on the specific license as the radiation safety officer, who is responsible for the licensee's radiation safety program.

(109) "Radioactive material" means any solid, liquid, or gas that emits radiation spontaneously.

(a) Radioactive material, as used in these rules, includes: byproduct material, naturally occurring radioactive material, accelerator produced material, and source material, as defined in this rule.

(b) Radioactive material, as used in these rules, does not include special nuclear material.

(110) "Radioactive waste" means radioactive material that is unwanted or is unusable, as defined in division 50 of chapter 345. No radioactive material may be disposed of in Oregon except as provided in division 50 of chapter 345.

(111) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(112) "Reference Man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of the Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(113) "Registrant" means any person who is registered with the Authority and is legally obligated to register with the Authority pursuant to these rules and the Act.

(114) "Registration" means the identification of any material or device emitting radiation, and the owner of such material or device must furnish information to the Authority in accordance with the rules adopted by the Authority.

(115) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(116) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

(117) "Research and development" means:

(a) Theoretical analysis, exploration, or experimentation; or

(b) The extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(118) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(119) "Restricted area" means an area to which access is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(120) "Roentgen" means the special unit of exposure. One roentgen (R) equals 2.58 x 10-4 Coulombs/kilogram of air (see "Exposure" and division 120).

(121) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(122) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(123) "Sealed source" means radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(124) "Sealed Source and Device Registry" means the national registry that contains all the registration certificates, generated by both the U.S. Nuclear Regulatory Commission and Agreement States, that summarize the radiation safety information for sealed sources and devices and describe the licensing and use conditions approved for the product.

(125) "Shallow dose equivalent" (H_s), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm^2) averaged over an area of one square centimeter.

(126) "SI" means the abbreviation for the International System of Units.

(127) "Sievert" means the International System of Units (SI), unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem). (See OAR 333-100-0070(2)).

(128) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(129) "Source material" means:

(a) Uranium or thorium or any combination of uranium and thorium in any physical or chemical form; or

(b) Ores that contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(130) "Source material milling" means any activity that result in the production of byproduct material, as defined by this rule.

(131) "Source of radiation" means any radioactive material or any device or equipment emitting, or capable of producing, radiation. Source of radiation, pursuant to this rule, includes, but is not limited to, radiation facilities, radiation producing machines, radiation producing devices, radioactive material sealed and unsealed form (normal form and special form), and radioactive material uses.

(132) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.2 inch); and

(c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, and a special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on March 31. 1996, and constructed prior to April 1, 1998, may continue to be used. Any other special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(133) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the U.S. Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(134) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination must not exceed one.

For example, the following quantities in combination does not exceed the limitation and are within the formula: * * 175 (grams U-235)/350 + 50 (grams U-233)/200 + 50 (grams Pu)/200 = 1.

(135) "Specific activity of a radionuclide" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(136) "Stochastic effect" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.

(137) "Supervision" as used in these rules, means the responsibility for, and control of, the application, quality, radiation safety and technical aspects of all sources of radiation possessed, used and stored through authorization granted by the Authority.

(138) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, and measurements of levels of radiation or concentrations of radioactive material present.

(139) "Termination" means:

(a) The end of employment with the licensee or registrant or, in the case of individuals not employed by the licensee or registrant, the end of work assignment in the licensee's or registrant's restricted area in a given calendar quarter, without expectation or specific scheduling of re-entry into the licensee's or registrant's restricted area during the remainder of that calendar quarter; or

(b) The closure of a registered or licensed facility and conclusion of licensed or registered activities, pursuant to a registration or specific license.

(140) "Test" means the process of verifying compliance with an applicable rule.

(141) "These rules," mean all parts of the Oregon Administrative Rules promulgated under ORS 453.605 through 453.807.

(142) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(143) "Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent (DDE) and the committed dose equivalent (CDE) to the organ receiving the highest dose as described in OAR 333-120-0650(1)(d).

(144) "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the external surface of the package.

(145) "U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(146) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

NOTE: "Ore" refers to fuel cycle materials pursuant to 10 CFR Part 150.

(147) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

(148) "Uranium — depleted, enriched" means:

(a) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(b) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

(149) "Validation certificate" means the official document issued upon payment to the Authority of the appropriate fee listed in division 103 of this chapter. The license or registration is subject and void without the annual validation certificate.

(150) "Waste" means radioactive waste.

(151) "Week" means seven consecutive days starting on Sunday.

(152) "Weighting factor" (W_T) for an organ or tissue (T) means:

(a) The proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of WT are:

(A) Gonads 0.25;

(B) Breast 0.15;

(C) Red Bone Marrow 0.12;

(D) Lung 0.12;

(E) Thyroid 0.03;

(F) Bone Surfaces 0.03;

(G) Remainder 0.30 (see note below);

(H) Whole Body 1.00.

Note: Assignment of 0.30 for the remaining organs results from a weighting factor of 0.06 for each of five "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

(b) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $W_T = 1.0$, has been specified. The use of other weighting factors for external exposure may be approved on a case-by-case basis until such time as specific guidance is issued.

(153) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(154) "Worker" means an individual engaged in work under a license or registration issued by the Authority and controlled by a licensee or registrant, but does not include the licensee or registrant.

(155) "Working level" (WL) means any combination of short-lived radon progeny in one liter of air that will result in the ultimate emission of 1.3 x 105 MeV of potential alpha particle energy. The short-lived radon-222 progeny are: polonium-218, lead-214, bismuth-214, and polonium-214;

and for radon-220 the progeny are: polonium-216, lead-212, bismuth-212, and polonium-212.

(156) "Working level month" (WLM) means an exposure to one working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.)

(157) "Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

[ED. NOTE: Tables and Appendices referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-102-0115
Certain Measuring, Gauging and Controlling Devices

(1) A general license is hereby issued to commercial and industrial firms and to research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, receive, acquire, possess, use or transfer in accordance with the provisions of OAR 333-103-0015 and sections (2), (3) and (4) of this rule, radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(2) The general license in section (1) of this rule applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license issued by the Authority pursuant to OAR 333-102-0200 or in accordance with the specifications contained in a specific license issued by the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, that authorizes distribution of devices to persons generally licensed by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.

(3) The devices must have been received from one of the specific licensees described in section (2) of this rule or through a transfer made in accordance with subsection (4)(i) of this rule.

NOTE: Regulations under the Federal Food, Drug and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in 21 CFR 179.21.

(4) Any person who owns, receives, acquires, possesses, uses or transfers radioactive material in a device pursuant to the general license in section (1) of this rule:

(a) Must assure that all labels affixed to the device at the time of receipt, and bearing a statement that removal of the label is prohibited, are maintained thereon and must comply with all instructions and precautions provided by such labels;

(b) Must assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label; however:

(A) Devices containing only krypton need not be tested for leakage of radioactive material; and

(B) Devices containing only tritium or not more than 100 microcuries (3.7 MBq) of other beta or gamma emitting material or 10 microcuries (0.37 MBq) of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose.

(c) Must assure that tests required in subsection (4)(b) of this rule and other testing, installation servicing and removing from installation involving the radioactive materials, its shielding or containment, are performed:

(A) In accordance with the instructions provided by the labels; or

(B) By a person holding an applicable specific license from the Authority, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform such activities.

(d) Must maintain records showing compliance with the requirements of subsections (4)(b) and (4)(c) of this rule. The records must show the results of tests. The records also must show the dates of performance of, and the names of persons performing, testing, installation servicing and removal from installation concerning the radioactive material, its shielding or containment. The licensee must retain these records as follows:

(A) Records of tests for leakage of radioactive material required by subsection (4)(b) of this rule must be maintained as required in OAR 333-100-0057.

(B) Records of tests of the on-off mechanism and indicator required by subsection (4)(b) of this rule must be maintained as required in OAR 333-100-0057.

(C) Records which are required by subsection (4)(c) of this rule must be maintained as required in OAR 333-100-0057.

(e) Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie (185 Bq) or more of removable radioactive material, the licensee must immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the Authority, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to repair such devices. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Authority. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 0.005 microcurie or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be submitted to the Authority within 30 days. Under these circumstances, the criteria set out in OAR 333-120-0190, as determined by the Authority, on a case-by-case basis;

(f) Must not abandon the device containing radioactive material;

(g) Except as provided in subsection (4)(i) of this rule, must transfer or dispose of the device containing radioactive material only by export as provided by subsection (4)(l) of this rule, by transfer to another general licensee as authorized in subsection (4)(i) of this rule, or by transfer to a specific licensee of the Authority, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State whose specific license authorizes the individual to receive the device; and

(A) Must furnish to the Authority, within 30 days after transfer of a device to a specific licensee or export, a report containing identification of the device by manufacturer's name, model number, serial number, the date of transfer, and the name, address and license number of the person receiving the device;

(B) The general licensee must obtain written Authority approval before transferring the device to any other specific licensee not specifically identified in subsection (4)(g) of this rule.

(h) A holder of a specific license may transfer a device for possession and use under its own specific license without prior approval, if the holder:

(A) Verifies that the specific license authorized the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

(B) Removes, alters, covers, or clearly and unambiguously augments the existing label so that the device is labeled in compliance with OAR 333-120-0430, however the manufacturer model and serial numbers must be retained;

(C) Obtains manufacturer's or initial transferor's information concerning maintenance that are applicable under the specific license (such as leak testing procedures); and

(D) Reports the transfer under OAR 333-102-0115(4)(g)(A).

(i) Must transfer the device to another general licensee only:

(A) Where the device remains in use at a particular location. In such case the transferor must give the transferee a copy of this rule and any safety documents identified in the label on the device and within 30 days of the transfer, report to the Authority the manufacturer's (or initial transferor's) name, model number, serial number of the device transferred, the date of transfer, the name and address of the transferee and the location of use, and the name, title and phone number of the individual who is a point of contact between the Authority and the transferee. This individual must have the knowledge and authority to take actions to ensure compliance with the appropriate rules and requirements concerning the possession and use of these devices; or

(B) Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee.

(j) Must comply with the provisions of OAR 333-120-0700 and 333-120-0710 for reporting radiation incidents, theft or loss of licensed material but shall be exempt from the other requirements of divisions 111 and 120 of this chapter;

(k) Must submit the required Authority form and receive from the Authority a validated registration certificate acknowledging the general license and verifying that all provisions of these rules have been met. The form must be submitted within 30 days after the first receipt or acquisition of such device. The general licensee must develop and maintain procedures designed to establish physical control over the device as described in this rule and designed to prevent transfer of such devices in any form, including metal scrap, to persons not authorized to receive the devices.

(l) Shall not export a device containing radioactive material except in accordance with 10 CFR Part 110.

(5) The general license in section (1) of this rule does not authorize the manufacture of devices containing radioactive material.

(6) The general license provided in section (1) of this rule is subject to the provisions of OAR 333-100-0040 through 333-100-0055, 333-102-0335, 333-103-0015 and 333-118-0050.

(7) The general licensee possessing or using devices licensed under the general license established by section (1) of this rule must report in writing to the Authority any changes in information furnished by the licensee on the required Authority form. The report must be submitted within 30 days after the effective date of such change.

(8) The licensee must appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, must ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard.

(9)(a) A device distributed or otherwise received as a generally licensed device must be registered with the Authority. Each address for a location of use, as described under subsection (9)(b) of this rule, represents a separate general licensee and requires a separate registration and fee. Devices containing more than 37 MBq (1 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, any quantity of americium-241, 3.7 MBq (0.1 mCi) of radium 226 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label are required to have a specific license.

(b) In registering devices, the general licensee must furnish the following information and any other information specifically requested by the Authority:

(A) Name and mailing address of the general licensee;

(B) Information about each device. The manufacturer (or initial transferor), model number, serial number, the radioisotope and activity (as indicated on the label);

(C) Name, title, and telephone number of the responsible person designated as a representative of the general licensee under section (8) of this rule.

(D) Address or location at which the device(s) are used and stored. For portable devices, the address of the primary place of storage.

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information.

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general license.

(10) General licensees must report changes to their mailing address or the location of use (including a change in name of general licensee) to the Authority within 30 days of the effective date of the change.

(11) Generally licensed devices that are not in use for longer than two years must be transferred to an authorized recipient or disposed of as radioactive waste. Shutters must be locked in the closed position on devices that are not being used or are in storage. The testing required by subsection (4)(b) of this rule need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use.

(12) Persons generally licensed by an Agreement State with respect to devices meeting the criteria in section (9) of this rule are not subject to registration requirements if the devices are used in areas subject to NRC jurisdiction for a period less than 180 consecutive days in any calendar year. The Nuclear Regulatory Commission does not require registration information from such licensees.

(13) The general license in section (1) of this rule does not authorize the manufacture or import of devices containing radioactive material.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-102-0203
Definitions

The following definitions apply for Radioactive Material Licenses issued pursuant to this division and divisions 105, 113, 115, 117, and 121 of this chapter:

NOTE: Unless otherwise specified in this rule, the licenses described in this rule are limited by conditions of the radioactive materials license issued pursuant to OAR 333-102-0200, and other applicable rules in this chapter.

(1) "Analytical Leak Test" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(a), authorizing possession of environmental samples, sealed source leak-test, contamination wipe, etc. samples for radioanalytical measurements. This license does not authorize collection of samples, or decommissioning or decontamination activities.

(2) "Assets" means anything of material value or usefulness. In the context of a materials license, assets include all existing capital, effects, possessions, and belongings and all probable future economic benefits obtained or controlled by a particular entity.

(3) "Basic License" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing the receipt, possession, use, transfer, and disposal of sources of radiation or radioactive materials incident to gauge service, teletherapy service, medical afterloader service, and other licensed service activities; pre-packaged waste pickup (not packaging), storage of materials prior to license termination, instrument quality control servicing or calibration (excluding activities authorized by 333-103-0010(2)(m)), or other minor activities not otherwise specified in these rules, such as authorization for "systems," as defined in these rules, pursuant to that definition.

(4) "Beneficiating" means subjecting a product to any process that can increase or concentrate any component (including the radioactive materials) to benefit the product.

(5) "Brachytherapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(c) authorizing the use of brachytherapy sources for in vivo application of radiation in accordance with 333-116-0420. Brachytherapy includes radioactive material sealed sources in seeds, needles, plaques, or other localized medical devices, but excludes remote afterloaders.

(6) "Broad Scope A" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(d), authorizing activities in 333-102-0900(1)(a), under the authority of a Radiation Safety Committee.

(7) "Broad Scope B" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(e) authorizing activities described in 333-102-0900(1)(b), under the authority of a Radiation Safety Officer.

(8) "Broad Scope C" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(f) authorizing activities described in 333-102-0900(1)(c), under the authority of an authorized user.

(9) "Commencement of construction" means any clearing of land, excavation or other substantial action related to a proposed activity for specific licensing that can adversely affect the natural environment of a site.

(10) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(11) "Decontamination and Decommissioning" means:

(a) A facility specific license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that result in returning a site to its original pre-license condition prior to termination of licensed activities; and

(b) Activities performed pursuant to OAR 333-102-0335 on any portion of a site prior to license termination.

(12) "Diagnosis" means examination, determination, identification, study, or analysis of a medical condition.

(13) "Distribution" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(g), authorizing transfer or distribution (sale) of general or specific license radioactive material to persons granted a general license or issued a specific license, or, in the case of NARM, to persons exempt from the rules in this chapter.

(14) "Exempt Source" means radioactive material, exempt from the rules in this chapter.

(15) "Facility" means location of licensed activities under the direct control of licensee management. If a "facility," as used in this division, includes multiple separate addresses, the Authority may determine how the scope of licensed activities, pursuant to OAR 333-102-0190, 333-102-0300, 333-102-0305, 333-102-0315, 333-102-0320, or 333-102-0325, is authorized.

(16) "Fixed Gauge" means a source-specific license for measuring, gauging, or controlling devices pursuant to OAR 333-103-0010(2)(h). The fixed gauge license also includes X-ray & Hybrid Gauges pursuant to division 115 of this chapter, that contain either an X-ray source or a radioactive sealed source.

(17) "General License" means a granted license, as opposed to an issued license, effective under these rules, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(18) "General License Depleted Uranium" means the general license granted subject to receipt of the registration application pursuant to OAR 333-101-0007, and fee, pursuant to 333-103-0015, for depleted uranium used for shielding or counter weights and issued pursuant to 333-102-0103.

(19) "General License Device" means the general license for in vitro materials granted subject to receipt of the registration application pursuant to OAR 333-101-0007, and fee, pursuant to 333-103-0015, for measuring, gauging.

(20) "General License In Vitro Laboratory" means the general license granted by OAR 333-102-0130, subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for in vitro materials granted a general license by 333-102-0130.

(21) "General License Source Material" means the general license granted for use and possession of source material pursuant to OAR 333-102-0101.

(22) "General License for Certain Devices and Equipment" means the general license granted for use and possession of devices consisting of not more than 500 microcuries of polonium-210 or not more than 50 millicuries of tritium (H-3) per device, pursuant to 10 CFR 31.3.

(23) "General License for Luminous Devices for Aircraft" means the general license granted for use and possession of devices containing not more than ten curies of tritium or not more than 300 millicuries of promethium-147.

(24) "General License for Ownership of Radioactive Material and Limits of Possession" means the general license granted to own material that is not necessarily possessed; conversely, material that is possessed is, by grant of general license, not necessarily owned, pursuant to the general license in OAR 333-102-0120.

(25) "General License for Calibration and Reference Sources" means the general license granted to possess not more than five microcuries (185 kBq) of americium-241, plutonium-238, plutonium-239, or radium-226, pursuant to the general license in OAR 333-102-0125.

(26) "General License for Ice Detection Devices" means the general license granted to possess not more than 50 microcuries (1.85 MBq) of strontium-90, pursuant to the general license in OAR 333-102-0135.

(27) "Generators and Kits" means "Imaging and Localization."

(28) "Healing Arts Specific License" means a specific license authorizing activities in division 116 of this chapter.

(29) "High Doserate Remote Afterloader" means a source-specific license issued pursuant to OAR 333-103-0010(2)(i) authorizing the use of sources in accordance with 333-116-0475, which may be either mobile or stationary, and which deliver a doserate in excess of two Gray (200 rad) per hour at the point or surface where the dose is prescribed. A device may be designated as being high, medium, or pulsed dose remote afterloader or mobile high, medium, or pulsed doserate remote afterloader.

(30) "Hybrid Gauge" means a fixed gauging device that contains both a sealed source and an X-ray source, pursuant to division 115 of this chapter.

(31) "In Vitro Laboratory" means a Healing Arts facility-specific license, under management of a physician or Healing Arts specialist, issued pursuant to OAR 333-103-0010(2)(k) authorizing the use of prepackaged radioactive materials in quantities greater than those authorized by the General License granted by 333-102-0130(2).

(32) Imaging and Localization means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(j) authorizing the use of generators and kits for nuclear medicine imaging and localization in accordance with 333-116-0320 or positron emission tomography studies in accordance with 333-116-0800 through 333-116-0880.

(33) "Industrial Radiography" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(l) authorizing activities in division 105 of this chapter.

(34) "Instrument Calibration" means a source-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(m) for sources of radiation used to calibrate instruments.

(35) "Investigational New Drug" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(n) authorizing the use of any investigational product or device approved by the US Food and Drug Administration (FDA) for human use research, diagnosis, or therapy, in accordance with the rules in this chapter.

(36) "Irradiator-Other" means an irradiator with greater than 10,000 curies (370 TBq) licensed pursuant to OAR 333-103-0010(2)(w) and 333-103-0010(7), designed to produce extremely high dose rates as authorized by division 121 of this chapter.

(37) "Irradiator Self-shielded or Other — Less than 10,000 Curies" means a source-specific license issued pursuant to OAR 333-103-0010(2)(o) authorizing self-shielded irradiators, including blood irradiators, panoramic irradiators, and converted teletherapy units, with less than 10,000 Ci (370 TBq) activity.

(38) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(39) "Lot Tolerance Percent Defective" means, expressed in percent defective, the poorest quality in an individual inspection lot that can be accepted.

(40) "Low Doserate Remote Afterloader Device" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing devices 333-116-0475, which remotely deliver a doserate of less than two Gray (200 rad) per hour at the point or surface where the dose is prescribed.

(41) "Manufacturing or Compounding" means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(p) authorizing manufacture, fabrication, assembly, construction, combining, processing, concentrating, beneficiating, or processing items or products using or containing radioactive materials into a finished product containing radioactive material in accordance with applicable requirements in division 102 of this chapter.

(42) "Manufacturing or Compounding and Distribution" means activities performed as defined in sections (13) and (41) of this rule and require separate specific licenses for each activity.

(43) "Mobile Nuclear Medicine Service" means a facility-specific Healing Arts license issued pursuant to OAR 333-116-0120 authorizing the medical use of radioactive material at specified temporary locations.

(44) "Nationally Tracked Source" means a sealed source containing a quantity equal to or greater than Category 1 or 2 levels of any radioactive material listed in 10 CFR 20 Appendix E.

(45) "Naturally occurring radioactive material (NORM)" means radioactive material in the uranium or thorium decay series existing in nature in concentrations less than 0.05 percent source material.

(46) "Net working capital" means current assets minus current liabilities.

(47) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(48) "Neutron Howitzer" means a device that contains a sealed source containing Special Nuclear Material (see definition in OAR 333-100-0005) that generates neutrons that are used for analytical, teaching, or research purposes.

(49) "Neutron Production" denotes a process in which neutrons are produced, either by natural or artificial means.

(50) "NORM (no processing)" means a facility-specific license pursuant to OAR 333-103-0010(2)(r) authorizing possession, use, and transfer of NORM in accordance with division 117 of this chapter.

NOTE: NORM licenses authorize licensable quantities of radioactive material in the uranium or thorium decay series. Licensable quantities of NORM are derived from disposal limits in OAR chapter 345, division 050. Any material that contains NORM requires a specific license unless exempted in OAR chapter 345, division 050. Zircon sand is used as the NORM model for licensing purposes. Quantities of zircon sand in excess of 20,000 pounds in a year constitute a licensable quantity of NORM. NORM materials that are not zircon are based on the zircon model.

(51) "Nuclear Laundry" means a laundry facility designed specifically to clean or launder clothing contaminated with licensed radioactive materials. Nuclear Laundry facilities must have process and waste management control procedures to prevent reconcentrating of licensed materials in sewers, drains, premises, and the environment. Nuclear Laundry activities are authorized pursuant to OAR 333-103-0010(2)(w), "Radioactive Material Not Otherwise Specified Facility," see 333-102-0203(61).

(52) "Nuclear Pharmacy" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(s) for activities authorized by 333-102-

0285 and the Oregon Board of Pharmacy rules, to compound Radiopharmaceutical and distribute (sell or transfer) to persons specifically licensed to receive such compounds or products.

NOTE: Nuclear Pharmacies, pursuant to policy provisions of chapter 345 division 50 may collect syringes containing residual licensed material from spent patient doses, since the syringe is considered to be a transport device under the administrative control of the pharmacy rather than the licensed material transferred as the dose. Residual licensed material may be considered either to be exempt pursuant to Table 1 of division 50 or under the authority of a division license if the receding licensee stores syringes for decay. In either case, the division license specifies which disposal method is being used by the pharmacy and licensee to avoid compatibility conflicts with division 50 requirements.

(53) "Other Measuring Device" means a source-specific license issued pursuant to OAR 333-103-0010(2)(t), authorizing analytical instruments, gas chromatograph electron capture detectors, and other nonportable analytical instruments, including those devices that contain multiple sources but are configured and used as a "system," in accordance with the definition in this rule.

NOTE: General license gas chromatograph detectors that formerly were granted a general license by OAR 333-102-0115, but which required a registration fee pursuant 333-103-0015(2)(b), now are subject to the specific license in 333-103-0010(2)(t).

(54) "Pool-type Irradiator" means an irradiator with greater than 10,000 curies (370 TBq) in which water provides the radiation shielding, authorized in accordance with division 121 of this chapter.

(55) "Portable Gauge" means a source-specific license issued pursuant to OAR 333-103-0010(2)(u) for sources used in devices that can be transported and used at temporary job sites.

NOTE: Any device that meets the definition of "portable gauge" and is transported or used at temporary job sites within the state of Oregon, requires an application for and issuance of an Oregon specific license subject to OAR 333-103-0010(2)(u).

(56) "Positron Emission Tomography" (PET) means a licensed healing arts activity authorized by OAR 333-116-0800 and included in the facility specific license issued pursuant to 333-103-0010(2)(j). PET nuclides, which are NARM, are subject to all Oregon rules.

(57) "Possession or Storage of Industrial Wastes Containing Radioactive Material" means activities subject to division 110 of this chapter for the production or storage of wastes that are exempt from division 50 of chapter 345 facility siting requirements, and were generated under a current NRC, Agreement State, or Licensing State specific radioactive materials license.

(58) "Possession or Storage of Uranium Tailings" means activities incident to uranium processing or milling operations resulting in the production of tailings.

(59) "Principal Activities" means activities authorized by the license that are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(60) "Processing" means chemically or physically changing a licensed material from one physical form to another form or specie (e.g., breaking an ore down into its components resulting in "tailings"; milling a raw licensed material and combining to form another product or material. See "Beneficiating"; "Manufacturing or Compounding").

(61) "Radiation Source" means source of radiation (see definition of "Source of radiation" in OAR 333-100-0005).

(62) "Radioactive Material Not Otherwise Specified Facility" means a license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that includes, but are not limited to, complex licensable activities such as facility decontamination and decommissioning, nuclear laundry activities, uranium mill tailings storage, storage of industrial wastes containing radioactive materials, large irradiator management, and other complex activities not otherwise specified in these rules.

(63) "Radioactive Materials License" means the document, pursuant to OAR 333-102-0300, issued after an application, pursuant to OAR 333-102-0190, has been accepted as adequate, that specifies radioactive materials, use authorizations, safety procedures, and use locations.

(64) "Radiopharmaceutical Therapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(v) authorizing the use of Radiopharmaceutical for therapy in accordance with 333-116-0360.

(65) "Remote Afterloader" means a medical device that moves a sealed source to an interstitial (in vivo) location without exposing the practitioner to the radiation dose. Remote afterloader sources may be manipulated using computer software and engineering techniques.

(66) "Research & Development" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(x) authorizing research and development activities, as defined in 333-100-0005, but does not authorize additional specific sources of radiation, which must be licensed separately pursuant to 333-103-0010 and 333-103-0015.

(67) "Responsible Representative" means

(a) The person designated as having responsibility for general license device or general license material;

(b) The person management has selected to certify general license inventory; and

(c) The individual responsible to the Authority and to management to ensure that all regulatory elements are adequate.

(68) "Sealed Source/Device Evaluation" means the review of a licensee's prototype source or device prior to registration by the Nuclear Regulatory Commission in the Sealed Source and Device Catalog.

NOTE: The Authority no longer has authority to review sources or devices. All source or device reviews must be forwarded to the NRC for review. Authority to conduct device or source evaluations was rescinded by the NRC in 1998.

(69) "Site Area Emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(70) "Sealed Sources for Diagnosis" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(y) authorizing the use of sealed sources for diagnosis in accordance with 333-116-0400.

(71) "Special Nuclear Material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the NRC, pursuant to the provisions of section 51 of the act, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(72) "Specific License Radioactive Material" means radioactive material that requires authorization in a specific license document pursuant to OAR 333-102-0075(2) where materials must be annotated on the specific license, and validated with a specific license fee pursuant to 333-103-0010(2)(a) through 333-103-0010(2)(hh) (see "Radioactive Materials License").

(73) "System," as used in this division, means multiple separate (individual) sources of radiation (sealed radioactive sources), which together, rather than independently, achieve a desired functionality. Such "system" is subject to one specific license fee or general license registration fee, as the case may be.

(74) "Tangible Net Worth" means the tangible assets that remain after deducting liabilities; such assets may not include intangibles such as goodwill and rights to patents or royalties.

(75) "Teletherapy" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(cc) authorizing teletherapy procedures in accordance with OAR 333-116-0480. This license also includes other high dose rate external beam therapy devices such as the "gamma knife."

(76) "Temporary Job Site" means any location, where specific license material is used that is either:

(a) Not the specific location of the licensee if an in-state licensee; or

(b) Any location in the state if an out-of-state specific licensee pursuant to a specific radioactive materials license.

NOTE: Persons authorized for temporary jobsites in Oregon must have a specific license for such activities.

(77) "Therapy" means a process that is meant to be restorative, promotes healing, or is beneficial to a patient in a healing arts context.

(78) "Unique" means a specific license issued pursuant to OAR 333-103-0010(2)(dd) to agencies in the Oregon Health Authority.

(79) "Uptake and Dilution" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ee) authorizing activities in 333-116-0300 for uptake, dilution, and excretion studies.

(80) "Use and Possession of Source Material " means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(z) to possess, use, process, or transfer source material, as defined in OAR 333-100-0005, in quantities greater than general license quantities or in concentrations greater than 0.05 percent source material.

NOTE: This definition was amended to avoid confusion between the definition of "source material" in division 100 of this chapter and the specific license (billable object) in division 103 of this chapter.

(81) "Use of Xenon Gas" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ff) authorizing the use of Xe-133 for diagnosis pursuant to OAR 333-116-0280.

(82) "Waste Packaging" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(gg), authorizing packaging, collection, storage, and transfer of radioactive waste. This specific license does not authorize storage of radioactive wastes, but does authorize temporary job sites.

(83) "Well Logging" means a license issued pursuant to OAR 333-103-0010(2)(hh) authorizing the possession, use, transfer, or disposal of sources of radiation used for well logging activities authorized by division 113 of this chapter.

NOTE: Unless specifically authorized in this rule or in a radioactive materials license that authorizes temporary job sites, specific licenses must be used only at one authorized site.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 4-2013, f. & cert. ef. 1-29-13

333-102-0250

Manufacture and Distribution of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing Under a General License

An application for a specific license to manufacture or distribute radioactive material for use under the general license specified in OAR 333-102-0130 or equivalent may be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200.

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Carbon-14 in units not exceeding ten microcuries (370 kBq) each;

(b) Cobalt-57 in units not exceeding ten microcuries (370 kBq) each;

(c) Hydrogen-3 (tritium) in units not exceeding 50 microcuries (1.85 MBq) each;

(d) Iodine-125 in units not exceeding ten microcuries (370 kBq) each;

(e) Mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each;

(f) Iodine-131 in units not exceeding ten microcuries (370 kBq) each;

(g) Iron-59 in units not exceeding 20 microcuries (740 kBq) each;

(h) Selenium-75 in units not exceeding ten microcuries (370 kBq) each;

(i) Cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries) each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed ten microcuries (370 kBq) of iodine-125, iodine-131, carbon-14, cobalt-57 or selenium-75; 50 microcuries (1.85 MBq) of hydrogen-3 (tritium); 20 microcuries (740 kBq) of iron-59; or mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each or colbalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries); and

(b) Displaying the radiation caution symbol described in OAR 333-120-0400 and the words, CAUTION, RADIOACTIVE MATERIAL and Not for Internal or External Use in Humans or Animals.

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(a) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation there from, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

_____

Name of manufacturer

(b) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation there from, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

_____

Name of manufacturer

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements in OAR 333-120-0500.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-102-0285

Manufacture, Preparation, or Transfer for Commercial Distribution of Radiopharmaceutical Drugs Containing Radioactive Material for Medical Use Under Division 116

(1) An application for a specific license to manufacture, prepare, or transfer for commercial distribution radiopharmaceutical drugs containing radioactive material for use by persons authorized pursuant to division 116 of this chapter may be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits evidence that the applicant is at least one of the following:

(A) Registered or licensed with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under 21 CFR 207.20(a);

(B) Registered or licensed with a state agency as a drug manufacturer;

(C) Licensed as a pharmacy by a state Board of Pharmacy;

(D) Operating as a nuclear pharmacy within a federal medical institution; or

(E) A Positron Emission Tomography (PET) drug production facility registered with a state agency.

(c) The applicant submits information on the radionuclide, chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radiopharmaceutical drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radiopharmaceutical drugs by medical use licensees; and

(d) The applicant satisfies the following labeling requirements:

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radiopharmaceutical drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL; the name of the radiopharmaceutical drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radiopharmaceutical drugs with a half life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radiopharmaceutical drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(2) A licensee described by paragraphs (1)(b)(C) or (D) of this rule:

(a) May prepare radiopharmaceutical drugs for medical use, as defined in OAR 333-116-0020, provided that the radiopharmaceutical drug is prepared either by an authorized nuclear pharmacist, as specified in subsections (2)(b) and (2)(d) of this rule, or an individual under the supervision of an authorized nuclear pharmacist as specified in OAR 333-116-0100.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) This individual qualifies as an authorized nuclear pharmacist as defined in OAR 333-116-0020;

(B) This individual meets the requirements specified in OAR 333-116-0910, 333-116-0760, 333-116-0915 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(C) This individual is designated as an authorized nuclear pharmacist in accordance with subsection (2)(d) of this rule.

(c) The actions authorized in subsections (2)(a) and (2)(b) of this rule are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist (as defined in OAR 333-116-0020) as an authorized nuclear pharmacist if:

(A) The individual was a nuclear pharmacist preparing only radiopharmaceutical drugs containing accelerator-produced radioactive material; and

(B) The individual practiced at a pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other pharmacies before August 8, 2009, or an earlier date as noticed by the Nuclear Regulator Commission.

(e) Shall provide to the Authority a copy of:

(A) Each individual's certification by a specialty board whose certification process has been recognized by the Commission or an Agreement State as specified in OAR 333-116-0910 with the written attestation signed by a preceptor as required by OAR 333-116-0680(2)(b); or

(B) The Commission or Agreement State license; or

(C) Commission master materials licensee permit; or

(D) The permit issued by a licensee or Commission master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

(E) Documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC; and

(F) A copy of the state pharmacy licensure or registration no later than 30 days after the date that the licensee allows pursuant to paragraphs (2)(b)(A) and (2)(b)(C) of this rule, which allows the individual to work as an authorized nuclear pharmacist.

(3) A licensee shall possess and use instrumentation to measure the radioactivity of radiopharmaceutical drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radiopharmaceutical drugs prior to transfer for commercial distribution. In addition, the licensee shall:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this rule relieves the licensee from complying with applicable FDA, other federal and state requirements governing radiopharmaceutical drugs.

NOTE: Although the Authority does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radio pharmaceuticals containing radioactive material as a part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material, who desires to have the reagent kits approved by the Authority for use by persons licensed for medical use pursuant to OAR chapter 333, division 116 or by persons authorized under a group license, or equivalent, by the U.S. Nuclear Regulatory Commission or any other Agreement State, may submit the pertinent information specified in this rule.

NOTE: Although the Authority does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radio pharmaceuticals containing radioactive material as a part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material, who desires to have the reagent kits approved by the Authority for use by persons licensed for medical use pursuant to OAR 333-116 or by persons authorized under a group license, or equivalent, by the U.S. Nuclear Regulatory Commission or any other Agreement State, may submit the pertinent information specified in this rule.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-102-0340

Reciprocal Recognition of Licenses

(1) Subject to these rules, any person who holds a specific license from the U.S. Nuclear Regulatory Commission, an Agreement State, or a licensing state, and issued by the Authority having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of 180 consecutive days in any calendar year, provided that:

(a) The licensing document does not limit the activity authorized by such document to specified installations or locations;

(b) The out-of-state licensee has notified the Authority using the Notification of Entry to Perform Activities Under Oregon Reciprocity Application form at least three days prior to engaging in such activity and has paid the applicable registration fee pursuant to OAR 333-103-0030. Such notification shall indicate the location, period and type of proposed possession and use within the state, and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three-day period imposes an undue hardship on the out-of-state licensee, the licensee may, upon application to the Authority, obtain permission to proceed sooner. The Authority may waive the requirement for filing additional written notifications during the remainder of the calendar year following the receipt of the initial notification from a person engaging in activities under the general license granted by subsection (1)(a) of this rule;

(c) The out-of-state licensee complies with all applicable rules of the Authority and with all the terms and conditions of the licensing document, except any such terms and conditions that may be inconsistent with applicable rules of the Authority or laws of the State of Oregon;

(d) The out-of-state licensee supplies such other information as the Authority may request; and

(e) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in subsection (1)(a) of this rule except by transfer to a person:

(A) Specifically licensed by the Authority or by the U.S. Nuclear Regulatory Commission to receive such material; or

(B) Exempt from the requirements for a license for such material under OAR 333-102-0010(2).

(2) Notwithstanding the provisions of section (1) of this rule, any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, pursuant to 10 CFR 31.6 or equivalent regulations of an Agreement State, authorizing the holder of the license to manufacture, transfer, install or service a device described in OAR 333-102-0115(1) within the State of Oregon is hereby granted a general license to install, transfer, demonstrate or service such a device in this state provided that:

(a) Such person shall register the general license pursuant to OAR 333-101-0007;

(b) File a report with the Authority within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred and the quantity and type of radioactive material contained in the device;

(c) Ensure that the device has been manufactured, labeled, installed and serviced in accordance with applicable provisions of the specific license issued to such person by the U.S. Nuclear Regulatory Commission or an Agreement State;

(d) Ensure that any labels required to be affixed to the device under rules of the licensing authority also include the statement "Removal of this label is prohibited"; and

(e) The holder of the specific license shall furnish to each general licensee to whom such device is transferred, or on whose premises such a device is installed, a copy of the general license contained in OAR 333-102-0115 or in equivalent rules of the Authority having jurisdiction over the manufacture and distribution of the device.

(3) The Authority may withdraw, limit or qualify its acceptance of any specific license or equivalent licensing document issued by the U.S. Nuclear Regulatory Commission or an Agreement State, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property. The Authority may deny the licensee to perform activities under Oregon reciprocity.

(4) The out-of-state licensee shall at all times during work at any work location within the state have available the pertinent licensing document, the applicable sections of the State of Oregon radiation regulations, a complete source inventory, pertinent U.S. Department of Transportation documentation, leak test records, instrument calibration records, personnel training records, and necessary documentation required by applicable special requirements of these regulations.

(5) While working in Oregon, the out-of-state licensee shall notify the Authority (in writing, indicating date and court) immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (bankruptcy) of the United States code by or against:

(a) The licensee;

(b) An entity (as that term is defined in II U.S.C 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate (as that term is defined in II U.S.C. 101(2)) of the license.

(6) If multiple work crews or persons work concurrently at more than one work location under a general license granted pursuant to this rule, each day worked at each location shall count toward the limit of 180 consecutive days in a calendar year.

(7) Each general licensee granted authorization to conduct activities within the State of Oregon pursuant to this rule, based upon an acceptable licensing document, will receive acknowledgment from the Authority. This acknowledgment shall be kept at the site of use.

(8) Each general licensee granted authorization to conduct activities within the State of Oregon pursuant to this rule based upon an acceptable licensing document is subject to the reciprocity fee and may be inspected by the Authority. The fee for the general license granting reciprocity shall:

(a) Be charged as provided by division 103 of this chapter; and

(b) Shall not be charged more often than once during each calendar year.

(9) Each general licensee operating within the state under reciprocity in areas of exclusive federal jurisdiction shall comply with the applicable provisions of 10 CFR 150.20.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-106-0045

Use of Best Procedures and Equipment

Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized. This is interpreted to include, but is not limited to:

(1) The speed of film or screen and film combinations shall be the fastest speed consistent with the diagnostic objective of the examinations.

(2) The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality, see Tables 1, 2 and 3. The referenced tables are available on the Program's website: www.healthoregon.org/rps.

(3) Portable or mobile X-ray equipment shall be used only for examinations where it is impractical to transfer the patient(s) to a stationary X-ray installation due to the medical status of the patient or the inability of the patient to be left alone during the imaging procedure except as permitted under section (4) of this rule.

(4) Hand-held dental units may be used at facilities or programs as defined in ORS 680.205(1) and (2).

(5) X-ray systems subject to OAR 333-106-0301(1) shall not be utilized in procedures where the source to patient distance is less than 30 centimeters (cm).

(6) Cardboard cassettes without screens shall not be used (dental intraoral excluded).

(7) The number of radiographs taken for any radiographic examination should be the minimum number needed to adequately diagnose the clinical condition.

(8) Use of techniques designed to compensate for anatomical thickness variations after the primary beam has exited the patient is specifically prohibited. This includes "split screen" imaging techniques whereby multiple speed intensifying screens are placed in the same cassette, or any techniques which rely on attenuation of secondary (remnant) radiation for compensatory purposes. Lead lined grids, which are designed to reduce scattered radiation are excluded from this provision.

(9) Filter slot covers shall be provided for the X-ray operator's protection.

(10) Facilities shall determine or cause to be measured the typical patient exposure for their most common radiographic examinations. The exposures shall be recorded as milliroentgens measured in free air at the point of skin entrance for an average patient. These exposure amounts must then be compared to existing guidelines and rules, and if they exceed such guidelines or rules, action must be taken to reduce the exposure while at the same time maintaining or improving diagnostic image quality. In addition, typical patient exposure values shall be posted in the radiographic examination rooms so that they are readily available to administrators, X-ray operators, patients and practitioners.

(11) Protective equipment including aprons, gloves and shields shall be checked annually for defects, such as holes, cracks and tears to assure reliability and integrity. A record of this test shall be made and maintained for inspection by the Authority. If such defect is found, equipment shall be replaced or removed from service until repaired. Fluoroscopy shall only be used for this purpose if a visual and manual check indicated a potential problem.

(12) Dental X-ray machines designed and manufactured to be used for dental purposes shall be restricted to dental use only.

(13) An X-ray quality control program shall be implemented when required by the Authority.

(14) All X-ray equipment must be capable of functioning at the manufacturer's intended specifications.

(15) All patients' radiographic images or copies shall be made available for review by any practitioner of the healing arts, currently licensed by the appropriate Oregon licensing board, upon request of the patient.

(16) Requirements for the operation of fluoroscopic X-ray equipment. The operation of fluoroscopic equipment shall be restricted to the following categories of properly trained operators:

(a) Radiologists;

(b) Non-Radiologist practitioners with proper training in the operation and use of fluoroscopic X-ray equipment;

(c) R.T.s, must be ARRT registered and in good standing with the Oregon Board of Medical Imaging.;

(d) R.P.A.s and R.R.A.s;

(e) Technologists, who have successfully completed an educational program in radiologic technology from an approved school as defined in ORS 688.405, may temporarily operate fluoroscopic equipment for up to one year as outlined in OAR 337-010-0045 while waiting to take the ARRT registry examination.

(A) The temporary period expires when the individual has passed the registry examination and is considered an R.T.; or

(B) One year from the date when the technologist completed his/her training, provided; and

(C) The technologist, while in the temporary status referred to in subsection (16)(e) of this rule, has a current temporary license issued by the Oregon Board of Medical Imaging..

(f) The operation of fluoroscopic equipment by R.T.s, or R.P.A.s or R.R.A.s shall be performed under the supervision of a radiologist and is restricted to the healing arts exclusively for the purpose of localization and to assist physicians in obtaining images for diagnostic purposes.

(g) Where direct or indirect supervision by a radiologist is impractical, a non-radiologist practitioner who has had proper training in the use and operation of fluoroscopic X-ray equipment is permitted to supervise an R.T. operating fluoroscopic equipment provided that the registrant arranges to have a radiologist or Medical or Health physicist to assist in;

(A) Developing fluoroscopic and radiation safety policies and procedures;

(B) Conducting an on-site practical evaluation of the Non-Radiologist practitioner's knowledge of radiation safety practices and ability to operate the fluoroscopic equipment; and

(C) At least annually, review the registrant's fluoroscopy program. The review includes an evaluation of the fluoroscopic on-times Quality Assurance reports, condition of fluoroscopic equipment and compliance with current rules. The registrant shall correct any deficiencies noted by the review.

(h) The operation of fluoroscopic equipment by a R.T. is restricted to the healing arts exclusively for the purpose of localization and to assist physicians in obtaining images for diagnostic purposes.

(i) Students currently enrolled in an approved school of Radiologic Technology as defined in ORS 688.405, may only operate fluoroscopic equipment under the direct supervision of a Radiologist or a R.T. while in the clinical phase of training.

(j) Students currently enrolled in an Authority approved R.P.A. or R.A. training program, may only operate fluoroscopic equipment under the direct or in-direct supervision of a Radiologist during their clinical phase of training.

(k) Overhead fluoroscopy is not to be used as a positioning tool for radiographic examinations except for those fluoroscopic examinations specified in the registrant's written policies/procedures for fluoroscopy.

(l) Proper training in the operation of fluoroscopic X-ray equipment shall include but not be limited to the following:

(A) Principles and operation of the fluoroscopic X-ray machine;

(i) Generating X-rays;

(ii) kVp and mA;

(iii) Image intensification;
(iv) High level control versus standard operating mode;
(v) Magnification (multi-field);
(vi) Automatic Brightness Control (ABC);
(vii) Pulsed versus Continuous X-ray Dose Rates;
(viii) Image recording modes;
(ix) Imaging Systems (TV and Digital);
(x) Contrast, noise and resolution;
(B) Radiation units;
(i) Traditional units;
(ii) SI units;
(iii) Dose Area Product;
(C) Typical fluoroscopic outputs;
(i) Patient skin entrance dose;
(ii) Standard Roentgen per minute (R/min) dose rates;
(iii) High level/Boost enable Roentgen per minute (R/min) dose rates;
(D) Dose reduction techniques for fluoroscopy;
(i) The use of collimation;
(ii) X-ray tube and Image intensifier placement;
(iii) Patient size versus Technique selection;
(iv) Use of grid;
(v) Use of last image hold;
(vi) Additional beam filtration;
(vii) Alternate gantry angles;
(viii) Use of spacer cone;
(ix) Pulsed fluoroscopy;
(E) Factors affecting personnel dose;
(i) Patient dose;
(ii) Scatter radiation;
(iii) Tube and Image intensifier placement;
(iv) Time, distance and shielding;
(F) Protective devices;
(i) Lead aprons and gloves;
(ii) Thyroid collars;
(iii) Protective glasses;
(iv) Leaded drapes;
(v) Bucky slot cover;
(vi) Protective shields/barriers;
(G) Radiation exposure monitoring;
(i) Personnel monitors;
(ii) Placement of personnel monitors;
(iii) Occupational and non-occupational dose limits;
(H) Biological effects of X-ray radiation;
(i) X-rays and particulate matter;
(ii) Absorption variables (field size, dose rate, etc.);
(iii) Scatter radiation;
(iv) Cell sensitivity;
(v) Acute effects;
(vi) Latent effects;
(I) Applicable regulations;
(i) Federal; and

(ii) Oregon Rules for the Control of Radiation to include, but not limited to, divisions 101, 103, 106, 111 and 120.

(17) Radiologists, R.A.s or R.P.A.s and R.T.s currently licensed in Oregon are considered to have met the training requirements in subsection (16)(l) of this rule.

(18) Fluoroscopic equipment operators who qualified to operate fluoroscopic X-ray equipment prior to April 11, 2005, are considered as having met the training requirements in subsection (16)(l) of this rule.

(19) All images formed by the use of fluoroscopy shall be viewed, directly or indirectly, and interpreted by a radiologist, cardiologist, non-radiologist practitioner or other qualified specialist. R.As and R.P.As may issue a preliminary report, however, the final report must be issued by their supervising radiologist.

(20) Written procedures for fluoroscopic X-ray equipment operators shall be available at the worksite and include:

(a) A list of all individuals who are permitted to operate fluoroscopic X-ray equipment at the facility;

(b) A list of the fluoroscopic X-ray equipment that each operator is qualified to operate;

(c) Written procedures regarding the set up and operation of each fluoroscopic X-ray machine registered to the facility;

(d) Written radiation safety procedures pertaining to the use and operation of fluoroscopy; and

(e) The name and title of the individual who is responsible for the direction of R.T.s who operate fluoroscopic equipment.

(21) Facilities shall determine, or cause to be determined, the typical patient entrance exposure rate for their most common fluoroscopic examinations. The determination shall be made using an attenuation block as described in OAR 333-106-0005(7)using measurement protocol in compliance with OAR 333-106-0210 and expressed in Roentgens per minute (R/min.) or milliRoentgens per minute (mR/min.). In addition, these entrance exposure rates shall be posted in the room where fluoroscopic examinations are conducted so that they are readily available to administrators, X-ray operators, patients and practitioners.

(22) Facilities that utilize fluoroscopy shall maintain a record of the cumulative fluoroscopic exposure time used for each examination. The record must indicate the patients name, the type of examination, the date of the examination, the fluoroscopists name, the fluoroscopic room in which the examination was done and the total cumulative fluoroscopic on time for each fluoroscopic examination and:

(a) No later than May 1, 2006, establish cumulative fluoroscopic on-time benchmarks for at least two (if applicable) of the most common types of fluoroscopic examinations performed at the facility's site in each of the following categories:

(A) Routine procedures performed on adults;
(B) Routine procedures performed on children;
(C) Orthopedic procedures performed in surgery;
(D) Urologic procedures performed in surgery;
(E) Angiographic procedures performed;
(F) Interventional cardiac studies.

(b) Develop and perform periodic (not to exceed 12 month intervals) quality assurance studies to determine the status of each individual fluoroscopist's cumulative on-time in relation to the fluoroscopic benchmarks established for individual fluoroscopic examinations;

(c) Take appropriate action, when the established benchmarks are consistently exceeded. The Radiation Safety Committee (RSC) must review the results of the cumulative fluoroscopic on-time Quality Assurance Study and take corrective action regarding those individuals who have exceeded the benchmarks established by the facility for a particular procedure more than ten percent of the total times the individual performed the procedure during the study period. Documentation of the RSC review, as well as any corrective actions taken, must be available for Authority review. Corrective actions, at a minimum, include;

(A) Notification of the individual; and

(B) Recommendation that the individual undergo additional coaching, training, etc. in the safe use of fluoroscopic equipment in order to assist them in reducing their cumulative fluoroscopic on-times.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-106-0101
Diagnostic X-ray Systems

In addition to other requirements of this division, all diagnostic X-ray systems shall meet the following requirements:

(1) Warning Label. The control panel containing the main power switch shall bear the warning statement, legible and accessible to view: "WARNING: This X-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed."

(2) The state shall attach an identification number to each X-ray control panel or an appropriate location:

(a) Identification numbers shall not be removed without written permission of the Authority;

(b) Identification numbers shall not be defaced.

(3) Mobile and portable X-ray systems shall meet the requirements of a stationary system when used for greater than seven consecutive days in the same location.

(4) Battery Charge Indicator. On battery-powered X-ray generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(5) Leakage Radiation from the Diagnostic Source Assembly. The leakage radiation from the diagnostic source assembly measured at a distance of one meter in any direction from the source shall not exceed 100 mR (25.8 C/kg) in one hour when the X-ray tube is operated at its leakage technique factors. Compliance shall be determined by measurements aver-

aged over an area of 100 square cm with no linear dimension greater than 20 cm.

(6) Radiation from Components Other Than the Diagnostic Source Assembly. The radiation emitted by a component other than the diagnostic source assembly shall not exceed 2 mR (0.516 C/kg) in one hour at 5 cm from any accessible surface of the component when it is operated in an assembled X-ray system under any conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square cm with no linear dimension greater than 20 cm.

(7) Beam Quality:

(a) Half-Value Layer (HVL): The HVL of the useful beam for a given X-ray tube potential shall not be less than the values shown in Table 4. If it is necessary to determine such HVL at an X-ray tube potential which is not listed in Table 4, linear interpolation or extrapolation may be made; The referenced table is available on the Program's website: www.healthoregon.org/rps.

(A) The HVL required in subsection (7)(a) of this rule is considered to have been met if it can be demonstrated that the aluminum equivalent of the total filtration in the primary beam is not less than that shown in Table 5. The referenced table is available on the Program's website: www.healthoregon.org/rps.

(B) In addition to the requirements of section (5) of this rule, all intraoral dental radiographic systems manufactured on and after December 1, 1980, shall have a minimum HVL not less than 1.5 mm aluminum (Al) equivalent filtration permanently installed in the useful beam;

(C) Beryllium window tubes shall have a minimum of 0.5 mm Al equivalent filtration permanently installed in the useful beam;

(D) For capacitor energy storage equipment, compliance with the requirements of section (5) of this rule shall be determined with the maximum quantity of charge per exposure;

(E) The required minimal aluminum equivalent filtration shall include the filtration contributed by all materials, which are always, present between the source and the patient.

(b) Filtration Controls. For X-ray systems which have variable kVp and variable filtration for the useful beam, a device shall link the kVp selector with the filter(s) and shall prevent an exposure unless the minimum amount of filtration required by subsection (5)(a) of this rule is in the useful beam for the given kVp, which has been selected.

(8) Multiple Tubes. Where two or more radiographic tubes are controlled by one exposure switch, the tube or tubes, which have been selected, shall be clearly indicated prior to initiation of the exposure. This indication shall be both on the X-ray control panel and at or near the tube housing assembly, which has been selected.

(9) Mechanical Support of Tube Head. The tube housing assembly supports shall be adjusted such that the tube housing assembly remains stable during an exposure unless the tube housing movement is a designed function of the X-ray system.

(10) Technique Indicators:

(a) The technique factors to be used during an exposure shall be indicated before the exposure begins. If automatic exposure controls are used, the technique factors, which are set prior to the exposure, shall be indicated;

(b) The requirement of subsection (10)(a) of this rule may be met by permanent marking on equipment having fixed technique factors.

(11) There shall be provided for each X-ray machine a means for determining the proper SID.

(12) X-ray film developing requirements. Compliance with this section is required of all healing arts registrants and is designed to ensure that patient and operator exposure is minimized and to produce optimum image quality and diagnostic information:

(a) Manual processing of films.

(A) The relationship between temperature of the developer and development time indicated in Table 6 or the manufacturer's recommendations must be used with standard developing chemistry. The referenced table is available on the Program's website: www.healthoregon.org/rps.

(B) Processing of film. All films shall be processed in such a fashion as to achieve adequate sensitometric performance. This criterion shall be adjudged to have been met if:

(i) Film manufacturer's published recommendations for time and temperature are followed; or

(ii) Each film is developed in accordance with the time-temperature chart (see subsection (12)(a) of this rule).

(C) Chemical-film processing control.

(i) Chemicals shall be mixed in accordance with the chemical manufacturer's recommendations;

(ii) Developer replenisher shall be periodically added to the developer tank based on the recommendations of the chemical or film manufacturer. Solution may be removed from the tank to permit the addition of an adequate volume of replenisher.

(D) All processing chemicals shall be completely replaced at least every two months or as indicated by the manufacturer.

(E) Devices shall be available which will:

(i) Give the actual temperature of the developer; and

(ii) Give an audible or visible signal indicating the termination of a preset development time (in minutes or seconds).

(b) Automatic film processing. Films shall be processed in such a manner that the degree of film development is the same as being achieved by proper adherence to subsection (12)(a) of this rule (manual processing).

(c) Darkrooms. Darkrooms shall be constructed so that film being processed, handled, or stored will be exposed only to light which has passed through an appropriate safelight filter.

(d) Safelights shall be mounted in accordance with manufacturer's recommendations.

(e) Light bulbs used in safelights shall be the type and wattage recommended by the manufacturer.

(f) Safelight lenses shall be the type recommended for use by the film manufacturer.

(g) Rapid film processing. Special chemicals have been designed for use in Endodontics. These chemicals have special development requirements and do not permit as large of a margin of error in darkroom technique as do standard developing chemicals. Failure to precisely follow manufacturer's recommendations can easily lead to overexposure and underdevelopment. Darkroom procedures shall include:

(A) The manufacturer's time temperature development is crucial and shall be followed exactly;

(B) Caution: A timer capable of accurately measuring the short development times required shall be used;

(C) If rapid chemical processing is used for general radiography all applicable requirements of section (12) of this rule shall be followed.

(h) The Authority shall make such tests as may be necessary to determine compliance with this section.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 4-2013, f. & cert. ef. 1-29-13

333-106-0305

Radiation Exposure Control Devices

(1) Timers. Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, a preset number of pulses or a preset radiation exposure to the image receptor. In addition:

(a) Termination of exposure shall cause automatic resetting of the timer to its initial setting or to zero;

(b) It shall not be possible to make an exposure when the timer is set to a zero or "off" position if either position is provided.

(2) X-ray Exposure Control:

(a) An X-ray exposure control shall be incorporated into each X-ray system such that an exposure can be terminated by the operator at any time except for:

(A) Exposure of 0.5 second or less; or

(B) During serial radiography when means shall be provided to permit completion of any single exposure of the series in process.

(b) Each X-ray exposure control shall be located in such a way as to meet the following requirements:

(A) Stationary X-ray systems shall be required to have the X-ray exposure control permanently mounted in a protected area so that the operator is required to remain in that protected area during the entire exposure; and

(B) The operator's protected area shall provide visual indication of the patient during the X-ray procedure; and

(C) Mobile and portable X-ray systems which are:

(i) Used for greater than one week in the same location, i.e., a room or suite, shall meet the requirements of paragraph (2)(b)(A) of this rule;

(ii) Used for greater than one hour and less than one week at the same location, i.e., a room or suite, shall meet the requirement of subparagraph (2)(b)(C)(i) of this rule or be provided with a 6.5 feet (1.98 m) high protective barrier which is placed at least 6 feet (1.83 m) from the tube housing assembly and at least 6 feet (1.83 m) from the patient; or

(iii) Used to make an exposure(s) of a patient at the use location shall meet the requirement of subparagraph (2)(b)(C)(i) or (ii) of this rule or be provided with a method of X-ray control which permits the operator to be at least 12 feet (3.66 m) from the tube housing assembly during an exposure.

(c) The X-ray control shall provide visual indication observable at or from the operator's protected position whenever X-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(3) Automatic Exposure Controls. When an automatic exposure control is provided:

(a) Indication shall be made on the control panel when this mode of operation is selected;

(b) If the X-ray tube potential is equal to or greater than 50 kVp, the minimum exposure time for field emission equipment rated for pulsed operation shall be equal to or less than a time interval equivalent to two pulses;

(c) The minimum exposure time for all equipment other than that specified in subsection (3)(b) of this rule shall be equal to or less than 1/60 second or a time interval required to deliver 5 mAs, whichever is greater;

(d) Either the product of peak X-ray tube potential, current, and exposure time shall be limited to not more than 60 kWs per exposure, or the product of X-ray tube current and exposure time shall be limited to not more than 600 mAs per exposure except that, when the X-ray tube potential is less than 50 kVp, the product of X-ray tube current and exposure time shall be limited to not more than 2000 mAs per exposure; and

(e) A visible signal shall indicate when an exposure has been terminated at the limits required by subsection (3)(d) of this rule, and manual resetting shall be required before further automatically timed exposures can be made.

(4) Reproducibility. With a timer setting of 0.5 seconds or less, the average exposure period (T) shall be greater than or equal to five times the maximum exposure period (Tmax) minus the minimum exposure period (Tmin) when four timer tests are performed: (T)> 5 (Tmax - Tmin).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-106-0315
Exposure Reproducibility

The coefficient of variation of exposure shall not exceed 0.05 when all technique factors are held constant. This requirement shall be deemed to have been met if, when four exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to five times the maximum exposure (Emax) minus the minimum exposure (Emin). E >5 (Emax - Emin).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-106-0325
Intraoral Dental Radiographic Systems

In addition to the provisions of OAR 333-106-0010 through 333-106-0101, the requirements of this rule apply to X-ray equipment and facilities where intraoral dental radiography is conducted. Requirements for extraoral dental radiographic systems are covered in OAR 333-106-0301 through 333-106-0320. Intraoral dental radiographic systems must meet the following requirements:

(1) Source-to-Skin Distance (SSD). X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit source-to-skin distance, to not less than:

(a) 18 cm if operable above 50 kVp; or

(b) 10 cm if operable at 50 kVp only.

(2) Beam Limitation. Radiographic systems designed for use with an intraoral image receptor shall be provided with means to limit the X-ray beam such that:

(a) If the minimum source-to-skin distance (SSD) is 18 centimeters or more, the X-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than seven centimeters; or

(b) If the minimum SSD is less than 18 centimeters, the X-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than six centimeters.

(3) Radiation Exposure Control (Timers). Means shall be provided to control the radiation exposure through the adjustment of exposure time in seconds, milliseconds (ms) or, number of pulses, or current/milliamps (mA), or the product of current and exposure time (mAs) or adjustment of kVp. In addition:

(a) Exposure Initiation. Means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator, such as the depression of a switch. Radiation exposure shall not be initiated without such an action; and

(b) It shall not be possible to make an exposure when the timer is set to a "0" or "off" position if either position is provided;

(c) Exposure Indication. Means shall be provided for visual indication, observable at or from the operator's protected position, whenever X-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(d) Exposure termination.

(e) Timer Reproducibility. With a timer setting of 0.5 second or less, the average exposure time (T) shall be greater than or equal to five times the minimum exposure time (Tmax) minus the minimum exposure time (Tmin) when four timer tests are performed: (T) >5 (Tmax – Tmin).

(A) Means shall be provided to terminate the exposure at a preset, time interval, mAs, number of pulses, or radiation to the image receptor.

(B) An X-ray exposure control shall be incorporated into each system such that an exposure can be terminated by the operator at any time, except for exposures of 0.5 second or less.

(C) Termination of an exposure shall cause automatic resetting of the timer to its initial setting or to "0".

(4) Radiation Exposure Control Location and Operator Protection. Each X-ray control must be located in such a way as to meet the following requirements:

(a) The exposure switch shall be able to be operated in a protected area, as defined in OAR 333-106-0005(80), and the operator shall remain in that protected area during the entire exposure; and

(b) The operator's protected area shall provide visual indication of the patient during the X-ray procedure.

(c) Mobile and portable X-ray systems which are:

(A) Used for greater than one week in the same location, i.e., a room or suite, shall meet the requirements of subsections (4)(a) and (4)(b) of this rule

(B) Used for less than one week at the same location, i.e., a room or suite, shall be provided with:

(i) Either a protective barrier of at least 6.5 feet (2 meters) high for operator protection; or

(ii) A means to allow the operator to be at least nine feet (2.7 meters) from the tube housing assembly while making exposures; or

(iii) A full length protective apron, of not less than 0.25 millimeter lead equivalent for operator protection, when using a hand-held dental intraoral X-ray machine.

(5) Exposure Reproducibility. The coefficient of variation shall not exceed 0.05 when all technique factors are held constant. This requirement shall be deemed to have been met if, when four exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to five times the maximum exposure (Emax) minus the minimum exposure (Emin): E >5 (Emax - Emin)

(6) Accuracy.

(a) Deviation of technique factors from the indicated values for kVp and exposure time (if time is independently selectable) shall not exceed the limits specified for that system by its manufacturer.

(b) kVp Limitations. Dental X-ray machines with a nominal fixed kVp of less than 50 kVp shall not be used to make diagnostic dental radiographs on humans.

(7) Administrative Controls:

(a) Patient and film holding devices shall be used when the techniques permit;

(b) The tube housing and the PID shall not be hand held during an exposure;

(c) The X-ray system shall be operated in such a manner that the useful beam at the patient's skin does not exceed the requirements of subsection (2)(a) of this rule or its updated version;

(d) All patients shall be provided with a leaded apron during any dental X-ray exposure;

(e) Dental fluoroscopy without image intensification shall not be used;

(f) Pointed cones shall not be utilized unless specific authorization has been granted by the Authority.

(8) Hand-held X-ray systems.

(a) Registrants must provide for security and safe storage while not in use.

(A) A report must be filed with the Authority within 72 hours if the hand-held unit is lost or stolen.

(b) The image receptor used with hand-held dental X-ray systems must either be:

(A) A speed class of intra-oral film designated as "E/F", "F" or faster; or

(B) A digitally acquired image (CR or DR).

(c) The hand-held X-ray system must be equipped with a permanently attached backscatter shield of 0.25 mm Pb equivalent.

(d) The backscatter shield must be designed to appropriately protect the operator during an exposure. The manufacturer of the hand-held unit must provide documentation to the Authority of the design specifications of the backscatter shield's protection to the operator prior to sale and distribution in the State of Oregon.

(e) The hand-held unit must be capable of a minimum of 60 kVp and 2.0 mA.

(f) Hand-held units not meeting the requirements of subsections (8)(c), (8)(d) and (8)(e) of this rule may not be sold, distributed or used in the State of Oregon.

(9) Hand-held dental X-ray administrative controls.

(a) The operator must wear a whole body protective apron and thyroid collar of 0.25 mm of lead equivalent when using the unit.

(b) Hand-held units must meet the requirement of OAR 333-106-0045(3).

(A) The hand-held unit shall not be used for patient examinations in hallways and waiting rooms.

(B) The unit can only be operated in an enclosed room when possible. All individuals except the X-ray operator and the patient must leave the room and stand behind a protective barrier or be at least six feet from the X-ray source if a protective barrier is not available during radiographic exposures.

(c) Operators must complete machine specific applications training as described in OAR 333-106-0055(14) before using a hand-held unit.

(A) Training on the safe use of the unit shall be documented and include at a minimum:

(i) Proper positioning of the unit to ensure an adequate protected position;

(ii) Limitations on the use of position indicating devices that require longer distances to the patient's face;

(iii) Diagrams (i.e. drawings, illustrations, schematics, etc.) of protected position and location in relationship to the unit;

(iv) Diagrams (i.., drawings, illustrations, schematics, etc.) of the effect of improper distance or removal of shielding device; and

(v) Diagrams (i.e. drawings, illustrations, schematics, etc.) of common examples of improper positioning of the unit and or location of the operator.

(d) An appropriate receptor holder must be used during the X-ray exposure.

(e) A PID must be used during the X-ray exposure.

(f) A hand-held unit shall be held without any motion during a patient examination. A tube stand may be utilized to immobilize the hand-held unit during a patient examination.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-106-0370

Operator Requirements

(1) Computed Tomography (CT) X-ray systems shall be operated by individuals who:

(a) Are registered with the American Registry of Radiologic Technologists (A.R.R.T); and

(b) Have received additional CT system training; and

(c) Meet the clinical experience requirements for CT established by A.R.R.T.; and

(d) Are currently licensed by the Oregon Board of Medical Imaging.

(2) Individuals who are registered with the A.R.R.T. and credentialed as an R.T. (R) and (CT) are considered to have met the CT training requirement in section (1) of this rule and clinical experience requirement in subsection (1)(c) of this rule.

(3) Those individuals who have met the requirements of section (1) of this rule prior to the effective date of this rule are considered to have met subsection (1)(a) of this rule.

(4) Technologists operating CT systems must do so under the direction of a radiologist.

(5) Positron Emission-Computed Tomography (PET/CT) or Single Photon Emission-Computed Tomography (SPECT/CT) systems shall be operated by a technologist licensed by the Oregon Board of Medical Imaging who is:

(a) Any registered radiographer with the credential R.T. (R); or

(b) Registered radiation therapist with the credential R.T. (T);

(c Registered certified nuclear medicine technologist with the credentials R.T. (N); or

(d) Certified Nuclear Medicine Technologist (CNMT) by the Nuclear Medicine Technologist Certification Board (NMTCB).

(6) The individuals mentioned in section (5) of this rule must also have successfully completed appropriate additional education and training and demonstrated competency in the use and operation of PET/CT or SPECT/CT systems.

(7) Appropriate additional training is considered training that covers the topic areas outlined in the PET/CT curriculum developed by the Multi-Organizational Curriculum Project Group sponsored by the American Society of Radiologic Technologists and the Society of Nuclear Medicine Technologists, or equivalent training approved by the Authority and:

(a) Includes the content specified in the PET/CT curriculum for the area(s) that the individual is not already trained or certified in; or

(b) Individuals meeting the requirements of section (5) of this rule and who have successfully completed training that the Authority has evaluated and judged to be substantially equivalent to that specified in subsection (7)(a) of this rule.

(8) R.T. (N)s or CNMTs who have become certified in Computed Tomography through the American Registry of Radiologic Technologists are considered to have met the training requirements in section (5) of this rule.

(9) Technologists operating PET/CT or SPECT/CT systems must do so under the direction of an authorized user licensed to perform imaging and localization studies in accordance with OAR 333-116-0320.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-106-0720

Quality Assurance Program

(1) The registrant shall have a written, on-going equipment quality assurance program specific to mammographic imaging, covering all components of the diagnostic X-ray imaging system. The quality assurance program shall include the testing required in section (5) of this rule, as well as the evaluation of the test results and corrective actions necessary to ensure consistently high-quality images with minimum patient exposure. Responsibilities under this requirement are as follows:

(a) The registrant shall identify in policy/procedure, by name, a Lead Interpreting Physician meeting the requirements of OAR 333-106-0750(2), whose responsibilities at a minimum must include:

(A) Ensuring that the registrant's quality assurance program meets all associated rules and regulations;

(B) Ensuring that an effective quality assurance program exists;

(C) Providing frequent feedback to mammography technologists regarding film quality and quality control procedures;

(D) Reviewing the Quality Control Technologist's test data at least every three months, or more if consistency has not been shown or problems are evident;

(E) Reviewing the Medical Physicist's annual survey report or equipment evaluation results.

(b) The registrant shall identify in policy/procedure, by name, and have the services of, a Medical Physicist who meets the requirements of OAR 333-106-0750(3). The Medical Physicist shall assist in overseeing the equipment quality assurance practices of the registrant. At a minimum, the Medical Physicist shall be responsible for the annual surveys, mammography equipment evaluations, and associated reports meeting all the requirements of MQSA.

(c) The registrant shall identify in policy/procedure, by name, a single qualified Quality Control Technologist meeting the requirements of OAR 333-106-0750(1), who shall be responsible for:

(A) Equipment performance monitoring functions;

(B) Analyzing the monitoring results to determine if there are problems requiring correction;

(C) Carrying out or arranging for the necessary corrective actions when results of quality control tests including those specified in section (5) of this rule, indicate the need; and

(D) The Quality Control Technologist may be assigned other tasks associated with the quality assurance program that are not assigned to the Lead Interpreting Physician or Medical Physicist. These additional tasks must be documented in written policy/procedure.

(2) Annual Survey. At intervals not to exceed 12 to 14 months, the registrant shall have a Medical Physicist meeting the requirements of OAR 333-106-0750(3) conduct a survey to evaluate the mammography equipment, and the effectiveness of the quality assurance program required in section (1) of this rule. Records of annual surveys shall be maintained for a minimum of two years, and shall be available on-site for Authority review.

(3) Annual survey/or equipment evaluation corrective actions. Corrective action shall be completed within 30 working days of when the registrant received written or verbal notice of recommendations or failures on their annual survey/or equipment evaluation report, unless otherwise noted in these rules or a written request for extension has been submitted to and approved by the Authority.

(a) Correction of equipment related failures or recommendations shall be demonstrated by a repeat test using the same test methodology and documentation, or a test accepted as the equivalent by the Authority, that was used to initially identify the problem.

(b) When the results of a quality control test/s fail to meet applicable action limits defined in these rules, the appropriate action regarding the suspension or continuation of mammography as defined in these rules or in MQSA, shall be taken.

(4) Quality assurance records. The registrant shall ensure that:

(a) Records concerning employee qualifications to meet assigned quality assurance tasks, mammography technique and procedures, policies, previous inspection findings, and radiation protection are maintained until inspected by the Authority.

(b) Quality control monitoring data and records, problems detected by the analysis of that data, corrective actions, and records of the Lead Interpreting Physician's periodic reviews of the Quality Control Technologist's monitoring data taken must be maintained for a minimum of two years.

(5) Equipment quality control tests frequency. The registrant shall ensure that the following quality control tests are performed when applicable equipment or components are initially installed or replaced and performed thereafter at least as often as the frequency specified in Table 7. The referenced table is available on the Program's website: www.healthoregon.org/rps.

(6) Testing methods and action limits for quality control tests shall meet the most current requirements of MQSA, in addition to the following:

(a) Screen/film contact. Screen film contact tests shall be performed on all screens used clinically, using a 40-mesh test tool and four cm thick sheet of acrylic. Screens demonstrating one or more areas of poor contact that are greater than one cm in diameter, that are not eliminated by screen cleaning, and remain in the same location during subsequent tests, shall not be used for mammography. Screen/film contact shall be such that any areas of poor contact, regardless of size, shall not detract from image quality.

(b) Processor performance. A processor performance test shall be performed by sensitometric means and evaluated daily, after the solution temperature in the processor has reached proper temperature, and just prior to processing any clinical mammograms. The test shall be an assessment of the base plus fog, mid-density, density difference, and developer temperature.

(A) Sensitometers and densitometers used to evaluate processor performance shall be calibrated per the manufacturer's recommended calibration procedures for such devices. A record of the calibration shall be maintained until inspected by the Authority. Densitometers shall be checked against the instrument control strip at least monthly.

(B) The mid-density and density difference action limits must be within + 0.15 of the control operating level.

(C) The base plus fog (B+F) action limit must be within + 0.03 of the control operating level.

(D) If the mid-density or the density difference fall outside of the + 0.10 control limit but within the + 0.15 control limit for a period of three days (a trend), steps must be taken to determine the cause and correct the problem;

(E) If the mid-density or the density difference falls outside of the + 0.15 control limit, mammograms must not be processed through the processor until the cause of the problem is determined, corrected, and a repeat test is done demonstrating that the mid-density aor density difference are within the + 0.15 control limit;

(F) Processor quality control graphs must be in the format of the registrant's accrediting body or equivalent, and indicate test date/s, mid-density and density difference action limits, base plus fog action limit, film brand, type and emulsion number in use, the date when chemistry changes occurred and corrective action(s) taken when limits are exceeded;

(G) Cross over records and calculations must be maintained until reviewed by the Authority during the annual inspection. New mid-density or density difference operating levels must be charted on a new graph page.

(H) Re-establishment of operating levels must be done in accordance with the accrediting body's protocol regarding the appropriateness of this procedure or at the specific direction of the facility's medical physicist.

(I) While re-establishing operating levels (five day average), the facility must chart each day's results against its old operating control levels. At the end of the five days, a new chart must be established, indicating the new calculated operating limits. During the five day average, the facility cannot be cited for having exceeded the old processor operating levels; and

(J) When collecting data for the five day average, a phantom image test shall be conducted each day to verify the adequacy of image quality. Should the phantom image test exceed either the 0.20 background optical density limit or the + 0.05 density difference limit, mammography must be suspended until the cause of the problem is identified and corrected, and a repeat phantom image test is shown to be within limits.

(7) Primary/secondary barrier transmission evaluation must be conducted upon initial X-ray system installation and significant modification of the system or the facility.

(8) Image quality. The mammography system must be capable of producing an image of the phantom demonstrating the following:

(a) A minimum score of 4 fibers, 3 speck groups, and 3 masses (or the most current minimum score established by the accrediting body and accepted by the FDA);

(b) Background density action limits within ± 0.20 of the control level;

(c) Density difference action limits within ± 0.05 of the control level;

(d) Milliampere seconds (mAs) within ± 15 percent of the control level;

(e) Demonstrating a level of contrast sufficient enough to clearly help define fibril, speck, and mass edges;

(f) Without objectionable levels of image noise or quantum mottle that obscure the visualization of fibrils, specks, or masses;

(g) Demonstrating reasonably sharp fibril, and mass margins;

(h) With a minimum optical density (measured at the center of the phantom) of 1.20;

(i) Phantom image test records must be in the most current format of the registrant's accrediting body or the equivalent, and indicate the exposure mode, kVp, and photo-cell used for the test as well as remarks indicating the corrective action that was taken when limits were exceeded;

(j) When phantom image results do not meet the requirements defined in subsections (8)(a), (b), (c), (d), (e), (f), (g), or (h) of this rule, corrective action must occur, and a repeat phantom image test must be performed demonstrating compliance, before further mammography examinations are performed using the X-ray machine.

(11) Darkroom fog. Darkroom fog levels shall not exceed 0.05 in optical density difference when sensitized film is exposed to darkroom conditions with safelight on for two minutes. Film shall be sensitized by exposing it to sufficient light from an appropriate intensifying screen so that after processing, an optical density of at least 1.20 is achieved.

(a) If the darkroom fog optical density difference exceeds 0.05 but is less than 0.10, mammography may be continued until the problem is corrected.

(b) If the darkroom fog optical density difference exceeds 0.10, mammography must be curtailed until the problem is corrected and the density difference no longer exceeds 0.05.

(12) Repeat rate. Corrective actions shall be recorded and the results of these corrective actions shall be assessed if the reject rate exceeds five percent or changes by two percent from the previously measured rate. The reject rate shall be based on repeated clinical images.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0040
License Amendments

A licensee must apply for and must receive a license amendment:

(1) Before receiving or using radioactive material for a method or type of medical use not permitted by the license issued under this division;

(2) Before permitting anyone to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist under the license except:

(a) For an authorized user; an individual who meets the requirements in OAR 333-116-0760, 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0690, 333-116-0710 and 333-116-0720.

(b) For an authorized nuclear pharmacist; an individual who meets the requirements in OAR 333-116-0910 and 333-116-0760.

(c) For an authorized medical physicist; an individual who meets the requirements in OAR 333-116-0905 and 333-116-0760.

(d) An individual Identified as an authorized user, authorized nuclear pharmacist, or an authorized medical physicist on a Nuclear Regulatory Commission or Agreement State license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy.

(3) Before changing the Radiation Safety Officer except as provided in OAR 333-116-0090;

(4) Before receiving radioactive material in excess of the amount authorized on the license;

(5) Before adding to or changing the areas of use or mailing address identified on the license; and

(6) Before revising procedures required by OAR 333-116-0495, 333-116-0580, 333-116-0583, and 333-116-0587 as applicable where such revision reduces radiation safety.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0050
Notifications

(1) A licensee must provide to the Authority a copy of the board certification, the Nuclear Regulatory Commission or Agreement State license, or the permit issued by a licensee of Broad Scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user, or an authorized nuclear pharmacist pursuant to OAR 333-116-0040(2)(a) through (d).

(2) A licensee must notify the Authority by letter no later than 30 days after:

(a) An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer or an authorized medical physicist permanently discontinues performance of duties under the license or has a name change;

(b) The licensee's mailing address changes;

(c) The licensee's name changes, but the name does not constitute a transfer of control of the license as described in OAR 333-102-0305; or

(d) The licensee has added to or changed the areas where radioactive material is used in accordance with OAR 333-116-0200 and 333-116-0300.

(3) The licensee must mail the documents required in this division to the Authority for review.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0090
Authority and Responsibilities for the Radiation Protection Program

(1) In addition to the radiation protection program requirements of OAR 333-120-0020, a licensee's management must approve in writing:

(a) Requests for a license application, renewal, or amendment before submittal to the Authority;

(b) Any individual before allowing that individual to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist; and

(c) Radiation protection program changes that do not require a license amendment and are permitted under OAR 333-116-0123.

(2) A licensee's management must appoint a Radiation Safety Officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the Radiation Safety Officer, must ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements.

(3) For up to 60 days each year, a licensee may permit an authorized user or an individual qualified to be a Radiation Safety Officer, under OAR 333-116-0650, 333-116-0740 and 333-116-0760, to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer, as provided in section (7) of this rule, if the licensee takes the actions required in sections (2), (5), (7) and (8) of this rule and notifies the Authority in accordance with OAR 333-116-0050(2).

(4) A licensee may simultaneously appoint more than one temporary Radiation Safety Officer in accordance with section (3) of this rule, if needed to ensure that the licensee has a temporary Radiation Safety Officer that satisfies the requirements to be a Radiation Safety Officer for each of the different types of uses of byproduct material permitted by the license.

(5) A licensee must establish the authority, duties, and responsibilities of the Radiation Safety Officer in writing.

(6) A licensee must provide the Radiation Safety Officer sufficient authority, organizational freedom, time, resources, and management prerogative, to:

(a) Identify radiation safety problems;

(b) Initiate, recommend, or provide corrective actions;

(c) Stop unsafe operations; and

(d) Verify implementation of corrective actions.

(7) Licensees that are authorized for two or more different types of uses of radioactive material under OAR chapter 333, division 116, must establish a Radiation Safety Committee to oversee all uses of radioactive material permitted by the license. The Committee must include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer. The Committee may include other members the licensee considers appropriate.

(8) A licensee's Radiation Safety Committee must meet at intervals not to exceed six months. The licensee must maintain minutes of each meeting in accordance with OAR 333-100-0057.

(9) A licensee must retain a record of actions taken under sections (1), (2) and (5) of this rule in accordance with OAR 333-100-0057. These records must be retained for the life of the license.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0640
Radiation Safety Officer Training and Experience Requirements

Except as provided in OAR 333-116-0740, the licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in OAR 333-116-0090 to be an individual who:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in sections (4) and (5) of this rule. (The names of board certifications which have been recognized by the Commission or an Agreement State are posted on the NRC's webpage.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a)(A) Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;

(B) Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and

(C) Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or

(b)(A) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(B) Have two years of full-time practical training and supervised experience in medical physics:

(i) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or

(ii) In clinical nuclear medicine facilities providing diagnostic and therapeutic services under the direction of physicians who meet the require-

ments for authorized users in OAR 333-116-0670, 333-116-0680 or 333-116-0740;

(C) Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; or

(2) Has completed a structured educational program consisting of 200 hours of classroom and laboratory training as follows:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology;

(e) Radiopharmaceutical chemistry;

(f) Radiation dosimetry; and

(g) One year of full time experience in radiation safety at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on an Authority, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes similar type(s) of medical use of radioactive material involving the following:

(A) Shipping, receiving, and performing related radiation surveys;

(B) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;

(C) Securing and controlling byproduct material;

(D) Using administrative controls to avoid mistakes in the administration of byproduct material;

(E) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;

(F) Using emergency procedures to control byproduct material; and

(G) Disposing of radioactive material; or

(3)(a) Is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State under OAR 333-116-0905(1) and has experience in radiation safety for similar types of use of byproduct material for which the licensee is seeking the approval of the individual as Radiation Safety Officer and who meets the requirements in sections (4) and (5) of this rule; or

(b) Is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of byproduct material for which the individual has Radiation Safety Officer responsibilities; and

(4) Has obtained written attestation, signed by a preceptor Radiation Safety Officer, that the individual has satisfactorily completed the requirements in section (5) and in paragraphs (1)(a)(A) and (1)(b)(B) or paragraphs (1)(b)(A) and (1)(b)(B) or section (2), or subsections (3)(a) or (3)(b) of this rule, and has achieved a level of radiation safety knowledge sufficient to function independently as a Radiation Safety Officer for a medical use licensee; and

(5) Has training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0660

Training for Uptake, Dilution or Excretion Studies

Except as provided in OAR 333-116-0740, the licensee shall require the authorized user of a radiopharmaceutical listed in OAR 333-116-0300 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State and who meets the requirements in section (4) of this rule (The names of board certifications recognized by the NRC or an Agreement State are posted on the NRC's website). To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Complete 60 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies. The training and experience must include paragraphs (3)(a)(A) through (3)(b)(F) of this rule; and

(b) Pass an examination administered by diplomats of the specialty board that assesses knowledge and competence in radiation safety, radionuclide handling and quality control; or

(2) Is an authorized user under OAR 333-116-0670, 333-116-0680, or equivalent Nuclear Regulatory Commission or Agreement State requirements; or

(3) Has completed 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies. The training and experience must include:

(a) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0660, 333-116-0670, 333-116-0680 and 333-116-0740or Nuclear Regulatory Commission or equivalent Agreement State requirements, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages of radiopharmaceutical drugs to patients or human research subjects; and

(4) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements, in OAR 333-116-0740, 333-116-0660, 333-116-0670, or 333-116-0680, or Nuclear Regulatory Commission or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in subsection (1)(a) or section (3) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under OAR 333-116-0300.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0670

Training for Imaging and Localization Studies

Except as provided in OAR 333-116-0740, the licensee shall require an authorized user of unsealed byproduct material for the uses authorized under OAR 333-116-0320 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in section (4) of this rule. (The names of board certifications that have been recognized by the Commission or an Agreement State are posted on the NRC's website). To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed byproduct material for imaging and localization studies as described in subsection (3)(a) through paragraph (2)(b)(G) of this rule; and

(b) Pass an examination administered by diplomats of the specialty board, which assesses knowledge and competence in radiation safety, radionuclide handling and quality control; or

(2) Is an authorized user under OAR 333-116-0680 and meets the requirements in OAR 333-116-0670(3)(b)(G) or equivalent Nuclear Regulatory Commission or Agreement State requirements; or

(3) Has completed 700 hours of training and experience, including a minimum of 80 hours of classroom and laboratory training in basic

radionuclide handling techniques and radiation safety applicable to the medical use of unsealed byproduct material for imaging and localization studies.

(a) The training and experience must include at a minimum classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Work experience, under the supervision of an authorized user, who meets the requirements in this rule or OAR 333-116-0670, 333-116-0680, 333-116-0740 and 333-116-0670(3)(b)(G) or equivalent Nuclear Regulatory Commission or Agreement State requirements, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to safely contain spilled radioactive material and using proper decontamination procedures;

(F) Administering dosages of radioactive drugs to patients or human research subjects; and

(G) Eluting generator systems appropriate for preparation of radiopharmaceutical drugs for imaging and localization studies, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radiopharmaceutical drugs; and

(4) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this rule or OAR 333-116-0670(3)(b)(G), 333-116-0680, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in subsection (1)(a) or section (3) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under OAR 333-116-0300 and 333-116-0320. .

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0680

Training for Therapeutic Use of Radiopharmaceuticals

Except as provided in OAR 333-116-0740, the licensee must require an authorized user of unsealed byproduct material for the uses authorized under OAR 333-116-0360 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in paragraphs (2)(b)(G) and (2)(b)(G)(ii) of this rule. (Specialty boards whose certification processes have been recognized by the Nuclear Regulatory Commission or an Agreement State will be posted on the Nuclear Regulatory Commission's webpage). To be recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty. These residency training programs must include 700 hours of training and experience as described in section (2) and subsection (2)(b). Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Graduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, quality assurance, and clinical use of unsealed byproduct material for which a written directive is required; or

(2) Has completed 700 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material requiring a written directive. The training and experience must include:

(a) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0740, and sections (1) and (2) of this rule, or Nuclear Regulatory Commission or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in section (2) of this rule, must have experience in administering dosages in the same dosage category or categories (i.e., OAR 333-116-0680(2)(b)(G)) as the individual requesting authorized user status. The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages, and performing checks for proper operation of survey instruments;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures;

(F) Eluting generator systems, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radiopharmaceutical drugs; and

(G) Administering dosages of radiopharmaceutical drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

(i) Oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131;

(ii) Oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131;

NOTE: Experience with at least three cases in Category (vii)(2) also satisfies the requirement in Category (vii)(A).

(iii) Parenteral administration of any beta emitter or a photon-emitting radionuclide with a photon energy less than 150 keV; or

(iv) Parenteral administration of any other radionuclide; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in sections (1) and (2) and paragraph (2)(b)(G) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under OAR 333-116-0360. The written attestation must be signed by a preceptor authorized user who meets the requirements in OAR 333-116-0740, 333-116-0680 or equivalent Nuclear Regulatory Commission or Agreement State requirements. The preceptor authorized user, who meets the requirements in section (2) of this rule, must have experience in administering dosages in the same dosage category or categories (i.e., OAR 333-116-0680(2)(b)(G)(i), (ii), (iii), or (iv)) as the individual requesting authorized user status.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0683

Training for the Oral Administration of Sodium Iodide I-131 Requiring a Written Directive in Quantities Less Than or Equal to 1.22 Gigabecquerels (33 millicuries)

Except as provided in OAR 333-116-0740, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive and the total treatment quantity is less than or equal to 1.22 Gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (3) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State and who meets the requirements in subsection (3)(c) of this rule. (The names of board certifications which have been recognized by the Nuclear Regulatory Commission or an Agreement State are posted on the Nuclear Regulatory Commission's webpage); or

(2) Is an authorized user under OAR 333-116-0680 for uses listed in OAR 333-116-0680(2)(b)(G)(i) or (ii) or 333-116-0687, or equivalent Agreement State requirements; or

(3) Has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive.

(a) The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements. A supervising authorized user who meets the requirements in OAR 333-116-0680(2) must have experience in administering dosages as specified in OAR 333-116-0680(2)(b)(G)(i) or (ii). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation for survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsections (3)(a) and (3)(b) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under OAR 333-116-0360. The written attestation must be signed by a preceptor authorized user who meets the requirements in OAR 333-116-0740, 333-116-0680, 333-116-0687 or equivalent Nuclear Regulatory Commission or Agreement State requirements. A preceptor authorized user, who meets the requirement in OAR 333-116-0680(2), must also have experience in administering dosages as specified in OAR 333-116-0680(2)(b)(G) (ii).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0687
Qualifications for Authorized User for Oral Administration When a Written Directive is Required

Except as provided in OAR 333-116-0740, the licensee must require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 Gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in subsection (3)(a) and (3)(b) of this rule and whose certification has been recognized by the Commission or an Agreement State, and who meets the requirements in subsection (3)(c) of this rule. (The names of board certifications which have been recognized by the Nuclear Regulatory Commission or an Agreement State are posted on the Nuclear Regulatory Commission webpage); or

(2) Is an authorized user under OAR 333-116-0680 for uses listed in OAR 333-116-0680(2)(b)(G)(ii), or equivalent Nuclear Regulatory commission or Agreement State requirements; or

(3) Has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive.

(a) The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0680, 333-116-0687, 333-116-0740, or equivalent Nuclear Regulatory Commission or Agreement State requirements. A supervising authorized user, who meets the requirements in OAR 333-116-0680(2), must have experience in administering dosages as specified in OAR 333-116-0680. The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation for survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsections (3)(a) and (3)(b) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under OAR 333-116-0360. The written attestation must be signed by a preceptor authorized user who meets the requirements in OAR 333-116-0680, 333-116-0687, 333-116-0740, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in OAR 333-116-0680(2)(a), must have experience in administering dosages as specified in OAR 333-116-0680(2)(a)(B)(vii)(II).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0690
Training for Therapeutic Use of Brachytherapy Source

Except as provided in OAR 333-116-0740, the licensee must require the authorized user using manual brachytherapy sources specified in OAR 333-116-0420 for therapy to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (2) of this rule. (The names of board certifications which have been recognized by the Commission or an Agreement State are posted on the NRC's webpage.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomates of the specialty board, that tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of manual brachytherapy; or

(2) Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:

(a) 200 hours of classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology; and

(b) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this rule, OAR 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements at a medical institution, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Checking survey meters for proper operation;

(C) Preparing, implanting, and removing brachytherapy sources;

(D) Maintaining running inventories of material on hand;

(E) Using administrative controls to prevent a medical event involving the use of byproduct material; and

(F) Using emergency procedures to control byproduct material; and

(c) Has completed three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in OAR 333-116-0740, 333-116-0690, or equivalent Nuclear Regulatory Commission or Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education, or the Royal College of Physicians and Surgeons of Canada, or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by paragraph (2)(a)(B) of this rule; and

(d) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in OAR 333-116-0740, 333-116-0690, or equivalent Nuclear Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in subsection (1)(a), or subsections (2)(b) and (2)(c) of this rule and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized under OAR 333-116-0420.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0700

Training for Ophthalmic Use of Strontium-90

Except as provided in OAR 333-116-0740, the licensee must require the authorized user using only strontium-90 for ophthalmic radiotherapy to be a physician who:

(1) Is an authorized user under OAR 333-116-0690 or equivalent Nuclear Regulatory Commission or Agreement State requirements; or

(2) Has completed 24 hours of classroom and laboratory training applicable to the medical use of strontium-90 for ophthalmic radiotherapy.

(a) The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology; and

(b) Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution that includes the use of strontium-90 for the ophthalmic treatment of five individuals. This supervised clinical training must involve:

(A) Examination of each individual to be treated;

(B) Calculation of the dose to be administered;

(C) Administration of the dose;

(D) Follow up and review of each individual's case history; and

(E) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in OAR 333-116-0740, 333-116-0690, 333-116-0700, or equivalent Nuclear Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in subsection (2)(a) of this rule and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0715

Training for the Parenteral Administration of Unsealed Byproduct Material Requiring a Written Directive

Except as provided in OAR 333-116-0740, the licensee shall require an authorized user for the parenteral administration requiring a written directive, to be a physician who:

(1) Is an authorized user under OAR 333-116-0680 for uses listed in OAR 333-116-0680(2)(b)(G)(iii) or 333-116-0680(2)(b)(G)(iv) or equivalent Agreement State requirements; or

(2) Is an authorized user under OAR 333-116-0690 or 333-116-0720, or equivalent Agreement State or Nuclear Regulatory Commission requirements and who meets the requirements in section (4) of this rule; or

(3) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State under OAR 333-116-0690 or 333-116-0720, and who meets the requirements in section (4) of this rule.

(4) Has successfully completed 80 hours of classroom and laboratory training, applicable to parenteral administrations, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, or parenteral administration of any other radionuclide for which a written directive is required.

(a) The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0680, 333-116-0715, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements, in the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, or parenteral administration of any other radionuclide for which a written directive is required. A supervising authorized user who meets the requirements in OAR 333-116-0680 must have experience in administering dosages as specified in OAR 333-116-0680(2)(b)(G)(iii) or 333-116-0680(2)(b)(G)(iv). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely, and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages, and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely, and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that include at least three cases involving the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV and at least three cases involving the parenteral administration of any other radionuclide, for which a written directive is required; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in sections (2) or (3) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The written attestation must be signed by a preceptor authorized user who meets the requirements in OAR 333-116-0680, 333-116-0715, 333-116-0740 or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in OAR 333-116-0680, must have experience in administering dosages as specified in OAR 333-116-0680(2)(b)(G))(iii) or 333-116-0680(2)(b)(G)(iv).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0720

Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

Except as provided in OAR 333-116-0740, the licensee must require the authorized user of a sealed source specified in OAR 333-116-0480 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission (NRC) or an Agreement State and who meets the requirements in subsection (2)(c) and section (3) of this rule. (The names of board certifications which have been recognized by the Commission or an Agreement State are posted on the NRC's webpage.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote afterloaders and external beam therapy; or

(2) Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit:

(a) Which includes the following:

(A) 200 hours of classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology; and

(B) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0720, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements at a medical institution, involving:

(i) Reviewing full calibration measurements and periodic spot-checks;

(ii) Preparing treatment plans and calculating treatment doses and times;

(iii) Using administrative controls to prevent a medical event involving the use of byproduct material;

(iv) Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;

(v) Checking and using survey meters; and

(vi) Selecting the proper dose and how it is to be administered; and

(b) Has completed three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in OAR 333-116-0720, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by paragraph (2)(a)(B) of this rule; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsections (1)(a) or (2)(a) and (2)(b), and section (3) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in OAR 333-116-0720, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

(3) Has received training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0740

Training for Experienced Authorized User, Radiation Safety Officer, Teletherapy or Medical Physicist, Authorized Medical Physicist, Nuclear Pharmacist or Authorized Nuclear Pharmacist

(1) An individual identified as a Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist on a Nuclear Regulatory Commission or Agreement State license before July 1, 2006 need not comply with the training requirements of OAR 333-116-0640, 333-116-0905 or 333-116-0910.

(2) Practitioners of the healing arts identified as authorized users for the human use of radioactive material on an Authority, Nuclear Regulatory Commission or Agreement State or Licensing State license before July 1, 2006 who perform only those methods of use for which they were authorized on that date need not comply with the training requirements OAR 333-116-0640, 333-116-0905, or 333-116-0910. .

(3) Individuals who need not comply with training requirements as described in this rule may serve as preceptors for, and supervisors of, applicants seeking authorization on licenses for the same uses for which these individuals are authorized.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0880

Training and Experience for PET, PET/CT and SPECT/CT Personnel

(1) Pharmacy or chemistry personnel must have 40 extra hours above Nuclear Pharmacy requirements and 40 hours specific to PET. The 40 hours can be divided equally between didactic and practical applications.

(2) Authorized users who meet training requirements for human use in OAR 333-116-0670 must complete an additional 40 hours at an accepted PET training center.

(3) Technical personnel working under an authorized user must have basic radiation safety training, plus 40 additional hours specific to PET.

(4) Positron Emission-Computed Tomography (PET/CT) or Single Photon Emission-Computed Tomography (SPECT/CT) systems must be operated by technologists licensed by the Oregon Board of Medical Imaging who are:

(a) Any registered radiographer with the credential R.T. (R);

(b) Registered radiation therapist with the credential R.T. (T);

(c) Registered certified nuclear medicine technologist with the credentials R.T. (N); or

(d) Certified Nuclear Medicine Technologist (CNMT) by the Nuclear Medicine Technologist Certification Board (NMTCB).

(5) The individuals mentioned in section (4) of this rule must also have successfully completed appropriate additional education and training and demonstrated competency in the use and operation of PET/CT or SPECT/CT systems.

(6)(a) Appropriate additional training is considered training that covers the topic areas outlined in the PET/CT curriculum developed by the Multi-Organizational Curriculum Project Group sponsored by the American Society of Radiologic Technologists and the Society of Nuclear Medicine Technologists, or equivalent training approved by the Authority; and

(b) Includes the content specified in the PET/CT curriculum for the area(s) that the individual is not already trained or certified in; or

(c) Individuals meeting the requirements of section (4) of this rule and who have successfully completed training that the Authority has evaluated and judged to be substantially equivalent to that specified in subsection (6)(a) of this rule.

(7) An R.T. (N) or CNMT certified in Computed Tomography through the American Registry of Radiologic Technologists is considered to have met the training requirements in section (4) of this rule.

(8) Technologists operating PET/CT or SPECT/CT systems must do so under the direction of an authorized user licensed to perform imaging and localization studies in accordance with OAR 333-116-0320.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-116-0905

Training for Authorized Medical Physicist

Except as provided in OAR 333-116-0740, the licensee shall require the authorized medical physicist to be an individual who:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in subsection (2)(b) and section (3) of this rule. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(b) Have two years of full-time practical training and supervised experience in medical physics:

(A) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or

(B) In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to one million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in OAR 333-116-0740, 333-116-0690 or 333-116-0720; and

(c) Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or

(2) Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization.

(a) This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to one million electron volts) and brachytherapy services and must include:

(A) Performing sealed source leak tests and inventories;

(B) Performing decay corrections;

(C) Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(D) Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(b) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsections (1)(a) and (1)(b) of this rule, or subsection (2)(a) and section (3) of this rule, and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this rule, OAR 333-116-0740, 333-116-0905, or equivalent Agreement State requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

(3) Has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 4-2013, f. & cert. ef. 1-29-13

333-118-0150
Routine Determinations

Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this division and of the license. The licensee shall determine that:

(1) The package is proper for the contents to be shipped.

(2) The package is in unimpaired physical condition except superficial defects such as marks or dents.

(3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects.

(4) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid.

(5) Any pressure relief device is operable and set in accordance with written procedures.

(6) The package has been loaded and closed in accordance with written procedures.

(7) Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified in 10 CFR 71.45.

(8) For fissile material, any moderator or neutron absorber, if required, is present and in proper condition.

(9) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable and within the limits specified in Department of Transportation regulations outlined in 49 CFR Part 173.443.

(a) External radiation levels around the package and around the vehicle, if applicable, cannot exceed the limits specified in 10 CFR Part 71.47 at anytime during transportation; and

(b) Accessible package surface temperatures cannot exceed the limits specified in 10 CFR Part 71.43(g) at any time during transportation.

(10) External radiation levels around the package and around the vehicle, if applicable, cannot exceed the limit specified in 10 CFR Part 71.45 at any time during transport.

(11) Accessible package surfaces temperatures cannot exceed the limits specified in 10 CFR Part 71.43.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 4-2013, f. & cert. ef. 1-29-13

333-119-0040
Construction and Operation of Tanning Facilities

Unless otherwise ordered or approved by the Authority, each tanning facility shall be constructed, operated and maintained to meet the following minimum requirements:

(1) All tanning facilities shall be equipped with convenient toilet facilities and dressing rooms. Such toilet facilities shall include a water closet and hand washing sinks. Such toilet and dressing rooms shall be properly maintained, as well as meet all state and local codes.

(2) All areas of the tanning facility shall be ventilated with at least six air changes per hour or as required by local code.

(3) Tanning booth temperature shall be maintained below 100 degrees Fahrenheit (38 degrees Centigrade) during booth operation.

(4) The tanning device shall meet the National Fire Protection Association's National Electrical Code, or be approved by the Underwriter Laboratories (UL) or Electrical Testing Laboratories (ETL).

(5) Except as otherwise noted by the Authority, each tanning facility shall be constructed, operated and maintained in accordance with applicable city, county and state codes.

(6) Clean sanitary towels shall be provided to all patrons using tanning facilities.

(7) A hamper or receptacle must be provided for all soiled towels and linen.

(8) No pets or animals are permitted in tanning facilities other than service animals.

Stat. Auth.: ORS 431.925 - 431.955
Stats. Implemented: ORS 431.930
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2013, f. & cert. ef. 1-29-13

333-119-0041
Cleaning and Sanitation

(1) All areas of the tanning facility, including tanning devices, equipment and apparatus, shall be maintained in a clean and sanitary manner by the facility operator.

(2) The tanning device(s) and protective eyewear shall be cleaned after each use by the facility operator.

(3) A clean paper or cloth towel shall be used each time the tanning device is cleaned and sanitized.

(4) The sanitizer must be specifically manufactured for sanitizing ultraviolet light emitting equipment and protective eyewear, and must not damage the acrylic lamp covers of the device. The ultraviolet light produced by the tanning device itself is not considered an adequate sanitizing agent.

(5) An operator cannot require the consumer to sanitize the tanning equipment or protective eyewear and shall not post any signs requesting such sanitation be performed by the consumer.

(6) The sanitizer must contain a concentration of Quaternary Ammonium between 400ppm-800ppm. A test kit that accurately measures the concentration of the sanitizing solution in parts per million (ppm) shall be used to measure the strength of the sanitizing solution when the concentrate and water dilution is initially prepared and tested weekly thereafter to ensure sufficient strength remains within the sanitizing solution.

(7) A written policy for cleaning and sanitizing shall be available for employees and the consumer. Written policies need to address the following:

(a) Tanning device manufacturer's recommended sanitizer solution and cleaning guidelines. If the manufacturer does not recommend a specific sanitizer then the written policy shall contain the name of the sanitizer that is being used on the tanning device and eyewear.

(b) Materials Safety Data Sheets referring to the sanitizing agent used by the operator.

(c) Location of the sanitizer and the application instructions.

Stat. Auth.: ORS 431.925 - 431.955
Stats. Implemented: ORS 431.930
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-119-0080
Training of Personnel

(1) The registrant shall maintain documentation to verify that all tanning device operators are adequately trained in the following:

(a) The rules of this division;

(b) Procedures for correct operation of the tanning facility and tanning devices;

(c) Recognition of injury or overexposure to Ultraviolet radiation;

(d) The tanning device manufacturer's procedures for operation and maintenance of the tanning devices;

(e) The determination of skin type of customers and appropriate determination of duration of exposure to registered tanning devices;

(f) Emergency procedures to be followed in case of injury; and

(g) Potential photosensitizing foods, cosmetics, and medications.

(2) The registrant shall ensure that tanning devices are operated only while an adequately trained operator is present at the tanning facility.

(3) All operators of registered tanning devices must successfully complete an Authority approved tanning training course in the State of Oregon prior to commencement of tanning operations.

Stat. Auth.: ORS 431.925 - 431.955
Stats. Implemented: ORS 431.930
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 4-2013, f. & cert. ef. 1-29-13

333-120-0630
Determination of Prior Occupational Dose

(1) For each individual likely to receive, in a year, an occupational dose requiring monitoring pursuant to OAR 333-120-0210, the licensee or registrant must:

(a) Determine the occupational radiation dose received during the current year; and

(b) Attempt to obtain the records of lifetime cumulative occupational radiation dose.

(2) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant must determine:

(a) The internal and external doses from all previous planned special exposures; and

(b) All doses in excess of the limits (including doses received during accidents and emergencies) received during the lifetime of the individual.

(3) In complying with the requirements of section (1) or (2) of this rule, a licensee or registrant may:

(a) Accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual may have received during the current year; or

(b) Accept, as the record of lifetime cumulative radiation dose, an up-to-date NRC Form 4, or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer (if the individual is not employed by the licensee or registrant); and

(c) Obtain reports of the individual's dose equivalent(s) from the most recent employer for work involving radiation exposure, or the individual's current employer (if the individual is not employed by the licensee or registrant) by telephone, telegram, electronic media, or letter. The licensee or registrant must request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

(4) The licensee or registrant must record the exposure history, as required by section (1) of this rule, on NRC Form 4, or other clear and legible record, of all the information required on NRC Form 4. The form or record must show each period in which the individual received occupational exposure to radiation or radioactive material and must be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant must use the dose shown in the report in preparing NRC Form 4. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant must place a notation on NRC Form 4 indicating the periods of time for which data are not available.

(5) If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant must assume:

(a) In establishing administrative controls under OAR 333-120-0100(6) for the current year, that the allowable dose limit for the individual is reduced by 1.25 rem (12.5 mSv) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and

(b) That the individual is not available for planned special exposures.

(6) The licensee or registrant must retain the records on NRC Form 4 or equivalent until the Authority terminates each pertinent license or registration requiring this record. The licensee or registrant must retain records used in preparing NRC Form 4 in accordance with OAR 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2013, f. & cert. ef. 1-29-13

333-120-0730
Reports of Planned Special Exposures and Individual Monitoring

(1) The licensee must submit a written report to the Authority within 30 days following any planned special exposure conducted in accordance with OAR 333-120-0150 informing the Authority that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by OAR 333-120-0640.

(2) The following licensees must have available for inspection by the Authority a written report documenting results of individual monitoring carried out by the licensee for each individual for whom monitoring was required pursuant to OAR 333-120-0210 during that year.

(a) Licensees authorized to possess or use radioactive material for purposes of radiography pursuant to division 102 and 105 of these rules; or

(b) Licensees who receive radioactive waste from other persons for disposal pursuant to 10 CFR Part 61; or

(c) Licensees who possess or use at any time, for processing or manufacturing for distribution pursuant to division 102 or 116 of these rules, radioactive material in quantities exceeding any one of the following quantities:

Quantity of Radionuclide in Curies:
(A) Cesium-137 — 1;
(B) Cobalt-60 — 1;
(C) Gold-198 — 100;
(D) Iodine-131 — 1;
(E) Iridium-192 — 10;
(F) Krypton-85 — 1,000;
(G) Promethium-147 — 10;
(H) Technetium-99m — 1,000.

The Authority may require as a license condition, or by rule, regulation, or order pursuant to OAR 333-100-0030, reports from licensees who are licensed to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

NOTE: The licensee may include additional data for individuals for whom monitoring was provided but not required. The licensee shall use NRC's Form 5 or electronic media containing all the information required by NRC's Form 5.
[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13

333-123-0005
Definitions

(1) "Absorbed dose (D)" means the mean energy imparted by ionizing radiation to matter. Absorbed dose is determined as the quotient of DE by DM, where DE is the mean energy imparted by ionizing radiation to matter of mass DM. The SI unit of absorbed dose is joule/kg and the special name of the unit of absorbed dose is the gray (Gy). The previously used special unit of absorbed dose (rad) is being replaced by the gray.

(2) "Absorbed dose rate" means absorbed dose per unit time, for machines with timers, or dose monitor unit per unit time for linear accelerators.

(3) "Accessible surface" means surface of equipment or of an equipment part that can be easily or accidentally touched by persons without the use of a tool.

(4) "Added filtration" means any filtration which is in addition to the inherent filtration that is in the primary beam.

(5) "Air kerma (K)" means the kinetic energy released in air by ionizing radiation. Kerma is determined as the quotient of DE/DM, where DE is the sum of the initial kinetic energies of all the charged ionizing particles liberated by uncharged ionizing particles in air of mass DM. The SI unit of air kerma is joule/kg.

(6) "Barrier" has the same meaning as "protective barrier".

(7) "Beam axis" means the axis of rotation of the beam-limiting device.

(8) "Beam-limiting device" means a field defining collimator, integral to the therapeutic radiation machine, which provides a means to restrict the dimensions of the useful beam.

(9) "Beam monitoring system" means the system designed and installed in the radiation head to detect and appropriately measure the radiation present in the useful radiation beam.

(10) "Beam scattering foil" means a thin piece of material (usually metallic) placed in the beam to scatter a beam of electrons in order to provide a more uniform electron distribution in the useful beam.

(11) "Bent beam linear accelerator" means a linear accelerator geometry in which the accelerated electron beam must change direction by passing through a bending magnet.

(12) "Changeable filters" means any filter, exclusive of inherent filtration, that can be removed from the useful beam through any electronic, mechanical, or physical process.

(13) "Contact therapy system" means a therapeutic radiation machine with a short target to skin distance (TSD), usually less than 5 cm.

(14) "Conventional Simulator" means any X-ray system designed to reproduce the geometric conditions of the radiation therapy equipment.

(15) "CT Simulator" means a computed tomography (CT) unit used in conjunction with relevant software which recreates the treatment machine, and that allows import, manipulation, display and storage of images from CT and other imaging modalities.

(16) "Detector" has the same meaning as "radiation detector".

(17) "Dose monitor unit (DMU)" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.

(18) "Electronic brachytherapy" means a method of radiation therapy where an electrically generated source of ionizing radiation is placed in or near the tumor or target tissue to deliver therapeutic radiation dosage.

(19) "Electronic brachytherapy device" means the system used to produce and deliver therapeutic radiation including the X-ray tube, the control mechanism, the cooling system, and the power source.

(20) "Electronic brachytherapy source" means the X-ray tube component used in an electronic brachytherapy device.

(21) "External beam radiation therapy" means therapeutic irradiation in which the source of radiation is at a specified distance from the body.

(22) "Field-flattening filter" means a filter used to homogenize the absorbed dose rate over the radiation field.

(23) "Filter" means material placed in the useful beam to change beam quality in therapeutic radiation machines subject to OAR 333-123-0025(2) and (3).

(24) "Gantry" means that part of a radiation therapy system supporting and allowing movements of the radiation head about a center of rotation.

(25) "Gray (Gy)" means the SI unit of absorbed dose, kerma, and specific energy imparted equal to 1 joule/kg. The previous unit of absorbed dose (rad) is being replaced by the gray. (1 Gy = 100 rad; 1 cGy = 1 rad).

(26) "Half-value layer (HVL)" means the thickness of a specified material which attenuates incident ionizing radiation to an extent such that the air kerma rate, exposure rate or absorbed dose rate is reduced to one-half of the value measured without the material at the same point.

(27) "Intensity Modulated Radiation Therapy (IMRT)" means radiation therapy that uses non-uniform radiation beam intensities, which have been determined by various computer-based optimization techniques.

(28) "Interlock" means a device preventing the start or continued operation of equipment unless certain predetermined conditions prevail.

(29) "Interruption of irradiation" means the stopping of irradiation with the possibility of continuing irradiation without resetting of operating conditions at the control panel.

(30) "Irradiation" means the exposure of a living tissue or matter to ionizing radiation.

(31) "Isocenter" means the center of the sphere through which the useful beam axis passes while the gantry, collimator and couch move through the full range of motions.

(32) "Kilovolt (kV) (kilo electron volt (keV))" means the energy equal to that acquired by a particle with one electron charge in passing through a potential difference of one thousand volts in a vacuum.

Note: Current convention is to use kV for photons and keV for electrons.

(33) "Lead equivalent" means the thickness of the material in question affording the same attenuation, under specified conditions, as lead.

(34) "Leakage radiation" means radiation emanating from the radiation therapy system except for the useful beam.

(35) "Light field" means the area illuminated by light, simulating the radiation field.

(36) "mA" means milliamperes.

(37) "Medical Treatment Event" means an event that meets the criteria in 333-123-0020(1).

(38) "Megavolt (MV) (mega electron volt (MeV))" means the energy equal to that acquired by a particle with one electron charge in passing through a potential difference of one million volts in a vacuum.

Note: Current convention is to use MV for photons and MeV for electrons.

(39) "Monitor unit (MU)" has the same meaning as "dose monitor unit".

(40) "Moving beam radiation therapy" means radiation therapy with any planned displacement of radiation field or patient relative to each other, or with any planned change of absorbed dose distribution. It includes, but is not limited to arc, conformal, intensity modulation and rotational therapy.

(41) "Nominal treatment distance" means:

(a) For electron irradiation, the distance from the scattering foil, virtual source, or exit port of the electron beam to the entrance surface of the irradiated object along the central axis of the useful beam.

(b) For X-ray irradiation, the distance from the virtual source or target to isocenter distance along the central axis of the useful beam. For non-isocentric equipment, this distance must be that specified by the manufacturer.

(42) "Patient" means an individual subjected to machine produced external beam radiation for the purposes of medical therapy.

(43) "Peak tube potential" means the maximum value of the potential difference across the X-ray tube during an exposure.

(44) "Periodic quality assurance check" means a procedure, which is performed at regular intervals to ensure that previously determined machine characteristics continue to be valid.

(45) "Phantom" means an object responding in essentially the same manner as tissue, with respect to absorption or scattering of the incident ionizing radiation in question.

(46) "Practical range of electrons" corresponds to classical electron range where the only remaining contribution to dose is from Bremsstrahlung X-rays.

(47) "Prescribed dose" means the total dose and dose per fraction as documented in the physician's written directive. The prescribed dose is an estimation from measured data from a specified therapeutic machine using assumptions that are clinically acceptable for that treatment technique and historically consistent with the clinical calculations previously used for patients treated with the same clinical technique.

(48) "Primary dose monitoring system" means a system which can monitor the useful beam during irradiation and which can terminate irradiation when a pre-selected number of dose monitor units have been delivered.

(49) "Primary protective barrier" has the meaning given that term in section (50) of this rule, "protective barrier".

(50) "Protective barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:

(a) Primary protective barrier means the material, excluding filters, placed in the useful beam.

(b) Secondary protective barrier means the material, which attenuates stray radiation.

(51) "Qualified Expert" means an individual qualified in accordance with OAR 333-100-0005.

(52) "Qualified Medical Physicist" means an individual qualified in accordance with OAR 333-123-0015(2)(b).

(53) "Qualified Radiation Therapy Physician" means an individual qualified in accordance with OAR 333-123-0015(1).

(54) "Radiation detector" means a device, which, in the presence of radiation provides, by either direct or indirect means, a signal or other indi-

cation suitable for use in measuring one or more quantities of incident radiation.

(55) "Radiation field" has the same meaning as "useful beam".

(56) "Radiation head" means the structure from which the useful beam emerges.

(57) "Redundant beam monitoring system" means a combination of two dose monitoring systems in which each system is designed to terminate irradiation in accordance with a pre-selected number of dose monitor units.

(58) "Scattered primary radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam.

(59) "Scattered radiation" means ionizing radiation emitted by interaction of ionizing radiation with matter, the interaction being accompanied by a change in direction of the radiation.

(60) "Secondary dose monitoring system" means a system, which will terminate irradiation in the event of failure of the primary dose monitoring system.

(61) "Secondary protective barrier" has the meaning given that term in section (50) of this rule, "protective barrier".

(62) "Service Engineer" means an individual who is qualified to service the radiation therapy equipment per manufacturer's standards.

(63) "Shadow tray" means a device attached to the radiation head to support auxiliary beam blocking material.

(64) "Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

(65) "Sievert (Sv)" means the SI unit of dose equivalence. The unit of dose equivalence is the joule/kg. The previous unit of dose equivalence (rem) is being replaced by the Sievert. [1 Sv=100 rem].

(66) "Simulator (radiation therapy simulation system)" means any X-ray system intended for localizing the tissue volume to be exposed during radiation therapy and establishing the position and size of the therapeutic irradiation field. See Conventional Simulator and Virtual Simulator.

(67) "Source" means the focal point or material from which the radiation emanates.

(68) "Source-skin distance (SSD)" has the same meaning as "target-skin distance".

(69) "Stationary beam radiation therapy" means radiation therapy without displacement of one or more mechanical axes relative to the patient during irradiation.

(70) "Stray radiation" means the sum of leakage and scattered radiation.

(71) "Target" means that part of an X-ray tube or accelerator onto which a beam of accelerated particles is directed to produce ionizing radiation or other particles.

(72) "Target-skin distance (TSD)" means the distance measured along the beam axis from the center of the front surface of the X-ray target or electron virtual source to the surface of the irradiated object or patient.

(73) "Tenth-value layer (TVL)" means the thickness of a specified material which attenuates X-radiation or gamma radiation to an extent such that the air kerma rate, exposure rate, or absorbed dose rate is reduced to one-tenth of the value measured without the material at the same point.

(74) "Termination of irradiation" means the stopping of irradiation in a fashion, which cannot permit continuance of irradiation without the resetting of operating conditions at the control panel.

(75) "Therapeutic radiation machine" is a complex system designed and used for external beam radiation therapy. This system includes some or all of the following: equipment producing ionizing radiation (including, but not limited to X-rays, electrons, protons and neutrons), beam shaping devices, computer control unit, verify and record system, electronic portal imaging, treatment planning computer and other ancillary systems.

(76) "Tube" means an X-ray tube, unless otherwise specified.

(77) "Tube housing assembly" means the tube housing with tube installed. It includes high-voltage and filament transformers and other appropriate elements when such are contained within the tube housing.

(78) "Useful beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam-limiting device when the exposure controls are in a mode to cause the therapeutic radiation machine to produce radiation.

(79) "Virtual source" means a point from which radiation appears to originate.

(80) "Wedge filter" means a filter which effects continuous change in transmission over all or a part of the useful beam.

(81) "Written directive" means an order, written or electronic, for the administration of radiation to a specific patient as specified in OAR 333-123-0045(2).

(82) "X-ray tube" means any electron tube, which is designed to be used primarily for the production of X-rays.

Stat. Auth: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 23-2006, f. & cert. ef. 10-19-06; PH 4-2013, f. & cert. ef. 1-29-13

333-123-0055
Electronic Brachytherapy

(1) Electronic brachytherapy devices shall be exempt from the requirements in OAR 333-123-0025.

(a) An electronic brachytherapy device that does not meet the requirements of this rule shall not be used for irradiation of patients; and

(b) An electronic brachytherapy device shall only be utilized for human use applications specifically approved by the U.S. Food and Drug Administration (FDA) unless participating in a research study approved by the Authority.

(2) Each facility location authorized to use an electronic brachytherapy device shall possess calibrated portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instrument(s) shall be operable and calibrated in accordance with OAR 333-123-0010 for the applicable electronic brachytherapy source energy.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0060
Facility Design Requirements for Electronic Brachytherapy Devices

(1) In addition to shielding adequate to meet the requirements of division 120 of this chapter, a treatment room where an electronic brachytherapy device is used shall:

(a) Prevent simultaneous operation of more than one therapeutic radiation machine in a treatment room if applicable;

(b) Have a door at any entrance; and

(c) Permit communication with and visual observation of the patient from the treatment control panel during the irradiation from an electronic brachytherapy device.

(2) For electronic brachytherapy devices capable of operating at or below 50 kV, radiation shielding for the staff in the treatment room shall be available, either as a portable shield or as localized shielded material around the treatment site.

(3) For electronic brachytherapy devices capable of operating at greater than 150 kV:

(a) The control panel shall be located outside the treatment room; and

(b) Electrical interlocks shall be provided for all doors providing entrance into the treatment room that can:

(A) Prevent the operator from initiating the treatment cycle if a door remains open;

(B) Cause the source to be shielded when an entrance door is opened; and

(C) Prevent the source from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source on-off control is reset at the console.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0065
Electrical Safety for Electronic Brachytherapy Devices

(1) A high voltage transformer shall:

(a) Be electrically isolated to prevent electrical and magnetic interference with the surrounding environment and ancillary equipment;

(b) Be isolated from personnel (e.g., operator) and the environment by a protective housing that can only be accessed through a cover requiring a tool for access or with electrical interlocks to prevent operation while open; and

(c) Have appropriate safety labels warning personnel of potential electrical shock and heat related injuries.

(2) Brachytherapy manufactured equipment shall be in compliance with the most current revision of the following International Electrotechnical Commission (IEC) documents:

(a) IEC 60601-1:1998+A1+A2:1995;

(b) IEC 60601-1-2:2001;

(c) IEC 60601-2-8:1999; and

(d) IEC 60601-2-17:2004.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0070
Control Panel Functions

A control panel must be designed to provide:

(1) An indication of whether electrical power is available at the control panel and if activation of the electronic brachytherapy source is possible;

(2) An indication of whether X-rays are being produced;

(3) A means for displaying electronic brachytherapy source accelerating voltage(kV), beam current(μA), pre-set value of radiation dose(cGy) and real time display of dose delivered;

(4) The means for terminating an exposure at any time; and

(5) An access locking control device that can prevent unauthorized use of the electronic brachytherapy device.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0075
Timer

An irradiation control device timer shall be provided to terminate the irradiation after a pre-set time interval or integrated charge on a dosimeter-based monitor.

(1) A timer shall be provided at the treatment control panel. The timer shall indicate planned setting and the time elapsed or remaining;

(2) A timer shall not permit an exposure if set at zero;

(3) A timer shall be a cumulative device that activates with an indication of "BEAM-ON" and retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it shall be necessary to reset the elapsed time indicator;

(4) A timer shall terminate irradiation when a pre-selected time has elapsed, if any dose monitoring system has not previously terminated irradiation;

(5) A timer shall permit setting of exposure times as short as 0.1 second;

(6) A timer shall be accurate to within one percent of the selected value or 0.1 second, whichever is greater; and

(7) A redundant treatment monitoring system (backup timer) shall be present at the treatment console to use as the treatment stop criterion in case the primary treatment control device timer malfunctions.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0080
Medical Physicist

A Qualified Medical Physicist who meets the requirements of OAR 333-123-0015 is required in facilities having electronic brachytherapy devices. A Medical Physicist is responsible for:

(1) Evaluation of the output from the electronic brachytherapy source;

(2) Generation of the necessary dosimetric information;

(3) Supervision and review of treatment calculations prior to initial treatment of any treatment site;

(4) Establishing the periodic and day-of-use quality assurance checks and reviewing the data from those checks as required in sections (1) through (6) of this rule and OAR 333-123-0100;

(5) Consultation with a Radiation Therapy Physician in treatment planning as needed; and

(6) Performing calculations and assessments regarding patient treatments that may constitute a misadministration.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0085
Operating Procedures

(1) Only individuals approved by a Radiation Therapy Physician, Radiation Safety Officer, or Qualified Medical Physicist shall be present in the treatment room during treatment.

(2) Electronic brachytherapy devices shall not be made available for medical use unless the requirements of OAR 333-123-0010(4), 333-123-0090 and 333-123-0095 have been met.

(3) The electronic brachytherapy device shall be inoperable, either by hardware or password, when unattended by qualified staff or service personnel.

(4) During operation, the electronic brachytherapy device operator shall monitor the position of all persons in the treatment room, and all persons entering the treatment room, to prevent entering persons from unshielded exposure from the treatment beam.

(5) If a patient must be held in position during treatment, mechanical supporting or restraining devices shall be used.

(6) Written procedures shall be developed, implemented, and maintained for responding to an abnormal situation. These procedures shall include:

(a) Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions; and

(b) The names and telephone numbers of the Radiation Therapy Physician, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally.

(7) A copy of the current operating and emergency procedures shall be physically located at the electronic brachytherapy device control console. For control consoles that are integral to the electronic brachytherapy device, the required procedures shall be kept where the operator is located during electronic brachytherapy device operation.

(8) Instructions shall be posted at the electronic brachytherapy device control console to inform the operator of the names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally.

(9) A Radiation Therapy Physician shall be notified as soon as possible if the patient receiving brachytherapy treatment has a medical emergency, suffers injury or dies. A Radiation Safety Officer or designee shall be notified as soon as possible if there is any radiation related injury to the patient. A Radiation Safety Officer or a Qualified Medical Physicist shall inform the manufacturer and the Authority of the event.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0090
Safety Precautions for Electronic Brachytherapy Devices

(1) A Qualified Medical Physicist shall determine which persons in the treatment room require monitoring when the beam is energized.

(2) A Radiation Therapy Physician and a Qualified Medical Physicist shall be physically present during the initiation of all patient treatments involving the electronic brachytherapy device.

(3) A Qualified Medical Physicist and either an authorized user or a Radiation Therapy Physician or electronic brachytherapy device operator, under the supervision of an authorized user, who has been trained in the operation and emergency response for the electronic brachytherapy device, shall be physically present during continuation of all patient treatments involving the electronic brachytherapy device.

(4) When shielding is required by OAR 333-123-0060, the electronic brachytherapy device operator shall use a survey meter to verify proper placement of the shielding immediately upon initiation of treatment. Alternatively, a Qualified Medical Physicist shall designate shield locations sufficient to meet the requirements of division 120 of this chapter for any individual, other than the patient, in the treatment room.

(5) All personnel in the treatment room are required to remain behind shielding during treatment. A Qualified Medical Physicist shall approve any deviation from this requirement and shall designate alternative radiation safety protocols, compatible with patient safety, to provide an equivalent degree of protection.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0095
Electronic Brachytherapy Source Calibration Measurements

(1) Calibration of the electronic brachytherapy source output for an electronic brachytherapy device shall be performed by, or under the direct supervision of a Qualified Medical Physicist.

(2) Calibration of the electronic brachytherapy source output shall be made for each electronic brachytherapy source annually, or after any repair affecting the X-ray beam generation, or when indicated by the electronic brachytherapy source quality assurance checks.

(3) Calibration of the electronic brachytherapy source output shall utilize a calibration procedure in accordance with OAR 333-123-0010(5). The dosimetry system shall have been calibrated at the applicable electronic brachytherapy source energy.

(4) Calibration of the electronic brachytherapy source output shall include, as applicable, determination of:

(a) The output within two percent of the expected value, if applicable, or determination of the output if there is no expected value;

(b) Timer accuracy and linearity over the typical range of use;

(c) Proper operation of back-up exposure control devices;

(d) Evaluation that relative dose distribution around the source is within the limit recommended by the manufacturer or recommendations from a recognized national professional association in electronic brachytherapy (when available); and

(e) Source positioning accuracy to within 1 mm within the applicator.

(5) Calibration of the X-ray source output shall be in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of a calibration protocol published by a national professional association, the manufacturer's calibration protocol shall be followed.

(6) The registrant shall maintain a record of each calibration in an auditable form for the duration of the registration. The record shall include:

(a) The date of the calibration;

(b) The manufacturer's name, model number and serial number for the electronic brachytherapy device and a unique identifier for its electronic brachytherapy source;

(c) The model numbers and serial numbers of the instrument(s) used to calibrate the electronic brachytherapy device; and

(d) The name and signature of the Qualified Medical Physicist responsible for performing the calibration.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0100
Periodic and Day-of-Use Quality Assurance Checks for Electronic Brachytherapy Devices

(1) Quality assurance checks shall be performed by the medical physicists on each electronic brachytherapy device subject to this rule.

(a) At the beginning of each day of use; and

(b) After each X-ray tube installation.

(2) The registrant shall perform periodic quality assurance checks required by this rule in accordance with procedures established by a Qualified Medical Physicist.

(3) To satisfy the requirements of this rule, radiation output quality assurance checks shall include at a minimum:

(a) Verification that output of the electronic brachytherapy source falls within three percent of expected values, as appropriate for the device, as determined by:

(A) Output as a function of time; or

(B) Output as a function of setting on a monitor chamber.

(b) Verification of the consistency of the dose distribution to the output within two to three percent of the expected value, if applicable, or determination of the output if there is no expected value of that found during calibration required by OAR 333-123-0095.

(c) Validation of the operation of positioning methods to ensure that the treatment dose exposes the intended location within 1 mm.

(4) The registrant shall use a dosimetry system that has been intercompared within the previous 12 months with the dosimetry system described in OAR 333-123-0010(5) to make the quality assurance checks required in this rule.

(5) The registrant shall review the results of each radiation output quality assurance check according to the following procedures:

(a) A Radiation Therapy Physician and a Qualified Medical Physicist shall be immediately notified if any parameter is not within its acceptable tolerance. The electronic brachytherapy device shall not be made available for subsequent medical use until the Qualified Medical Physicist has determined that all parameters are within their acceptable tolerances.

(b) If all radiation output quality assurance check parameters appear to be within their acceptable range, the quality assurance check shall be reviewed and signed by either a Radiation Therapy Physician or Qualified Medical Physicist within two days.

(c) A Qualified Medical Physicist shall review and sign the results of each radiation output quality assurance check at intervals not to exceed 30 days.

(6) To satisfy the requirements of this rule, safety device quality assurance checks shall, at a minimum, assure:

(a) Proper operation of radiation exposure indicator lights on the electronic brachytherapy device and on the control console;

(b) Proper operation of viewing and intercom systems in each electronic brachytherapy facility, if applicable;

(c) Proper operation of radiation monitors, if applicable;

(d) The integrity of all cables, catheters or parts of the device that carry high voltages; and

(e) Connecting guide tubes, transfer tubes, transfer-tube-applicator interfaces, and treatment spacers are free from any defects that interfere with proper operation.

(7) If the results of the safety device quality assurance checks required in this rule indicate the malfunction of any system, a registrant shall secure the control console in the OFF position and not use the electronic brachytherapy device except as may be necessary to repair, replace, or check the malfunctioning system.

(8) A registrant shall maintain a record of each quality assurance check required by sections (3) and (7) of this rule in an auditable form for three years.

(a) The record shall include:

(A) The date of the quality assurance check;

(B) The manufacturer's name, model number and serial number for the electronic brachytherapy device;

(C) The name and signature of the individual who performed the periodic quality assurance check; and

(D) The name and signature of the Qualified Medical Physicist who reviewed the quality assurance check.

(b) For radiation output quality assurance checks required by this rule, the record shall also include the unique identifier for the electronic brachytherapy source and the manufacturer's name, model number and serial number for the instrument(s) used to measure the radiation output of the electronic brachytherapy device.

Stat. Auth: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0105
Therapy Related Computer Systems

(1) A registrant shall perform acceptance testing on the treatment planning system of electronic brachytherapy-related computer systems in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of an acceptance testing protocol published by a national professional association, the manufacturer's acceptance testing protocol shall be followed.

(a) Acceptance testing shall be performed by, or under the direct supervision of a Qualified Medical Physicist. At a minimum, the acceptance testing shall include, as applicable, verification of:

(A) The source-specific input parameters required by the dose calculation algorithm;

(B) The accuracy of dose, dwell time, and treatment time calculations at representative points;

(C) The accuracy of isodose plots and graphic displays;

(D) The accuracy of the software used to determine radiation source positions from radiographic images, if applicable; and

(E) If the treatment-planning system is different from the treatment-delivery system, the accuracy of electronic transfers of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

(2) The position indicators in the applicator shall be compared to the actual position of the source or planned swell positions, as appropriate, at the time of commissioning.

(3) Prior to each patient treatment regimen, the parameters for the treatment shall be evaluated and approved by a Radiation Therapy Physician and a Qualified Medical Physicist for correctness through means independent of that used for determination of the parameters.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

33-123-0110
Training

(1) A registrant shall provide instruction, initially and at least annually, to all individuals who operate the electronic brachytherapy device, as appropriate to the individual's assigned duties, in the operating procedures identified in OAR 333-123-0085. If the interval between patients exceeds one year, retraining of the individuals shall be provided.

(2) In addition to the requirements of OAR 333-123-0015(1) for Radiation Therapy Physicians and OAR 333-123-0015(2) for Qualified Medical Physicists, these individuals shall also receive device specific instruction initially from the manufacturer, and annually from either the manufacturer or other qualified trainer. The training shall be of a duration recommended by a recognized national professional association with

expertise in electronic brachytherapy (when available). In the absence of any training protocol recommended by a national professional association, the manufacturer's training protocol shall be followed. The training shall include, but not be limited to:

(a) Device-specific radiation safety requirements;

(b) Device operations;

(c) Clinical use for the types of use approved by the FDA;

(d) Emergency procedures, including an emergency drill; and

(e) The registrant's Quality Assurance Program.

(3) A registrant shall retain a record of individuals receiving instruction required by this rule for three years. The record shall include:

(a) A list of the topics covered;

(b) The date of the instruction;

(c) The name(s) of the attendee(s); and

(d) The name(s) of the individual(s) who provided the instruction.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

333-123-0115
Mobile Electronic Brachytherapy Service

A registrant providing mobile electronic brachtherapy service shall, at a minimum:

(1) Check all survey instruments before medical use at each address of use or on each day of use, whichever is more restrictive;

(2) Account for the electronic brachytherapy source in the electronic brachytherapy device before departure from the client's address; and

(3) Perform, at each location on each day of use, all of the required quality assurance checks specified in OAR 333-123-0100 to assure proper operation of the device.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 4-2013, f. & cert. ef. 1-29-13

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Rule Caption: Dental Pilot Projects
Adm. Order No.: PH 5-2013
Filed with Sec. of State: 2-4-2013
Certified to be Effective: 2-4-13
Notice Publication Date: 1-1-2013
Rules Adopted: 333-010-0400, 333-010-0405, 333-010-0410, 333-010-0415, 333-010-0420, 333-010-0425, 333-010-0430, 333-010-0435, 333-010-0440, 333-010-0445, 333-010-0450, 333-010-0455, 333-010-0460, 333-010-0465, 333-010-0470
Subject: The Oregon Health Authority, Public Health Division, Oral Health Program is permanently adopting administrative rules in chapter 333, division 10 to provide administrative oversight of Dental Pilot Projects as defined in SB 738 (2011 OL Ch. 716), which passed during the 2011 legislative session. The rules provide administrative guidance to the required content of Dental Pilot Project applications, process for review, approval and monitoring of Dental Pilot Projects and steps to terminate or conclude a Dental Pilot Project.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-010-0400
Description of Dental Pilot Projects

The Dental Pilot Projects are intended to evaluate the quality of care, access, cost, workforce, and efficacy by teaching new skills to existing categories of dental personnel; developing new categories of dental personnel; accelerating the training of existing categories of dental personnel; or teaching new oral health care roles to previously untrained persons. The oral health status of Oregonians is poor and the most vulnerable are those with the least access to services. OAR 333-010-0400 through 333-010-0470 provides administrative guidance to the required content of Dental Pilot Project applications, process for review, approval and monitoring of Dental Pilot Projects, and steps to terminate or conclude a Dental Pilot Project.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0405
Definitions

For purposes of OAR 333-010-0400 through 333-010-0470, the following definitions apply:

(1) "Authority" means the Oregon Health Authority.

(2) "Clinical phase" means instructor supervised experience with a patient during which a trainee applies knowledge presented by an instructor.

(3) "Didactic phase" means an organized body of knowledge presented by an instructor.

(4) "Director" means the Public Health Director within the Oregon Health Authority, or his or her designee.

(5) "Employment/Utilization Phase" means ongoing application of didactic and clinical knowledge and skills in an employment setting under the supervision of a supervisor.

(6) "Employment/Utilization Site" means a health facility, any clinical setting where health care services are provided, and the facilities or programs described in ORS 680.205(1).

(7) "Instructor" means a person qualified to practice or teach the knowledge or skills a trainee is to learn.

(a) "Clinical instructor" is a person who is certified or licensed in the field for which clinical instruction is occurring.

(b) "Non-clinical instructor" is a person with specific training or expertise as demonstrated through a degree or years of experience relevant to the content of instruction.

(8) "Program" means the Dental Pilot Projects program administered by the Authority.

(9) "Program staff" means the staff of the Authority with responsibility for the program.

(10) "Project" means a Dental Pilot Project approved by the director or delegate.

(11) "Project director" means the individual designated by the sponsor to have responsibilities for the conduct of the project staff, instructors, supervisors, and trainees.

(12) "Reviewer" means an individual designated by program staff to review and comment on all or portions of a project application.

(13) "Sponsor" means an entity putting forth an application for a dental pilot project.

(14) "Training program" means an organized educational program that includes at least a didactic phase, clinical phase, and usually an employment/utilization phase.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0410
Minimum Standards

A dental pilot project shall:

(1) Provide for patient safety as follows:

(a) Provide treatment which does not expose a patient to risk of harm when equivalent or better treatment with less risk to the patient is available;

(b) Seek consultation whenever the welfare of a patient would be safeguarded or advanced by having recourse to those who have special skills, knowledge and experience; (c) Provide or arrange for emergency treatment for a patient currently receiving treatment;

(d) Comply with ORS 453.605 to 453.755 or rules adopted pursuant thereto relating to the use of x-ray machines;

(e) Not attempt to perform procedures which the trainee is not capable of performing due to physical or mental disability; and

(f) Comply with the infection control procedures in OAR 818-012-0040.

(2) Provide appropriately qualified instructors to prepare trainees;

(3) Assure that trainees have achieved a minimal level of competence before they enter the employment/utilization phase;

(4) Inform trainees in writing that there is no assurance of a future change in law or regulations to legalize their role;

(5) Demonstrate that the project has sufficient staff to monitor trainee performance and to monitor trainee supervision during the employment/utilization phase;

(6) Demonstrate the feasibility of achieving the project objectives;

(7) Comply with the requirements of the Dental Pilot Projects statute, Oregon Laws 2011, chapter 716 and rules adopted thereunder;

(8) Evaluate quality of care, access, cost, workforce, and efficacy;

(9) Achieve at least one of the following:

(a) Teach new skills to existing categories of dental personnel;

(b) Accelerate the training of existing categories of dental personnel;

(c) Teach new oral health care roles to previously untrained personnel; or

(d) Develop new categories of dental personnel.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0415
Application Procedure

(1) A sponsor may submit an application for a dental pilot project on a form prescribed by the Authority.

(2) The application must demonstrate how the pilot project will comply with the requirements of these rules.

(3) An application must include, but is not limited to the following information:

(a) Sponsors:

(A) A description of the sponsor, including a copy of an organizational chart that identifies how the project relates organizationally to the sponsor;

(B) A copy of a document verifying the sponsor's status as a non-profit educational institution, professional dental organization, or community hospital or clinic;

(C) A description of the functions of the project director, instructors, and other project staff;

(D) The funding sources for the project; and

(E) Documentation of liability insurance relevant to services provided by trainees.

(b) Trainee information:

(A) The criteria that will be used to select trainees; and

(B) The number of proposed trainees.

(c) Instructor/Supervisor information:

(A) The criteria used to select instructors and supervisors;

(B) Instructor-to-trainee ratio;

(C) The background of instructors in training techniques and methodology;

(D) The number of proposed supervisors; and

(E) The criteria used to select an employment/utilization site.

(d) Costs:

(A) The average cost of preparing a trainee, including but not limited to the cost information related to instruction, instructional materials and equipment, space for conducting didactic and clinical phases, and other pertinent costs;

(B) The predicted average cost per patient visit for the care rendered by a trainee; and

(C) A budget narrative that lists costs associated with key project areas, including but not limited to:

(i) Personnel and fringe benefits for project director, instructors, and staff associated with the project;

(ii) Contractors and consultants to the project;

(iii) Materials and supplies used in the clinical, didactic, and employment/utilization phases of the project;

(iv) Equipment and other capitol costs associated with the project; and

(v) Travel required for implementing and monitoring the project.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0420
Trainees

(1) A dental pilot project must have a plan to inform trainees of their responsibilities and limitations under Oregon Laws 2011, chapter 716 and these rules.

(2) A project must provide notice to program staff within 14 days of a trainee entering the employment/utilization phase. The notice shall include, but is not limited to the following:

(a) Name, work address and telephone number of the trainee; and

(b) Name, work address, telephone number and license number of the supervisor.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0425
Instructor and Supervisor Information

A dental pilot project must have:

(1) Instructors:

(a) A number and distribution of instructors sufficient to meet project objectives; and

(b) Instructors with current knowledge and skill in topics they will teach.

(2) A plan to orient supervisors to their roles and responsibilities.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0430
Curriculum

A sponsor of a dental pilot project must have a curriculum plan that includes but is not limited to a description of:

(1) The level of competence the trainee shall have before entering the employment/utilization phase of the project;

(2) The instructional content required to meet the level of competence;

(3) The skills trainees are to learn;

(4) The methodology utilized in the didactic and clinical phases;

(5) The evaluation process used to determine when trainees have achieved the level of competence; and

(6) The hours and months of the time required to complete the didactic and clinical phases.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0435
Evaluation and Monitoring

(1) Evaluation Plan. A sponsor of a dental pilot project must have an evaluation plan that includes, but is not limited to the following:

(a) A description of the baseline data and information collected about the availability or provision of oral health care delivery, or both, prior to utilization of the trainee;

(b) A description of baseline data and information to be collected about trainee performance, acceptance among patient and community, and cost effectiveness;

(c) A description of methodology to be used in collecting and analyzing the data about trainee performance, acceptance, and cost effectiveness; and

(d) A provision for reviewing and modifying objectives and methodology at least annually.

(2) Monitoring Plan. A sponsor of a dental pilot project must have a monitoring plan that ensures at least quarterly monitoring and describes how the sponsor will monitor and ensure:

(a) Patient safety;

(b) Trainee competency;

(c) Supervisor fulfillment of role and responsibilities; and

(d) Employment/utilization site compliance.

(3) Data. A sponsor's evaluation and monitoring plans must describe:

(a) How data will be collected;

(b) How data will be monitored for completeness; and

(c) How data will be protected and secured.

(4) A sponsor must permit project staff or their designees to visit each employment/utilization site at least monthly during the first six month period and at least quarterly thereafter.

(5) A sponsor must provide a report of information requested by the program in a format and timeframe requested.

(6) A sponsor must report adverse events to the program the day they occur.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0440
Informed Consent

(1) A sponsor must ensure that informed consent for treatment is obtained from each patient or a person legally authorized to consent to treatment on behalf of the patient.

(2) A sponsor must submit an informed consent form and any accompanying information to program staff for review. Informed consent must include but is not limited to the following:

(a) An explanation of the role and status of the trainee, including the ready availability of the trainee's supervisor for consultation;

(b) Assurance that the patient can refuse care from a trainee without penalty for such a request; and

(c) Identification that consenting to treatment by a trainee does not constitute assumption of risk by the patient.

(3) Informed consent shall be provided in a language in which the patient is fluent.

(4) Dental pilot project staff or trainees must document informed consent in the patient record prior to providing care to the patient.

(5) Informed consent needs to be obtained specifically for those tasks, services, or functions to be provided by a pilot project trainee.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0445
Application Review Process

(1) The program staff shall review an application to determine if it is complete within 45 calendar days from the date the application was received.

(a) If an applicant does not provide all the information required and the application is considered incomplete, the program shall notify the applicant of the information that is missing, and shall allow the applicant 15 days to submit the missing information.

(b) If an applicant does not submit the missing information within the timeframe specified in the notice the application shall be rejected as incomplete. An applicant whose application is rejected as incomplete may reapply at any time.

(2) An application deemed complete will continue through a review process.

(3) The program may have individuals outside the program review applications but no individual who has contributed to or helped prepare an application will be permitted to do a review.

(4) Program staff may request additional information from an applicant during the review process.

(5) Once project staff have completed an application review a Notice of Intent to approve or deny an application will be provided to the applicant and the Notice and application will be posted for public comment for a period of 10 business days. The Notice will be sent to interested parties.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0450
Project Approval

(1) Once the public comment period described in OAR 333-010-0445(5) has closed the director or his or her designee shall grant or deny approval of a pilot project applicant within 30 calendar days of receiving the application from the program.

(2) If the director grants approval, he or she will specify the length of time the project can operate.

(3) The director's decision shall be transmitted in writing to the applicant.

(4) A sponsor whose project has been denied may not submit a new application within six months from the date the director denied the application.

(5) The program staff shall notify the Oregon Board of Dentistry when a project is approved.

(6) The director or his or her designee may extend the length of time a project can operate at his or her discretion.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0455
Program Responsibilities

(1) Project evaluation. Program staff shall evaluate approved projects and the evaluation shall include but is not limited to:

(a) Periodically requesting written information from the project, at least annually to ascertain the progress of the project in meeting its stated objectives and in complying with program statutes and regulations; and

(b) Periodic, but at least annual, site visits to project offices, locations, or both, where trainees are being prepared or utilized.

(2) Site visits.

(a) Site visits shall include, but are not limited to:

(A) Determination that adequate patient safeguards are being utilized;

(B) Validation that the project is complying with the approved or amended application; and

(C) Interviews with project participants and recipients of care.

(b) An interdisciplinary team composed of representatives of the dental boards, professional organizations, and other state regulatory bodies may be invited to participate in the site visit.

(c) Written notification of the date, purpose, and principal members of the site visit team shall be sent to the project director at least 14 calendar days prior to the date of the site visit.

(d) Plans to interview trainees, supervisors, and patients or to review patient records shall be made in advance through the project director.

(e) An unannounced site visit may be conducted by program staff if program staff have concerns about patient or trainee safety.

(f) A report of findings and an indication of pass or fail for site visits shall be prepared by program staff and provided to the project director in written format within 60 calendar days following a site visit.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0460
Modifications

(1) Any modifications or additions to an approved project shall be submitted in writing to program staff. Modifications include, but are not limited to the following:

(a) Changes in the scope or nature of the project. Changes in the scope or nature of the project require program staff approval;

(b) Changes in selection criteria for trainees, supervisors, or employment/utilization sites; and

(c) Changes in project staff or instructors.

(2) Changes in project staff or instructors do not require prior approval by program staff, but shall be reported to the program staff within two weeks after the change occurs along with the curriculum vitae for the new project staff and instructors.

(3) All other modifications require program staff approval prior to implementation.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0465
Completion of Project

(1) An approved project must notify the Authority in writing if it intends to discontinue its status as a Dental Pilot Project, at least 60 calendar days prior to discontinuation. Notification must include a closing report that includes but is not limited to:

(a) The reasons for discontinuation as a pilot project;

(b) A summary of pilot project activities including the number of persons who entered the employment/utilization phase; and

(c) A description of the plan to inform trainees of the project's discontinuation, and that they are precluded from performing the skills authorized under the pilot project after discontinuation unless the role has been legalized.

(2) The project must obtain written acknowledgement from trainees regarding notification of the project's discontinuation and preclusion from performing skills authorized under the pilot project after discontinuation unless the role has been legalized and the trainee has met necessary licensure requirements.

(3) The project must inform the Oregon Board of Dentistry that the project is completed and provide a list of trainee names associated with the project at least 14 calendar days prior to discontinuation.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

333-010-0470
Suspension or Termination of Project

(1) A pilot project may be suspended or terminated during the term of approval for violation of 2011 Oregon Laws, chapter 716 or any of these rules.

(2) If the Authority determines that a dental pilot project is in violation of 2011 Oregon Laws, chapter 716 or these rules, the Authority may issue a Notice of Proposed Suspension or Notice of Proposed Termination in accordance with ORS 183.411 through 183.470. A sponsor who receives a Notice may request an informal meeting with the director and program staff. A request for an informal meeting does not toll the time period for requesting a hearing as described in section (3) of this rule.

(3) If the Authority issues a Notice of Proposed Suspension or Notice of Proposed Termination the sponsor is entitled to a contested case hearing as provided under ORS chapter 183. The sponsor has 30 days to request a hearing.

(4) If the Authority terminates a dental pilot project the order shall specify when, if ever, the sponsor may reapply for approval of a dental pilot project.

Stat. Auth.: 2011 OL Ch. 716
Stats. Implemented: 2011 OL Ch. 716
Hist.: PH 5-2013, f. & cert. ef. 2-4-13

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Rule Caption: Pursuant to SB 1507, revision of HIV testing-related rules
Adm. Order No.: PH 6-2013
Filed with Sec. of State: 2-4-2013
Certified to be Effective: 2-4-13

Notice Publication Date: 1-1-2013
Rules Adopted: 333-022-0200, 333-022-0205, 333-022-0210, 333-022-0300, 333-022-0305, 333-022-0310, 333-022-0315
Rules Repealed: 333-012-0260, 333-012-0262, 333-012-0264, 333-012-0265, 333-012-0266, 333-012-0267, 333-012-0268, 333-012-0269, 333-012-0270
Rules Renumbered: 333-012-0300 to 333-022-0410, 333-012-0310 to 333-022-0415, 333-012-0320 to 333-022-0420, 333-012-0330 to 333-022-0425, 333-012-0350 to 333-022-0435, 333-012-0360 to 333-022-0440, 333-012-0370 to 333-022-0445, 333-012-0380 to 333-022-0450, 333-012-0390 to 333-022-0455
Rules Ren. & Amend: 333-012-0280 to 333-022-0400, 333-012-0290 to 333-022-0405, 333-012-0340 to 333-022-0430, 333-012-0400 to 333-022-0460
Subject: The Oregon Health Authority, Public Health Division is making permanent changes to Oregon Administrative Rules (OARs) pertaining to HIV testing. During the 2012 legislative session, the Oregon Legislature passed Senate Bill 1507 (Oregon Laws 2012, chapter 26), which amended Oregon Revised Statutes 433.045, 433.055, 433.065, 433.075 and 433.085. SB 1507 removed requirements for obtaining informed consent prior to collecting a specimen for testing for HIV. Instead of informed consent, changes to statute resulting from SB 1507 now require that health care providers notify the individual that he/she will be tested for HIV and allow the individual an opportunity to decline the test. In addition the statute declares that the "notification and opportunity to decline testing required…may be verbal or in writing, and may be contained in a general medical consent." The statutory changes necessitated changes to OARs related to HIV testing.

Overview of revisions:

(1) The Public Health Division is adopting a new rule division (022) within chapter 333 of the OARs because rules related to HIV testing, consent and occupational exposure to HIV don't group logically with other Public Health Division rules found in division 012 relating to Traveler's Accommodations, Recreation Parks, Organizational Camps, Swimming Pools, Bath Houses, Food Service Facilities, Mobile Units, and Vending Machines.

(2) Definitions in adopted OAR 333-022-0010 (borrowing language from repealed OAR 333-012-0260) have been updated.

(3) Requirements for informed consent for HIV testing (repeal of OAR 333-012-0265 and adoption of OAR 333-022-0205) have been removed and substituted with language from SB 1507 requiring notification of the individual being tested, allowing the individual to decline, and advising that notification may be done verbally or in writing, including via a general medical consent form.

(4) Adopted OAR 333-022-0210 (borrowing language from repealed OAR 333-012-0270) on confidentiality of HIV test results permits disclosure of HIV test results by licensed health care providers and health care facilities in a manner consistent with HIPAA. It also specifies circumstances under which public health may disclose HIV test results. In addition, subsections added permitting public health to disclose identity of an individual with a positive HIV test result for purposes of notification of a person with a substantial exposure to avoid danger to the exposed person and to a health care provider for purposes of facilitating or arranging treatment.

(5) Rules on HIV testing in occupational and health care settings have been rewritten and renumbered to remove reference to informed consent for testing and simplify procedures for testing sources after bloodborne exposures in certain occupational settings.

(6) Rules on monitoring health care providers with HIV or viral hepatitis (OAR 333-022-0400 through 333-022-0460) have been renumbered from OAR 333-012-0280 through 333-012-0400. These rules remain unchanged, except where references to other rules need to be updated.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-022-0200
Definitions

For purposes of OAR 333-022-0205 through 333-022-0210, unless otherwise specified the following definitions shall apply:

(1) "Division" means the Public Health Division within the Oregon Health Authority.

(2) "Health care provider" has the meaning given that term in ORS 433.045.

(3) "HIV test" has the meaning given that term in ORS 433.045.

(4) "HIV-positive test" means a positive result on the most definitive HIV test procedure used to test a particular individual. In the absence of any recommended confirming tests, this means the positive result of the initial test done.

(5) "Insurance producer" has the meaning given that term in ORS 746.600.

(6) "Insurance-support organization" has the meaning given that term in ORS 746.600.

(7) "Insurer" has the meaning given that term in ORS 731.106.

(8) "Licensed health care facility" means a health care facility as defined in ORS 442.015 and a mental health facility, alcohol treatment facility or drug treatment facility licensed or operated under ORS chapters 426 or 430.

(9) "Local public health administrator" has the meaning given that term in ORS 433.060.

(10) "Local public health authority" has the meaning given that term in ORS 431.260.

(11) "Next of kin" means an individual within the first applicable class of the following listed classes:

(a) The spouse of the decedent;

(b) A son or daughter of the decedent 18 years of age or older;

(c) Either parent of the decedent;

(d) A brother or sister of the decedent 18 years of age or older;

(e) A guardian of the decedent at the time of death;

(f) A person in the next degree of kindred to the decedent;

(g) The personal representative of the estate of the decedent; or

(h) The person nominated as the personal representative of the decedent in the decedent's last will.

(12) "Personal representative" means a person who has authority to act on behalf of an individual in making decisions related to health care.

(13) "Substantial exposure" means an exposure to blood or certain body fluids that have a potential for transmitting the human immunodeficiency virus based upon current scientific information and may include but is not limited to contact with blood or blood components, semen, or vaginal/cervical secretions through percutaneous inoculation or contact with an open wound, non-intact skin, or mucous membrane of the exposed person.

Stat. Auth.: ORS 433.045 - 433.080
Stats. Implemented: ORS 433.006 & 433.065
Hist.: PH 6-2013, f. & cert. ef 2-4-13

333-022-0205
HIV Testing, Notification, Right to Decline

(1) Pursuant to ORS 433.045, a health care provider or the provider's designee shall, before subjecting an individual to an HIV test:

(a) Notify the individual being tested; and

(b) Allow the individual being tested the opportunity to decline the test.

(2) A health care provider or the provider's designee may provide an individual notice and the opportunity to decline testing verbally or in writing, including providing the notice and the opportunity to decline in a general medical consent form.

(3) Whenever an insurer, insurance producer or insurance-support organization asks an applicant for insurance to take an HIV test in connection with an application for insurance, the insurer, insurance producer or insurance-support organization must reveal the use of the test to the applicant and obtain the written consent of the applicant. The consent form must disclose the purpose of the test and to whom the results may be disclosed.

(4) Anyone other than those listed in sections (1) through (3) of this rule who wishes to subject an individual to an HIV test must reveal the use of the test to the individual and obtain written consent of the individual for the HIV test.

(5) If an individual is deceased, next of kin may consent to an HIV test pursuant to ORS 433.075.

(6) If an individual is incapable of consenting to an HIV test, the individual's personal representative may consent on the individual's behalf.

Stat. Auth.: ORS 433.045 – 433.080
Stats. Implemented: ORS 433.045, 433.055(3), 433.065 & 433.075
Hist.: PH 6-2013, f. & cert. ef 2-4-13

333-022-0210
Confidentiality

(1) General. Pursuant to ORS 433.045, a person may not disclose or be compelled to disclose the identity of any individual upon whom an HIV test is performed or the results of such a test in a manner that permits identification of the subject of the test, except as required or permitted by federal law, the law of this state, or these rules, or as authorized by the individual who is tested. The prohibitions on disclosure do not apply to an individual acting in a private capacity and not in an employment, occupational or professional capacity.

(2) Disclosure to or for a tested individual. The results of an HIV test may be disclosed to:

(a) The tested individual;

(b) The health care provider or licensed health care facility or person ordering the test; and

(c) Any individual to whom the tested individual has authorized disclosure.

(3) Medical records. When a health care provider or licensed health care facility obtains HIV test results of an individual, the test results may be entered into the routine medical record of that individual maintained by that health care provider or licensed health care facility. The information in the record may be disclosed in a manner consistent with ORS 192.553 to 192.581 and the Health Information Portability and Accountability Act (HIPAA) regulations, 45 CFR 160 to 164.

(4) Public health purposes.

(a) Anyone may report the identity and HIV-related test result of an individual to the local public health authority or Division for public health purposes.

(b) The Division or local public health authority may inform an individual who has had a substantial exposure to HIV of that exposure if the Division or local public health authority determines that there is clear and convincing evidence that disclosure is necessary to avoid an immediate danger to the individual or to the public.

(c) The Division or local public health authority may disclose the identity of an individual with an HIV-positive test to a health care provider for the purpose of referring or facilitating treatment for HIV infection.

(d) The Division or local public health authority may only disclose the minimum amount of information necessary to carry out the purposes of the disclosure.

(5) Anatomical donations. The identity of a HIV tested individual and that individual's HIV test results may be released to a health care provider or licensed health care facility to the minimum extent necessary to make medical decisions concerning organ or tissue transplants.

(6) Nothing in this rule is intended to limit the extent to which a licensed health care facility or health care provider can use or disclose HIV related health information in accordance with other state and federal laws.

Stat. Auth.: ORS 433.008, 433.045
Stats. Implemented: ORS 433.045 – 433.080
Hist.: PH 6-2013, f. & cert. ef 2-4-13

333-022-0300
Procedures for Requesting a Source Person Consent to an HIV Test Following an Occupational Exposure

(1) For purposes of this rule the following definitions apply:

(a) "Exposure" means contact with a source person's body fluids.

(b) "Licensed health care provider" has the meaning given that term in ORS 433.060.

(c) "Local public health administrator (LPHA)" means the public health administrator of the county or district health department for the jurisdiction in which the reported substantial exposure occurred.

(d) "Next of kin" means an individual within the first applicable class of the following listed classes:

(A) The spouse of the decedent;

(B) A son or daughter of the decedent 18 years of age or older;

(C) Either parent of the decedent;

(D) A brother or sister of the decedent 18 years of age or older;

(E) A guardian of the decedent at the time of death;

(F) A person in the next degree of kindred to the decedent;

(G) The personal representative of the estate of the decedent; or

(H) The person nominated as the personal representative of the decedent in the decedent's last will.

(e) "Occupational exposure" means a substantial exposure of a worker in the course of the worker's occupation.

(f) "Qualified person" means an individual, such as a licensed health care provider, who has the necessary training and knowledge about infectious disease to make a determination about whether an exposure was substantial.

(g) "Source person" means a person whose body fluids may be the source of a substantial exposure.

(h) "Substantial exposure" means an exposure to blood or certain body fluids that have a potential for transmitting the human immunodeficiency virus based upon current scientific information and may include but is not limited to contact with blood or blood components, semen, or vaginal/cervical secretions through percutaneous inoculation or contact with an open wound, non-intact skin, or mucous membrane of the exposed person.

(i) "Worker" means a person who is licensed or certified to provide health care under ORS chapters 677, 678, 679, 680, 684 or 685, or ORS 682.216, an employee of a health care facility, of a licensed health care provider or of a clinical laboratory, as defined in ORS 438.010, a firefighter, a law enforcement officer, as defined in ORS 414.805, a corrections officer or a parole and probation officer.

(2) The Division has determined that a worker who experiences an occupational exposure may benefit from requesting the mandatory testing of a source person because such testing may assist a worker in obtaining necessary prophylaxis or treatment for HIV.

(3) Pursuant to ORS 433.065, a worker who experiences an exposure may request that a determination be made as to whether the exposure was a substantial exposure.

(a) A worker may make a request for a determination to:

(A) If the source person is being treated at a licensed health care facility:

(i) The facility's infection control officer or other designated qualified person; or

(ii) The source person's treating health care provider;

(B) The worker's health care provider; or

(C) The LPHA.

(b) A request for a determination must include but is not limited to:

(A) The worker's name and contact information;

(B) Whether the worker has been tested for HIV and if so, when;

(C) The details of the exposure;

(D) The name, contact information, and current location of the source, if known;

(E) Information about the source person's HIV status, if known; and

(F) A citation to ORS 433.065 and these rules as authority for the request for a determination.

(4) The health care provider, infection control practitioner, designated qualified person or local public health administrator to whom the request is made must determine whether an exposure was a substantial exposure and an occupational exposure and provide that determination in writing to the worker within 24 hours of receiving the request. The individual making the determination may rely on the most recent guidance on this topic issued by the federal Centers for Disease Control and Prevention. The individual to whom the request is made may contact the worker to request additional information and may require the release of records related to the exposure from the worker, a licensed health care facility or a licensed health care provider in order to make his or her determination.

(5) If the health care provider, infection control officer, designated qualified person or LPHA to whom the request was made determines the worker experienced a substantial exposure and an occupational exposure the worker may request that the source person be tested for HIV.

(a) If the worker knows that the source person is under the care of a licensed health care facility or a licensed health care provider the worker may request that the health care facility or licensed health care provider ask the source person to consent to an HIV test. A health care facility or licensed health care provider who receives a request from a worker as described in section (5) of this rule is required to ask the source person to consent to an HIV test within 24 hours of receiving the request and to report to the worker immediately whether the source person has consented to an HIV test.

(b) If the worker does not know whether the source person is under the care of a licensed health care facility or a licensed health care provider the worker may contact the LPHA and ask for assistance in locating the source person. If the source person is located with assistance from the LPHA, the LPHA must request that the source person consent to an HIV test.

(c) In accordance with ORS 433.075(5) if the source person consents to the HIV test, the results of an HIV test shall be reported to the worker by the health care provider or licensed health care facility that ordered the test but the results may not identify the source person and the worker is pro-

hibited from redisclosing any information about the test if the source person is known to the worker.

(d) A worker, or the exposed person's employer in the case of an occupational exposure, is responsible for the costs of the source person's HIV test in accordance with ORS 433.075.

(6) If the worker disagrees with a determination that an alleged occupational exposure was not a substantial exposure, the worker may request a second determination from the LPHA. If the LPHA determines that the exposure was substantial, the worker may request that the source person be tested for HIV according to the procedures detailed in subsections (5)(a) through (d).

(7) If the source person refuses to consent, the health care provider or licensed health care facility that requested that the source person be tested must document, in writing, the source person's refusal to consent to an HIV test and provide that documentation to the worker. The LPHA must also be notified by the health care provider, licensed health care facility, or the worker of the documentation of the refusal along with the determination that the exposure was substantial.

(8) If a source person refuses to consent to an HIV test or fails to obtain a test within 24 hours of his or her consent to the HIV test the worker may petition the circuit court in the county in which the occupational exposure occurred in accordance with ORS 433.080 and OAR 333-022-0305 to request mandatory testing of the source person. Before a worker may petition the court for mandatory testing the worker must agree to an HIV test and submit a specimen to a laboratory certified to perform testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578,42 U.S.C. 201 and 263(a))(CLIA) and must notify the LPHA of the failure to obtain a test along with along with the determination that the exposure was substantial.

(9) If a source person is deceased or is unable to consent to an HIV test, consent shall be sought from the source person's next of kin.

(10) If a worker has an employer, the worker's employer shall be required to provide the worker with information about HIV infection, methods of preventing HIV infection, HIV tests and treatment and assistance in following the procedures outlined above. A worker who is self-employed may obtain this information and assistance from the LPHA.

Stat. Auth.: ORS 433.065
Stats. Implemented: ORS 433.065
Hist.: PH 6-2013, f. & cert. ef 2-4-13

333-022-0305
Petition for Mandatory Testing of Source Persons

(1) If a worker has complied with the process established in OAR 333-022-0300 and a source person has refused to consent to an HIV test or has failed to obtain a test within the time period established in that rule, the worker may petition the circuit court for the county in which the exposure occurred and seek a court order for mandatory testing in accordance with ORS 433.080.

(2) The form for the petition shall be as prescribed by the Division and shall be obtained from the LPHA.

(3) The petition shall name the source person as the respondent and shall include a short and plain statement of facts alleging:

(a) The petitioner is a worker subjected to an occupational exposure and the respondent is the source person;

(b) The petitioner meets the definition of worker in ORS 433.060;

(c) All procedures for obtaining the respondent's consent to an HIV test as described in OAR 333-022-0300 have been exhausted by the petitioner and the respondent has refused to consent to the test, or within the time period prescribed in OAR 333-022-0300 has failed to submit to the test;

(d) The petitioner has no knowledge that he or she has a history of a positive HIV test and has since the occupational exposure submitted a specimen for an HIV test to a laboratory certified to perform testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578,42 U.S.C. 201 and 263(a))(CLIA).; and

(e) The injury that petitioner is suffering or will suffer if the source person is not ordered to submit to an HIV test.

(4) The petition shall be accompanied by the certificate of the LPHA declaring that, based upon information in the possession of the administrator, the facts stated in the allegations under subsections (3)(a), (b) and (c) of this rule are true.

(5) A LPHA must provide the petitioner a certificate as described in section (4) of this rule and must appear at any court hearing on the petition in accordance with ORS 433.080(7).

(6) The court is required to hold a hearing on the petition in accordance with ORS 433.080.

Stat. Auth.: ORS 433.080
Stats. Implemented: ORS 433.080
Hist.: PH 6-2013, f. & cert. ef 2-4-13

333-022-0310
Substantial Exposure While Being Administered Health Care

(1) For purposes of this rule the following definitions apply:

(a) "Exposure" means contact with a worker's body fluids.

(b) "Local public health administrator (LPHA)" means the public health administrator of the county or district health department for the jurisdiction in which the reported substantial exposure occurred.

(c) "Health care" has the meaning given that term in ORS 192.556.

(d) "Licensed health care provider" has the meaning given that term in ORS 433.060.

(e) "Patient" means an individual who has experienced an exposure or substantial exposure while being administered health care.

(f) "Qualified person" means an individual, such as a licensed health care provider, who has the necessary training and knowledge about infectious disease to make a determination about whether an exposure was substantial.

(g) "Substantial exposure" means an exposure to blood or certain body fluids that have a potential for transmitting the human immunodeficiency virus based upon current scientific information and may include but is not limited to contact with blood or blood components, semen, or vaginal/cervical secretions through percutaneous inoculation or contact with an open wound, non-intact skin, or mucous membrane of the exposed person.

(h) "Worker" means a person who is licensed or certified to provide health care under ORS chapters 677, 678, 679, 680, 684 or 685, or ORS 682.216, an employee of a health care facility, of a licensed health care provider or of a clinical laboratory, as defined in ORS 438.010, a firefighter, a law enforcement officer, as defined in ORS 414.805, a corrections officer or a parole and probation officer

(2) If a patient has experienced an exposure by a worker the worker shall report that exposure immediately to one of the following:

(a) The worker's supervisor or employer, if applicable;

(b) The licensed health care facility's infection control officer or other designated qualified person if the exposure occurred in a licensed health care facility as that term is defined in ORS 442.015; or

(c) The LPHA if the worker does not have a supervisor or employer and the exposure did not occur in a licensed health care facility.

(3) If a witness to the incident has reason to believe the incident was not reported, the witness shall notify one of the individuals or entities listed in section (2) of this rule and provide details of the incident.

(4) The individual to whom a report was made under section (2) or (3) of this rule shall immediately make a determination whether the exposure was substantial and shall provide that determination to the worker in writing. The individual making the determination may rely on the most recent guidance on this topic issued by the federal Centers for Disease Control and Prevention. If the individual to whom the report was made is not qualified to make such a determination the individual must consult with a designated qualified person and that qualified person must then make the determination. The individual making a determination may require the release of records related to the exposure from the worker, a health care facility or a licensed health care provider in order to make his or her determination.

(5) If a determination is made that the exposure was substantial, the worker who was the source of the substantial exposure to a patient shall notify the patient in writing within 24 hours of the determination. The worker may request that his or employer, the health care facility if the exposure occurred in a health care facility, or the LPHA provide assistance in making the notification. The notice must include but is not limited to:

(a) Details of the exposure;

(b) Why it was determined to be substantial;

(c) Whether the worker is willing to consent to an HIV test;

(d) The worker's HIV status if the worker consents to that information being included in the notice;

(e) Information about how the patient may request the worker be tested for HIV and to whom the patient should make such a request; and

(f) A statement that the patient will be responsible for the costs of the worker's HIV test in accordance with ORS 433.075.

(6) If the patient disagrees with a determination that an alleged occupational exposure was not a substantial exposure, the patient may request a second determination from the LPHA. If the LPHA determines that the exposure was substantial, the patient may request that the source person be tested for HIV according to the procedures detailed in subsections (5)(a) through (f).

(7) A patient who has received notification in accordance with section (5) of this rule may make a written request for the worker to be tested for HIV to the individual or entity listed in the notice.

(8) The individual or entity to whom a request has been made under section (6) of this rule must:

(a) Immediately ask the worker to consent to an HIV test; and

(b) Inform the patient immediately whether the worker consented to the testing.

(9) If the worker consents to an HIV test the worker must submit to a test within 24 hours of being asked to consent.

(10) In accordance with ORS 433.075(5) if the worker consents to the HIV test the results of a HIV test shall be reported to the patient by the individual who ordered the test but the results may not identify the worker and the patient is prohibited from redisclosing any information about the results of the test if the worker is known to the patient.

(11) Pursuant to ORS 433.065, a patient who has experienced a substantial exposure by a worker shall be offered information about HIV infection, methods of preventing HIV infection, and HIV tests. This information must be provided by the patient's licensed health care provider. Upon request by the patient's health care provider, the LPHA must provide assistance in providing this information to the patient.

Stat. Auth.: ORS 433.065
Stats. Implemented: ORS 433.065
Hist.: PH 6-2013, f. & cert. ef 2-4-13

333-022-0315
Employer Program for Prevention, Education and Testing

(1) Pursuant to ORS 433.075(4), where an employer provides a program of prevention, education and testing for HIV exposures for its employees, the program will be considered to be approved by the Division if employees receive counseling regarding HIV infection control, uniform body fluids precautions, sexual/needle-sharing abstinence and safer sex practices including advice about precautionary measures to be taken with partners at risk of exposure to HIV while test results are pending.

(2) The Division may make the educational materials needed for such a program available to an employer who requests such materials in writing.

(3) An employer that provides HIV testing to employees must use a laboratory certified to perform testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (P.L. 100-578,42 U.S.C. 201 and 263(a))(CLIA).

(4) If an employer does not have a testing program in place, the employer shall notify the exposed worker of a health care provider who will perform testing, or an exposed worker may seek medical treatment from a health care provider of his or her choice.

Stat. Auth.: ORS 433.075
Stats. Implemented: ORS 433.075
Hist.: PH 6-2013, f. & cert. ef 2-4-13

333-022-0400
Definitions

For the purpose of OAR 333-022-0400 through 333-022-0460, the following definitions apply. Other definitions pertaining to these rules are listed in OAR 333-022-0200:

(1) "Health Care Provider" as defined in OAR 333-017-0000(25) means a person who has direct or supervisory responsibility for the delivery of health care or medical services. This shall include, but not be limited to: Licensed physicians, nurse practitioners, physician assistants, nurses, dentists, medical examiners, and administrators, superintendents and managers of clinics, health care facilities as defined in ORS 442.015(13) and licensed laboratories.

(2) "Reviewable Health Care Provider" means a health care provider who routinely performs or participates in the performance of surgical, obstetric, or dental procedures that:

(a) Pose a significant risk of a bleeding injury to the arm or hand of the health care provider; and

(b) Are of a nature that reasonably could result in the patient having an exposure to the health care provider's blood in a manner capable of effectively transmitting HIV or hepatitis B virus (HBV), for example, due to the inability of the health care provider to withdraw the injured limb. Examples of procedures that do not carry this significant risk include, but are not limited to: oral, rectal, or vaginal examinations; phlebotomy; administering intramuscular, intradermal, or subcutaneous injections; needle biopsies, needle aspirations, and lumbar punctures; cutdown and angiographic procedures; excision of epidermal or dermal lesions; suturing of superficial lacerations; endoscopy; placing and maintaining peripheral and central intravascular lines, nasogastric tubes, rectal tubes, and urinary catheters; or acupuncture.

(3) "HBsAg" means the surface antigen of the hepatitis B virus.

(4) "HBeAg" means the "e" antigen of the hepatitis B virus.

(5) "OR-OSHA" means the Oregon Occupational Safety and Health Division of the Oregon Department of Consumer and Business Services.

Stat. Auth.: ORS 431.110(1), 433.001 & 433.004
Stats. Implemented: ORS 431.110(1), 433.001 & 433.004
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; HD 29-1994, f. & cert. ef. 12-2-94; Renumbered from 333-012-0280, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0405
Preamble

(1) The purpose of OAR 333-022-0400 through 333-022-0460 is to prevent the transmission of hepatitis B virus and human immunodeficiency virus to patients from infected health care providers. The Division declares that strict adherence to proper infection control procedures by all health care providers is the primary way to prevent such transmission. The Division recognizes that when proper infection control procedures are used, the risk of transmission of HIV or hepatitis B virus from reviewable health care providers to their patients is negligible.

(2) In the event that an HIV-infected health care provider demonstrates symptoms of cognitive, emotional, behavioral or neurologic impairment, he or she should be treated like any other distressed and/or impaired health care provider, following the standards of the appropriate professional licensing board.

Stat. Auth.: ORS 431.110(1) & 433.004
Stats. Implemented: ORS 431.110(1) & 433.004
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; Renumbered from 333-012-0290, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0410
Infection Control

(1) All health care providers and health care facilities shall strictly adhere to the infection control requirements of OAR 333- 017-0005(1) and applicable sections of the OSHA rules, "Occupational Exposure to Bloodborne Pathogens" (OAR 437-002 - 1910.1030). This includes the proper use of hand washing, protective barriers, and care in the use and sterilization or disposal of needles and other sharp instruments as described in the U.S. Public Health Service's Centers for Disease Control and Prevention recommendations found in "Recommendations for Prevention of HIV Transmission in Health Care Settings", Morbidity and Mortality Weekly Report 1987; 36 (supplement number 2S); 1-18S and "Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health Care Settings", Morbidity and Mortality Weekly Report 1988; 37:377-82, 387-88.

(2) Any health care provider who observes that another health care provider or health care facility is not practicing current infection control standards shall seek correction of that problem through procedures appropriate to the setting. Such procedures may include, for example, discussing the needed corrective actions directly with the health care provider, reporting the breaches of infection control practice to the health care facility's infection control committee, or other actions/reporting as recommended by the infection control committee or required by other regulations.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 431.110(1) & 433.004(1)(d)
Stats. Implemented: ORS 431.110(1) & 433.004(1)(d)
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; Renumbered from 333-012-0300, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0415
Infection Control Training

(1) All health care providers and health care facilities shall adhere to the infection control training requirements of the OSHA rules, "Occupational Exposure to Bloodborne Pathogens" (OAR 437-002 – 1910.1030). These include employers ensuring that all employees with potential occupational exposures to bloodborne pathogens participate in a training program at the time of initial assignment to the tasks where occupational exposure may take place and at least annually thereafter.

(2) Any institution in Oregon providing professional training leading to a degree or certificate as a health care provider shall provide formal training in infection control procedures as a prerequisite for graduation.

Stat. Auth.: ORS 431.110(1) & 433.004(1)
Stats. Implemented: ORS 431.110(1) & 433.004(1)
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; Renumbered from 333-012-0310, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0420
HIV and Hepatitis B Testing of Health Care Providers

(1) HIV testing and hepatitis B testing of health care providers is not required by the Division.

(2) All reviewable health care providers are encouraged to voluntarily undergo testing for HIV infection. Any reviewable health care provider is encouraged to either:

(a) Demonstrate serologic evidence of immunity to the hepatitis B virus from vaccination; or

(b) To know his or her HBsAg status and, if that status is positive, is encouraged to know his or her HBeAg status.

(3) The provisions of section (2) of this rule shall not be deemed to authorize any health care provider, health care facility, clinical laboratory, blood or sperm bank, insurer, insurance agent, insurance-support organization as defined in ORS 746.600, government agency, employer, research organization or agent of any of them to require HIV testing of any health care provider as a condition of practice. Nor shall such provisions be deemed to create a legal standard of care for reviewable health care providers.

Stat. Auth.: ORS 431.110(1) & 433.004(1)(d)
Stats. Implemented: ORS 431.110(1) & 433.004(1)(d)
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; Renumbered from 333-012-0320, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0425
Hepatitis B Immunization

Every reviewable health care provider, whether or not directly subject to regulation by OR-OSHA, is encouraged to determine whether he or she has serologic evidence of immunity to hepatitis B or to obtain complete hepatitis B immunization.

Stat. Auth.: ORS 431.110(1) & 433.004(1)(d)
Stats. Implemented: ORS 431.110(1) & 433.004(1)
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; Renumbered from 333-012-0330, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0430
Process for Initiating Review of the Professional Practice of a Reviewable Health Care Provider with a HIV-Positive Test or a Positive Test for HBsAg and HBeAg

(1) Any reviewable health care provider who learns that he or she has a HIV-positive test or a positive test for both HBsAg and HBeAg is encouraged to refrain from participating in the performance of procedures outlined in OAR 333-022-0400(2) until he or she ensures that his or her HIV and/or HBsAg/HBeAg infection status is reported to either:

(a) The Division for the purpose of undergoing a review of his or her professional practice as described in OAR 333-022-0435; or

(b) His or her own institution of employment for the purpose of undergoing a review of his or her professional practice, if such a process exists.

(2) Reports to the Division should be made directly to the State Epidemiologist, the Deputy State Epidemiologist, or the State Health Officer.

(3) Health care providers who are uncertain as to whether or not they are reviewable may seek anonymous guidance from the Division.

Stat. Auth.: ORS 431.110 & 433.004
Stats. Implemented: ORS 431.110 & 433.004
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; HD 29-1994, f. & cert. 12-2-94; Renumbered from 333-012-0340, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0435
Division Response to the Report of a Reviewable Health Care Provider with a HIV-Positive Test or Positive Tests for HBsAg and HBeAg

The following procedures shall be undertaken by the Division at the request of a reviewable health care provider with a positive test for HIV or positive tests for HBsAg and HBeAg:

(1) The Division shall interview the reviewable health care provider and his or her personal licensed physician or primary health care provider within two weeks of receipt of the report to determine:

(a) The date of the initial positive test result;

(b) An estimated date of initial infection, if available from clinical and exposure history information;

(c) The reviewable health care provider's current medical status with special emphasis on presence or absence of exudative lesions or weeping dermatitis, pulmonary tuberculosis, and cognitive, emotional, behavioral or neurologic impairment; and

(d) Whether the reviewable health care provider complies with standard infection control procedures and whether he or she has a history of incidents in which there was a substantial likelihood that a patient received a substantial exposure to the reviewable health care provider's blood;

(e) Pursuant to ORS 433.008 and 433.045, confidentiality of the reviewable health care provider's HIV or HBsAg/HBeAg status shall be maintained during this investigation.

(2) The Division shall convene an expert panel within two weeks of completion of the investigation to make recommendations regarding the reviewable health care provider's continued practice.

(3) The identity of the reviewable health care provider will not be revealed to the expert panel, unless the reviewable health care provider consents to this disclosure.

Stat. Auth.: ORS 431.110(1) & 433.004(1)
Stats. Implemented: ORS 431.110(1) & 433.004(1)
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; HD 29-1994, f. & cert. 12-2-94; Renumbered from 333-012-0350, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0440
Composition of the Expert Panel and Its Responsibilities

(1) The expert panel shall include: An infectious disease specialist, with expertise in the epidemiology of HIV and hepatitis B infections, who is not involved in the care of the reviewable health care provider; a health professional with expertise in the procedures performed by the reviewable health care provider; a representative of the Division; and others at the discretion of the Division. With the consent of the reviewable health care provider, the reviewable health care provider's personal licensed physician or primary health care provider shall also be offered a position on the panel. The reviewable health care provider shall have the right to review the composition of the panel.

(2) The expert panel shall consider all information obtained by the Division's investigation and may request further information of the Division or the reviewable health care provider as needed.

(3) The expert panel shall make recommendations to the Division regarding the reviewable health care provider's further practice. The panel will focus on the reviewable health care provider's ability to comply with infection control procedures and his or her ability to provide competent care. Restrictions in future practice will be recommended only if there are medical impairments, infection control breaches, or scientific evidence to indicate that, in the Division's judgment, the reviewable health care provider's current practice activities pose a significant risk of transmission to the patient. Job modifications, limitations, or other restrictions are warranted only if there is clear evidence that the reviewable health care provider's current practice activities pose a significant risk of transmitting infection to patients. If restrictions are recommended, the panel will recommend the least restrictive alternative. If warranted, the panel may recommend one or more of the following:

(a) Additional infection control procedures;

(b) Restrictions on specific procedures;

(c) Monitoring of the reviewable health care provider's practice for compliance with the recommendations of the expert panel;

(d) Medical monitoring (both content and frequency) of the reviewable health care provider; and

(e) Frequency with which the panel should reconvene to reconsider its recommendations in light of the changing medical condition of the reviewable health care provider.

(4) The expert panel shall furnish the reviewable health care provider with a draft of its recommendations and an opportunity for comment. Before finalizing its recommendations to the Division, the expert panel shall take into account any comments received from the reviewable health care provider or the provider's representative.

Stat. Auth.: ORS 431.110(1) & 433.004(1)
Stats. Implemented: ORS 431.110(1) & 433.004(1)
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; HD 29-1994, f. & cert. 12-2-94; Renumbered from 333-012-0360, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0445
Division Recommendations to Reviewable Health Care Provider

The Division shall consider the specific recommendations of the expert panel and comments, if any, of the reviewable health care provider or the provider's representative, and shall prepare written recommendations to the reviewable health care provider. These written recommendations shall be presented to the reviewable health care provider within one week after completion of the panel's recommendations.

Stat. Auth.: ORS 431.110 & 433.004
Stats. Implemented: ORS 431.110 & 433.004
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; Renumbered from 333-012-0370, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0450
Notification of the Appropriate Licensing Board

If the Division has reason to believe that the reviewable health care provider poses a significant risk of transmission of HIV or hepatitis B virus to the patient, whether or not an HIV-infected or HBsAg/HBeAg-positive reviewable health care provider has been reported to the Division and has consented to voluntary review as outlined above, the Division may notify the appropriate licensing board, and shall inform the reviewable health care provider, in writing, of this notification.

Stat. Auth.: ORS 431.110 & 433.004
Stats. Implemented: ORS 431.110 & 433.004
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; Renumbered from 333-012-0380, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0455
Notification and Counseling of Some or All Past or Present Patients of the Reviewable Health Care Provider

Notification of patients as to their possible exposure to HIV or hepatitis B shall not occur except in any of the following circumstances:

(1) HIV or hepatitis B transmission from reviewable health care provider to at least one of his or her patients has occurred;

(2) The patient to be notified has had a substantial exposure to the reviewable health care provider's blood or body fluids; or

(3) The reviewable health care provider has had significant violations of infection control practices that were standard at the time of the patient contact and which resulted in a significant risk of a substantial exposure to the patient being notified;

(4) The identity of the HIV-infected health care provider shall not be explicitly disclosed during the notification process.

Stat. Auth.: ORS 431.110(1) & 433.004(1)(d)
Stats. Implemented: ORS 431.110(1) & 433.004(1)(d)
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; Renumbered from 333-012-0390, PH 6-2013, f. & cert. ef. 2-14-13

333-022-0460
Confidentiality

The report of a reviewable health care provider, the Division's investigation, the deliberations and recommendations of the expert panel, and the Division's recommendations pursuant to these rules shall be held in the strictest confidence under ORS 433.008 and 433.045, except as outlined in OAR 333-022-0450 and 333-022-0455.

Stat. Auth.: ORS 431.110(1) & 433.004(1)
Stats. Implemented: ORS 431.110(1) & 433.004(1)
Hist.: HD 18-1993, f. 10-26-93, cert. ef. 10-28-93; Renumbered from 333-012-0400, PH 6-2013, f. & cert. ef. 2-14-13

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Rule Caption: Process for Non-Traditional Health Worker Training, Certification, Registry Enrollment and Training Program Criteria
Adm. Order No.: PH 7-2013(Temp)
Filed with Sec. of State: 2-4-2013
Certified to be Effective: 2-4-13 thru 8-2-13
Notice Publication Date:
Rules Adopted: 333-002-0300, 333-002-0305, 333-002-0310, 333-002-0315, 333-002-0320, 333-002-0325, 333-002-0327, 333-002-0340, 333-002-0345, 333-002-0350, 333-002-0355, 333-002-0360, 333-002-0370, 333-002-0375, 333-002-0380
Subject: The Oregon Health Authority, Office of Equity and Inclusion is temporarily adopting administrative rules in chapter 333, division 002 pertaining to Non-Traditional Health Workers. House Bill 3650, passed during the 2011 legislative session, mandates that members enrolled in Oregon's coordinated care organizations (CCOs) have access to Non-Traditional Health Workers (NTHW) to facilitate culturally and linguistically appropriate care. The purpose of these rules is to develop standard guidelines for a state-wide NTHW Program to train, certify, and provisionally certify NTHWs, including Community Health Workers, Peer Wellness Specialists, Personal Health Navigators and Doulas. These rules establish competency requirements for each NTHW type; a NTHW registry; eligibility requirements and procedures for NTHW certification and provisional certification. These rules also establish curriculum guidelines and procedures for training programs to be approved by the Authority.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-002-0300
Purpose

The purpose of these rules is to establish criteria, description, and training requirements for Non-Traditional Health Workers (NTHW) which include community health workers, personal health navigators, peer wellness specialists and other health care workers not regulated or certified by the state of Oregon. These rules set forth the procedures for NTHW certification and enrollment in a registry maintained by the Authority. These rules also establish curriculum guidelines for training programs seeking to train NTHWs and the procedures for Authority approval of training programs.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0305
Definitions

The following definitions apply to OAR 333-002-0300 through 333-002-0380:

(1) "Authority" means the Oregon Health Authority.

(2) "Authority Approved Training Program" means an organization that has a training program with curriculum that meets Authority standards and has been approved by the Authority to train NTHWs.

(3) "Certified Non-Traditional Health Worker" means an individual who has successfully completed an Authority approved training program or doula training as required by these rules, has applied for and been certified by the Authority for one of the NTHW types; or a grandfathered NTHW who has been certified by the Authority.

(4) "Community Based Organization" means a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community, which may be located within or in close proximity to the community it serves; and is engaged in meeting that community's needs in the areas of social, human, or health services.

(5) "Community Health Worker" has the meaning given that term in ORS 414.025.

(6) "Contact Hour" means a training hour, which includes classroom, group or distance learning. Contact hour does not include homework time, preparatory reading or clinical practicum.

(7) "Competencies" mean key skills and applied knowledge necessary for NTHWs to be effective in the work field and carry out their roles.

(8) "Doula" means a birth companion who provides personal, nonmedical support to women and families throughout a woman's pregnancy, childbirth, and post-partum experience.

(9) "Equivalency" means that individuals have fulfilled the requirements of a course or combination of courses, by completing a relatively equivalent course.

(10) "Grandfathered NTHW" means an individual who has been issued a certificate by the Authority for one of the NTHW types as a result of his or her prior NTHW work experience and fulfillment of all additional requirements for grandfathering as set forth in these rules.

(11) "Incumbent Worker Training" means training offered by an Authority approved training program that ensures that candidates for grandfathering meet the scope of practice standards required by the Authority.

(12) "NTHW Applicant" means an individual who has applied for certification as any of the NTHW types.

(13) "NTHW Type" means a community health worker, peer wellness specialist, personal health navigator, or doula.

(14) "Peer" means any individual who has similar life experience, either as a current or former recipient of addictions or mental health services, or as a family member of an individual who is a current or former recipient of addictions or mental health services.

(15) "Peer Wellness Specialist" has the meaning given that term in ORS 414.025.

(16) "Personal Health Navigator" has the meaning given that term in ORS 414.025.

(17) "Provisionally Certified NTHW" means an individual who has temporary certified status, not to exceed one year, upon successful completion of a non-approved NTHW training program as described in 333-002-0327.

(18) "Registry" means a list of certified NTHWs maintained by the Authority.

(19) "Training Program Applicant" means an organization that has applied for Authority approval of its training program and curricula for any of the NTHW types.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0310
Community Health Worker, Peer Wellness Specialist, Personal Health Navigator Certification Requirements

(1) To be certified as a community health worker, peer wellness specialist, or personal health navigator, an individual must successfully complete all required training offered by an Authority approved training program for that individual's NTHW type.

(2) Individuals who have worked or volunteered in the capacity of a community health worker, peer wellness specialist or personal health navigator in the state of Oregon at least 3000 hours in the five years from the date of application for certification but who have not completed an approved training program are eligible for certification if they successfully complete incumbent worker training offered by an Authority approved training program.

(3) Community health workers, peer wellness specialists or personal health navigators who have completed some or all of the certification training requirements may receive equivalency for previously completed training. The Authority approved training program shall determine equivalency requirements.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0315
Doula Certification Requirements

To be certified in Oregon as a doula, an individual must:

(1) Successfully complete an Authority approved training program for doulas; or

(2) Be certified by DONA International or the Association of Labor Assistants and Childbirth Educators (ALACE); and

(3) Complete six additional hours of cultural competency training from an Authority approved training program.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0320
NTHW Continuing Education Requirements

(1) To maintain certification status, all NTHWs must complete at least 20 hours of continuing education during every three year renewal period.

(2) Continuing education hours taken in excess of the total number required may not be carried over to the next renewal period.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0325
Application and Renewal Process for NTHW Certification and Registry Enrollment

(1) Individuals seeking NTHW certification and registry enrollment must:

(a) Be at least 18 years of age;

(b) Have successfully completed all training requirements for certification pursuant to these rules; and

(c) Submit a completed application on an Authority prescribed form.

(2) Individuals seeking NTHW certification and registry enrollment as a grandfathered NTHW must comply with the requirements in section (1) and must also submit:

(a) Verifiable evidence of working or volunteering in the capacity of a community health worker, peer wellness specialist, or personal health navigator for at least 3000 hours in the five years from the date of application. Verifiable evidence may include but is not limited to pay statement, services contract, student practicum, or intern time log; and

(b) A minimum of one letter of recommendation and competency evaluation on an Authority prescribed form from any previous employer for whom NTHW services have been provided in the five years from the date of application.

(3) Applications are available on the NTHW program webpage or a paper copy may be obtained upon request to the Oregon Health Authority Office of Equity and Inclusion.

(4) Applicants must submit the completed application and all required documentation to the Authority.

(a) All application materials submitted in a language other than English must be accompanied by:

(A) An accurate translation of those documents into English; and

(B) A translator's certification that the translated documents are accurate.

(b) The Authority shall only accept complete and acceptable documentation.

(5) Applicants may withdraw from the process at any time by submitting written notification to the Authority.

(6) Applicants who complete their Authority approved training program more than three years prior to submitting a certification application, must provide evidence that they:

(a) Meet all the requirements for initial certification; and

(b) Have met the applicable requirements for continuing education as described in OAR 333-002-0320 in the three year period preceding the application.

(7) If the Authority determines that an applicant has met all certification requirements, the Authority shall notify the applicant in writing of its decision to grant the individual certification as a NTHW and add the individual to the registry.

(8) Certification is valid for 36 months from the date the Authority grants certification.

(9) A NTHW seeking certification renewal must:

(a) Submit a completed renewal application on an Authority prescribed form; and

(b) Provide written verification indicating the certificate holder has met the applicable requirements for continuing education pursuant to OAR 333-002-0320.

(10) Renewal applications must be submitted to the Authority no less than 30 days prior to the expiration of the current certification period.

(11) The Authority shall remove a NTHW from the registry if the NTHW fails to renew his or her certification within the renewal period.

(12) All new and renewal applicants are subject to a criminal background check in accordance with OAR chapter 943, division 7, and for review to determine whether the applicant is excluded from participation in the medical assistance program, and must submit the Authority required forms for this purpose. A new or renewal applicant may be denied certification based on a fitness determination as described in OAR chapter 943, division 7, or if otherwise excluded from participation in the medical assistance program.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0327
Provisional NTHW Certification

(1) Individuals who have completed or matriculated into a non-approved NTHW training program between February 4, 2010 to February 4, 2013, may qualify for provisional certification by the Authority provided that:

(a) The individual successfully completes the training program; and

(b) The training program includes a minimum of 40 contact hours of training.

(2) Individuals seeking provisional certification must:

(a) Be at least 18 years of age;

(b) Submit a completed application on an Authority prescribed form;

(c) Submit written documentation of successful completion of a NTHW training program that includes at minimum 40 contact hours of training.

(3) Applications are available on the NTHW program webpage or a paper copy may be obtained upon request to the Oregon Health Authority Office of Equity and Inclusion.

(4) Applicants must submit the completed application and all required documentation to the Authority as described in OAR 333-002-0325 (4).

(5) If the Authority determines that an applicant has met all provisional certification requirements, the Authority shall notify the applicant in writing of its decision to grant the individual provisional NTHW certification.

(6) Provisionally certified NTHWs may become certified if:

(a) The individual successfully completes remaining training requirements from an Authority approved training program within one year from the provisional certification date; or

(b) The training program completed by the provisionally certified NTHW becomes Authority approved.

(7) Provisionally certified NTHWs seeking certification must comply with the requirements and procedures set forth in OAR 333-002-0325.

(8) The Authority shall revoke provisional certification if the individual does not successfully complete the remaining training requirements within one year from the date of provisional certification.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0340
Standards of Professional Conduct

(1) A certified or provisionally certified NTHW must comply with Standards of Professional Conduct set forth in this rule. The violation of the standards may result in the denial of an application for certification or suspension or revocation of certification.

(2) NTHWs must:

(a) Acquire, maintain and improve professional knowledge and competence using scientific, clinical, technical, psychosocial, and governmental sources of information;

(b) Represent all aspects of professional capabilities and services honestly and accurately;

(c) Ensure that all actions with a client are based on understanding and implementing the core values of caring, respect, compassion, appropriate boundaries, and appropriate use of personal power;

(d) Develop alliances with the client, colleagues, other health care providers and the community to provide care and services that are safe, effective, and appropriate to the client's needs;

(e) Develop and incorporate respect for diverse client backgrounds including a client's clinical diagnosis, lifestyle, sexual orientation, race, gender, ethnicity, religion, age, and socioeconomic background when planning and providing services;

(f) Act as an advocate for client and client's needs;

(g) Respect the client's right and responsibility for self-determination in making health care choices;

(h) Base decisions and actions on behalf of a client on sound ethical reasoning and current principles of practice;

(i) Maintain client confidentiality; and

(j) Protect a client's rights as described in section (3) of this rule.

(3) NTHW clients have rights that NTHWs must recognize and protect. Clients have the right to:

(a) Be treated with dignity and respect;

(b) Be free from theft, damage, or misuse of personal property;

(c) Be free from neglect of care, verbal, mental, emotional, physical, and sexual abuse;

(d) Be free from financial exploitation;

(e) Be free from physical restraints;

(f) Voice grievances or complaints regarding services or any other issue without discrimination or reprisal for exercising their rights;

(g) Be free from discrimination in regard to race, color, national origin, gender, sexual orientation, or religion; and

(h) Have client information and records confidentially maintained.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0345
Denial, Suspension or Revocation of Certification

(1) The Authority may deny, suspend, or revoke certification when an applicant or certificate holder fails to comply with ORS 414.665 or these rules.

(2) If the Authority denies, suspends, or revokes certification it shall do so in accordance with ORS 183.411 through 183.470 and the applicant or certificate holder may request a contested case hearing.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0350
Training Program Requirements

(1) All Authority approved training programs must:

(a) Meet the curriculum requirements for the NTHW type being trained;

(b) Demonstrate a method for establishing equivalency for students who have previously completed training that meets one or more training requirements for their NTHW type;

(c) Demonstrate active efforts to involve experienced NTHWs in developing and teaching the core curriculum;

(d) Demonstrate active efforts to collaborate with at least one culturally diverse community-based organization (CBO);

(e) Demonstrate the use of various teaching methodologies including but not limited to popular education and adult learning;

(f) Demonstrate the use of various training delivery formats including but not limited to classroom instruction, group and distance learning;

(f) Demonstrate efforts to make training inclusive and accessible to individuals with different learning styles, education backgrounds, and student needs;

(g) Demonstrate efforts to remove barriers to enrollment for students;

(h) Demonstrate inclusion of cognitive and practical examinations to evaluate and document the acquisition of knowledge and mastery of skills by the individual trained. This examination:

(A) May be any combination of written, oral, or practical competency tests; and

(B) Must assess NTHW competencies covered in the curriculum.

(i) Demonstrate the inclusion of a method or process for the individual trained to evaluate and give feedback on the training experience;

(j) Maintain an accurate record of each individual's attendance and participation in training for at least five years after course completion; and

(k) Agree to verify the names of individuals to the Authority who have successfully completed the training program when those individuals apply for certification and registry enrollment.

(2) All Authority approved training programs that provide incumbent worker training for individuals who seek to grandfather into the NTHW program must also:

(a) Require students to submit an Authority prescribed competency evaluation form from any previous employer for whom NTHW services have been provided in the five years from the date of application;

(b) Include a pre-course assessment to evaluate student's current level of knowledge and skill; and

(c) Provide training that addresses gaps in competencies identified in the employer competency evaluation and pre-course assessment.

(3) Training program applicants must submit an application to the Authority. At a minimum, the training program application must include:

(a) Contact information for the individual or entity wishing to establish the training program, including director name and contact information;

(b) A syllabus and list of materials that demonstrate curriculum requirements are met;

(c) A list of curricula or training type to be offered:

(A) Core curriculum for community health workers, peer wellness specialists, personal health navigators;

(B) Additional curriculum for community health workers;

(C) Additional curriculum for personal wellness specialists;

(D) Incumbent worker training;

(E) Doula curriculum;

(d) An overview of the teaching philosophy and methodology;

(e) A description of the method of final examination as described in section (1)(h);

(f) A list of instructors, including experienced NTHWs if available;

(g) A geographic description of the training site;

(h) If the applicant is not a CBO, a signed agreement with a partnering CBO;

(i) A description of the approach for recruiting and enrolling a diverse student population to meet the needs of the community, including any strategies for reducing barriers to enrollment; and

(j) An indication of whether academic credit will be given for successful completion of training program.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0355
Application and Renewal Process for Authority Training Program Approval

(1) Training program applications are available on the NTHW program webpage or by requesting a paper copy from the Oregon Health Authority Office of Equity and Inclusion.

(2) Training program applicants must submit an application at least 90 days in advance of the first expected class day.

(3) If an application is incomplete, the Authority shall send notice requesting the additional materials required. The notice shall specify the date by which additional materials must be submitted. Unless the Authority grants an extension, if additional materials are not submitted within the specified time, the Authority shall return the application to the applicant and take no further action.

(4) If the Authority determines that an applicant has met all training program requirements, the Authority shall send written notice of program approval.

(5) The Authority shall maintain a list of Authority approved training programs. The list shall be available to the public.

(6) An Authority approved training program must apply to renew its approval status every three years.

(a) Renewal applications are available on the NTHW program webpage or by requesting a paper copy from the Oregon Health Authority Office of Equity and Inclusion.

(b) Training programs must complete and submit the renewal application no less than six months prior to the expiration of the current approval period.

(c) Training programs that fail to submit a renewal application pursuant to section (6)(b) of this rule must submit a new application and may not apply for renewal of its current approval.

(7) The Authority may conduct site visits of training programs, either prior to approving or reapproving a training program application, or at any time during the three year approval period.

(8) A training program applicant or Authority approved training program may request a temporary waiver from a requirement in these rules. A request for a waiver must be:

(a) Submitted to the Authority in writing;

(b) Identify the specific rule for which a waiver is requested;

(c) Identify the special circumstances relied upon to justify the waiver;

(d) Describe alternatives that were considered, if any, and why alternatives, including compliance, were not selected;

(e) Demonstrate that the proposed waiver is desirable to maintain or improve the training of NTHWs; and

(f) Indicate the proposed duration of the waiver, not to exceed one academic year.

(9) If the Authority determines that the applicant or program has satisfied the conditions of this rule, the Authority may grant a waiver.

(10) An applicant or an approved training program may not act on or implement a waiver until it has received written approval from the Authority.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0360
Denial, Suspension or Revocation of Training Program Approval

(1) The Authority may deny, suspend or revoke training program approval when an applicant or approved program has failed to comply with ORS 414.665 or these rules.

(2) If the Authority denies, suspends, or revokes approval it shall send written notice and explain the basis for its decision.

(3) An applicant or approved program may request that the Authority reconsider its decision and may request a meeting with Authority staff. The request for reconsideration and a meeting, if requested, must be in writing, and submitted within 20 days of the date the Authority mailed the written decision of denial, suspension or revocation. The request must contain a detailed statement with supporting documentation explaining why the requestor believes the Authority's decision is in error. The Authority shall issue a written decision on reconsideration following review of the materials submitted by the applicant or approved program and a meeting with the applicant or training program, if applicable.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0370
Community Health Workers, Peer Wellness Specialists and Personal Health Navigators Certification Curriculum Standards

(1) All Authority approved core curricula used to train community health workers, peer wellness specialists and personal health navigators must:

(a) Include a minimum of 80 contact hours that covers all the core curriculum topics set forth in section (2) of this rule.

(b) Provide training that addresses all the major roles and core competencies of community health workers, peer wellness specialists and personal health navigators in Oregon as listed and defined in Oregon Health Policy Board's Report "The Role of Non-Traditional Health Workers in Oregon's Health Care System" incorporated by reference. (http://www.oregon.gov/oha/oei/docs/nthw-report-120106.pdf, January 2012)

(2) An Authority approved core curriculum shall consist of the following topics:

(a) Outreach Methods;

(b) Community Engagement, Outreach and Relationship Building;

(c) Communication Skills, including cross-cultural communication, active listening, and group and family dynamics;

(d) Empowerment Techniques;

(e) Knowledge of Community Resources;

(f) Cultural Competency and Cross Cultural Relationships, including bridging clinical and community cultures;

(g) Conflict Identification and Problem Solving;

(h) Social Determinants of Health;

(i) Conducting Individual Needs Assessments;

(j) Advocacy Skills;

(k) Building Partnerships with Local Agencies and Groups;

(l) The Role and Scope of Practice of Non-Traditional Health Workers;

(m) Roles and Expectations for Working in Multidisciplinary Teams;

(n) Ethical Responsibilities in a Multicultural Context;

(o) Legal Responsibilities;

(p) Data Collection and Types of Data;

(q) Crisis Identification, Intervention and Problem-Solving;

(r) Professional Conduct, including culturally-appropriate relationship boundaries and maintaining confidentiality;

(s) Navigating Public and Private Health and Human Service Systems, including state, regional, local;

(t) Working with Caregivers, Families, and Support Systems, including paid care workers;

(u) Introduction to Disease Processes including chronic diseases, mental health, and addictions (warning signs, basic symptoms, when to seek medical help);

(v) Trauma-Informed Care (screening and assessment, recovery from trauma, minimizing re-traumatization);

(w) Health Across the Life Span;

(x) Adult Learning Principles - Teaching and Coaching;

(y) Stages of Change;

(z) Health Promotion Best Practices;

(aa) Self-Care; and

(bb) Health Literacy Issues.

(3) In addition to the core curriculum, training programs for community health workers shall include the following topics:

(a) Self-Efficacy;

(b) Community Organizing;

(c) Group Facilitation Skills;

(d) Conducting Community Needs Assessments;

(e) Popular Education Methods; and

(f) Motivational interviewing.

(4) In addition to the core curriculum, training programs for peer wellness specialists shall include the following topics:

(a) Self-Efficacy;

(b) Group Facilitation Skills;

(c) Cultivating Individual Resilience;

(d) Recovery and Wellness Models; and

(e) Motivational interviewing.

(5) In addition to the core curriculum, training programs for personal health navigators shall include the topic of Wellness Within a Specific Disease.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0375
Doula Certification Curriculum Standards

(1) All Authority approved curricula used to train doulas must include a minimum of the following:

(a) 16 contact hours in Labor training;

(b) 4 contact hours in Breastfeeding training;

(c) 12 contact hours in Childbirth Education; and

(d) 6 contact hours in Cultural Competency training.

(2) Authority approved doula training curricula must also incorporate the following components and students must:

(a) Be CPR-certified;

(b) Read five books from an Authority approved reading list;

(c) Write essay on the value of labor support;

(d) Create a resource list;

(e) Submit evaluations from work with three families;

(f) Attend at least three births and three post-partum home visits; and

(g) Have a valid food handler's permit.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

333-002-0380
NTHW and Training Program Complaints and Investigations

(1) Any individual may make a complaint verbally or in writing to the Authority regarding an allegation as to the care or services provided by a certified or provisionally certified NTHW or that an approved training program has violated NTHW statutes or these rules.

(2) The identity of an individual making a complaint shall be kept confidential to the extent permitted by law but may be disclosed as necessary to conduct the investigation and may include but is not limited to disclosing the complainant's identity to the NTHW's employer.

(3) If a complaint involves an allegation of criminal conduct or that is within the jurisdiction of another local, state, or federal agency, the Authority shall refer the matter to the appropriate agency.

(4) The Authority shall investigate complaints and take any actions that are necessary for resolution. An investigation may include but is not limited to:

(a) Interviews of the complainant, program management or staff, and other students; or

(b) Interviews of the complainant, caregivers, clients, a client's representative, a client's family members, and witnesses, and employer management and staff;

(c) On-site observations of the training program, the client, NTHW performance and client environment; and

(d) Review of documents and records.

Stat. Auth.: ORS 413.042, 414.635 & 414.665
Stats. Implemented: ORS 414.635 & 414.665
Hist.: PH 7-2013(Temp), f. & cert .ef. 2-4-13 thru 8-2-13

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Oregon Health Licensing Agency
Chapter 331

Rule Caption: Allow agency to approve documentation for initial jewelry showing metal composition and clean up.
Adm. Order No.: HLA 1-2013
Filed with Sec. of State: 1-16-2013
Certified to be Effective: 1-16-13
Notice Publication Date: 12-1-2012
Rules Amended: 331-900-0000, 331-900-0005, 331-900-0010, 331-900-0035, 331-900-0040, 331-900-0065, 331-900-0080, 331-900-0085, 331-900-0090, 331-900-0095, 331-900-0097, 331-900-0098, 331-900-0105, 331-900-0115, 331-900-0120, 331-900-0125, 331-900-0130, 331-905-0000, 331-905-0005, 331-905-0010, 331-905-0012, 331-905-0014, 331-905-0015, 331-905-0035, 331-905-0045, 331-905-0050, 331-905-0052, 331-905-0055, 331-905-0058, 331-905-0060, 331-905-0075, 331-905-0080, 331-905-0085, 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-0110, 331-905-0115, 331-905-0120, 331-910-0010, 331-910-0025, 331-910-0035, 331-910-0050, 331-910-0060, 331-910-0070, 331-910-0080, 331-910-0085, 331-915-0000, 331-915-0015, 331-915-0020, 331-915-0025, 331-915-0035, 331-915-0050, 331-915-0055, 331-915-0060, 331-915-0065, 331-915-0070, 331-915-0075, 331-915-0080, 331-915-0085, 331-920-0000, 331-920-0005, 331-925-0000, 331-925-0005, 331-925-0010, 331-925-0015, 331-925-0020, 331-925-0025, 331-925-0030, 331-925-0035, 331-925-0040, 331-925-0050, 331-950-0010, 331-950-0020, 331-950-0040, 331-905-0025, 331-905-0040
Subject: Administrative rule change allows the Oregon Health Licensing Agency (Agency) to revive temporary practitioner licenses up to four times in a one-year period. Currently the statutes do not allow "renewal" of temporary licenses.

Clarify language related to disposal of regulated waste with blood or other potentially infectious materials for all fields of practice and require no jewelry be worn under gloves.

Amend initial jewelry standards for both standard and specialty body piercing to allow the Agency to accept and approve documentation from jewelry manufacturers which shows the specific material composition used to produce the jewelry. Initial jewelry for body piercing must meet a minimum standard under rule. The documentation may be in the form of 3rd party testing results.

Require supervisors for specialty level one and two genital piercing temporary trainees have five years experience as a body piercer and remove requirements regarding proof of specific genital piercings and client records.

During the 2012 administrative rulemaking, cheek piercing was removed from specialty piercing. Under informed consent for specialty piercing, cheek piercing was not removed.

Require that tattoo artists make copy of government issued identification for individuals over the age of 18, to be included in client record and specify documentation required from a physician prescribing a tattoo for a minor. Require the prescription from the physician and a copy of the minors photographic identification be included in the client record.

Amendments make general housekeeping changes including aligning trainee license to meet statutory requirements as a temporary license.

Amend prohibitions for dermal implanting and scarification to denote that if the Agency implements an education and training program licensure may be possible in the future.
Rules Coordinator: Samantha Patnode—(503) 373-1917

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) "Direct supervision" means the supervisor or instructor is present in the facility and actively involved in direct oversight and training of students or individuals in training.

(6) "Earlobe piercing services" means services limited to the soft lower part of the external ear only, not to include cartilage.

(7) "EPA" means United States Environmental Protection Agency.

(8) "FDA" means Food and Drug Administration.

(9) "Field of practice" has the definition set forth in ORS 690.350.

(10) "High-level disinfectant" means a chemical agent, registered with the EPA, which has demonstrated tuberculocidal activity.

(11) "Instruments" means equipment used during body piercing services. Types of instruments include but are not limited to needles, forceps, hemostats, tweezers, and jewelry.

(12) "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

(13) "Practitioner" means a person licensed to perform services included within a field of practice.

(14) "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.

(15) "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;

(16) "Standard body piercing" includes all body piercings including cheek piercings and single point piercings defined under Subsection (15) of this rule. A standard body piercer may not perform specialty level one genital piercings and specialty level two genital piercings defined under 331-905-0000. Standard body piercing services do 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 Sec. 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

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 education or training. The theory portion of the curriculum or training must be completed prior to the practical portion of the curriculum or training.

(1) 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 (r) 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) Cheek: minimum of 2; and

(r) Additional standard body piercings of choice: minimum of 33 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 a 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 temporary 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 trainee;

(b) 100 practical operations in which the trainee participated; and

(c) 200 practical operations performed by the trainee 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) (r) 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) Cheek: minimum of 2; and

(r) Additional standard body piercings of choice: minimum of 33 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 the standard body piercing temporary 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 temporary 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0010

Earlobe Piercing Temporary License

(1) An earlobe piercing temporary license is valid for one year, and may be revived one time.

(2) An earlobe piercing temporary license may be issued to an individual for a total of two years, no additional applications or revivals will be accepted by the Agency.

(3) An earlobe piercing temporary license holder must adhere to all standards within OAR 331-900-0095, 331-900-0097, 331-900-0098, 331-900-0130 and all applicable rules listed in OAR 331 Division 925.

(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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0035
Application Requirements for Standard Body Piercing License

(1) An individual applying for licensure to practice standard body 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 equivalent; and

(g) Provide documentation of completing a qualifying pathway.

(2) License Pathway 1- A graduate from an Oregon Licensed Career School for Standard Body Piercing must:

(a) Submit official transcript from a body piercing career school under ORS 345 showing proof of completion of required standard body piercing curriculum as approved by the Agency under OAR 331-900-0005;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination in accordance with OAR 331-900-0060(1)(c) within two years before the date of application;

(d) Submit a passing score of an Agency approved practical examination in accordance with OAR 331-900-0060(1)(d) within two years before the date of application;

(e) Upon passage of all required examinations and before issuance of license, applicant must pay all license fees; and

(f) An applicant is not required to provide proof of official transcripts from a body piercing career school under ORS 345 if the applicant was previously licensed as a body piercer in Oregon.

(3) License Pathway 2 — An individual qualifying for licensure as a Standard Body Piercing Temporary Trainee must:

(a) Submit documentation approved by the Agency showing proof of having completed training listed under OAR 331-900-0005, verified by a supervisor approved under OAR 331-900-0055, on a form prescribed by the Agency;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination for standard body piercing in accordance with OAR 331-900-0060(1)(c) within two years before the date of application;

(d) Submit a passing score of an agency approved practical examination in accordance with OAR 331-900-0060(1)(d) 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.

(4) License Pathway 3 — An individual qualifying for licensure through Reciprocity must:

(a) Submit an affidavit of licensure pursuant to OAR 331-030-0040 demonstrating proof of current license as a body piercer, which is active with no current or pending disciplinary action. The licensing must be substantially equivalent to Oregon licensing requirements pursuant to ORS 690.365. Or if not substantially equivalent the applicant must demonstrate to the satisfaction of the Agency that the applicant has been employed or working as a body piercer full time for three of the last five years;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination in accordance with OAR 331-900-0060(1)(c) within two years before the date of application;

(d) Submit a passing score of an Agency approved practical examination in accordance with OAR 331-900-0060(1)(d) 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 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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 revive the license up to four times, in a 12 month period from the date the Agency receives the initial application. Reviving a license can be done consecutively with no lapse in active license dates;

(b) Must submit all requests to revive a license on a form prescribed by the Agency. Request to revive a license 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 temporary standard body piercing license holder is prohibited from performing specialty level one genital piercing services defined under OAR 331-905-0000 and specialty level two genital piercing services defined under OAR 331-905-0000.

(4) A temporary standard body piercing license holder is prohibited from piercing the testes, deep shaft (corpus cavernosa), uvula, eyelids or sub-clavicle.

(5) A temporary standard body piercing license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-900-0115, 331-900-0120, 331-900-0125, 331-900-0130, and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0065
General Body Piercing Examination Information

(1) To be eligible for examination, an applicant must meet identification requirements listed under OAR 331-030-0000.

(2) The examination is administered in English only, unless an agency approved testing contractor or vendor provides the examination in languages other than English.

(3) Examination candidates may be electronically monitored during the course of testing.

(4) Examination candidates must adhere to the maximum time allowance for each section of the examination, as established by the Agency.

(5) Taking notes, textbooks or notebooks into the examination area is prohibited.

(6) Electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by the agency, are prohibited in the examination area.

(7) Candidate conduct that interferes with the examination may result in the candidate's disqualification during or after the examination, the candidate's examination being deemed invalid, and forfeiture of the candidate's examination fees. Such conduct includes but is not limited to:

(a) Directly or indirectly giving, receiving, soliciting, and attempting to give, receive or solicit aid during the examination process;

(b) Violations of subsections (5), (6), or (7) of this rule;

(c) Removing or attempting to remove any examination-related information, notes or materials from the examination site;

(d) Failing to follow directions relative to the conduct of the examination; and

(e) Exhibiting behavior that impedes the normal progress of the examination.

(8) If the candidate is disqualified from taking the examination or the candidate's examination is deemed invalid for reasons under subsection (7) of this rule, the candidate may be required to reapply, submit additional examination fees, and request in writing to schedule a new examination date, before being considered for another examination opportunity.

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 1-2013, f. & cert. ef. 1-16-13

331-900-0080
Renewal of a Standard Body Piercing 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) LICENSE RENEWAL: To avoid delinquency penalties, a standard body piercing 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;

(c) Attestation of having obtained required annual continuing education under OAR 331-900-0085, on a form prescribed by the agency. Continuing education is required whether the license is current or inactive;

(d) Attestation of current certification in cardiopulmonary resuscitation from an Agency approved provider;

(e) Attestation of current first aid training by an Agency approved provider; and

(f) Attestation of current certification in blood borne pathogens training from an Agency approved provider.

(3) INACTIVE LICENSE RENEWAL: A standard body piercing license may be inactive for up to three years. If a license is inactive the licensee is not authorized to practice. When renewing a license 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;

(c) Attestation of having obtained required annual continuing education under OAR 331-900-0085 on a form prescribed by the Agency. Continuing education is required whether the license is current or inactive;

(d) Attestation of current certification in cardiopulmonary resuscitation from an Agency approved provider;

(e) Attestation of current first aid training by an Agency approved provider; and

(f) Attestation of current certification in blood borne pathogens training from an Agency approved provider.

(4) EXPIRED LICENSE: A standard body piercing license that has been inactive for more than three years is expired and the license holder must reapply and meet the requirements listed in OAR 331-900-0035.

(5) LICENSE RENEWAL — STANDARD BODY PIERCERS LICENSED PRIOR TO JANUARY 1, 2012. In addition to other requirements of this rule, for the first license renewal after the effective date of this rule, an individual originally licensed prior to January 1, 2012 to practice body piercing, including earlobe piercing technician registrations, must:

(a) Submit passing score of an agency approved written examination in accordance with OAR 331-900-0060(1)(c);

(b) Submit passing score of an Agency approved practical examination in accordance with OAR 331-900-0060(1)(d); and

(c) Licensed standard body piercers are only required to pass the Board approved written and practical examination one time unless the license becomes expired.

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 1-2013, f. & cert. ef. 1-16-13

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 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); and

(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) Continuing education requirements must be met every year, even if the license is inactive or suspended.

(5) A licensee must maintain proof of continuing education for five years following the date of the continuing education hours obtained, for auditing purposes.

(6) A licensee may carry up to 8 continuing education hours forward to the next renewal cycle.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0090
Continuing Education: Audit, Required Documentation and Sanctions

(1) The Agency will audit a select percentage of licenses 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, agency 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; and

(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 identifier; and

(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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0095
Earlobe Piercing Practice 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; and

(e) Disinfect all parts of the piercing gun with a high-level disinfectant.

(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) Earlobe Piercing is prohibited:

(a) On a person under 18 years of age unless the requirements of OAR 331-900-0130 are met;

(b) On a person who shows signs of being inebriated or appears to be incapacitated by the use of alcohol or drugs;

(c) On a person who shows signs of recent intravenous drug use; and

(d) 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.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0097

General Standards for Temporary Earlobe Body Piercing

(1) The cleanliness of any common in a facility is the responsibility of each license holder. All license holders may be cited for violations found in the common area.

(2) A temporary earlobe piercing licensee licensed to perform earlobe piercing 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 and protective gloves are used for each client. Use of towels and linens are prohibited;

(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 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;

(i) 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;

(j) Ensure all waste or garbage is disposed of in a covered container with a garbage liner;

(k) Ensure all waste which contains blood or other potentially infectious materials be enclosed and secured in a glove or bag then disposed of in a covered container with a garbage liner immediately following the service;

(l) Ensure disposable sharp objects that come in contact with blood or other potentially infectious materials be disposed of in a sharps container;

(m) Ensure biohazard labels or red biohazard bags are available on the facility premises; and

(n) Adhere to all Centers for Disease Control Standards.

(3) A temporary earlobe piercing 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) A temporary earlobe piercing licensee is permitted to have hot and cold running water within a restroom as part of surrounding premises or adjacent to the facility.

(6) Cross contaminating from touch or air particulates in any procedure area which comes in direct contact with client is prohibited.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0098

Standards for Client Services for Temporary Earlobe Piercing Licensees

(1) 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 putting on disposable gloves and immediately after disposable gloves are removed; and

(b) 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, or by using an antibacterial hand sanitizer by using friction on all surfaces of the hands and wrists. Use of bar soap is prohibited.

(2) 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 (1) 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. Hand washing instructions listed in Subsection (1) of this rule must be followed and a new pair of gloves put on when returning to the earlobe piercing service area;

(d) When a licensee leaves the earlobe piercing procedure area in the middle of a earlobe piercing procedure, gloves must be removed before leaving the procedure area, hand washing instructions listed in Subsection (1) of this rule must be followed and a new pair of gloves put on when returning to the procedure area;

(e) Disposable gloves must be removed and discarded before leaving the area where earlobe piercing services are performed. ;

(f) Torn or perforated gloves must be removed immediately, and hand washing instructions listed in Subsection (1) of this rule must be followed and gloves changed following hand washing. ; and

(g) The use of disposable gloves does not preclude or substitute for hand washing instructions listed in subsection (1) of this rule.

(3) Disposable gloves must be worn during pre-cleaning, cleaning, rinsing, disinfecting and drying of equipment and instruments;

(4) A client's skin must be thoroughly cleaned with an antiseptic solution.

(5) A licensee is prohibited from wearing jewelry under gloves.

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 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0105

Initial Jewelry for Standard Body Piercing

(1) All standard body piercers must meet the following jewelry grade standards for initial piercings:

(a) Surgical steel that is American Society for Testing and Materials International (ASTM) ASTM F-138 compliant or International Organization for Standardization (ISO) ISO 5832-1 compliant, ISO 10993-(6,10 or 11) compliant, or European Economic Community (EEC) Nickel Directive compliant;

(b) Implant certified titanium (Ti6Al4V ELI) that is ASTM F-136 compliant or ISO 5832-3 compliant, or commercially pure titanium that is ASTM F-67 compliant;

(c) Niobium;

(d) White or yellow gold that is 14k or higher, nickel-free, and solid (no gold plated, gold-filled, or gold overlay/vermeil);

(e) Platinum;

(f) Biocompatible polymers (plastics) including Tygon Medical Surgical Tubing 5-50HL or 5-54HL, PTFE (Teflon), Bioplast™ or any new polymer products that are USP VI compliant;

(g) Glass — Fused quartz glass, lead-free borosilicate, or lead-free soda-lime glass;

(h) Any other material that the APP determines to be appropriate for use in an initial piercing; or

(i) Threaded jewelry must be internally threaded and all surfaces and ends must be free of nicks, scratches, burrs and polishing compounds.

(2) A licensee must have on the facility premises a "Mill Test Certificate" for all jewelry used for initial piercings which provides evidence of a specific grade of metal with a code designation from the ASTM or ISO or other documentation approved by the agency which meets one of the requirements listed in subsection (1) of this rule.

(3) Jewelry used during earlobe piercing services defined under OAR 331-900-0000 for an initial earlobe piercing is not required to meet the jewelry grade standards of this rule.

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 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0115

General Standards for Standard Body Piercing

(1) The cleanliness of any common in a facility 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;

(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;

(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 all waste or garbage is disposed of in a covered container with a garbage liner;

(m) Ensure all waste which contains blood or other potentially infectious materials be enclosed and secured in a glove or bag then disposed of in a covered container with a garbage liner immediately following the service;

(n) Ensure disposable sharp objects that come in contact with blood or other potentially infectious materials be disposed of in a sharps container;

(o) Ensure biohazard labels or red biohazard bags are available on the facility premises;

(p) Ensure disposable sharp objects that come in contact with blood other potentially infectious materials be disposed of in a sharps container;

(q) Adhere to all Centers for Disease Control and Prevention Standards;

(r) Ensure that all instruments that come in direct contact with client's skin are handled using gloves; and

(s) Ensure that all jewelry used for initial piercings is sterilized before use on a client in accordance with OAR 331-900-0125.

(3) A licensee must wear eye goggles, shields or a mask if spattering is possible while providing services.

(4) All substances must 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) Cross contaminating from touch or air particulates in any procedure area which comes in direct contact with client is prohibited.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0120

Standards for Client Services for Standard Body Piercing

(1) A licensee must wash hands in accordance with Subsection (2) of this rule as follows:

(a) Prior to donning gloves to set-up of instruments used for conducting body piercing procedures;

(b) Immediately prior to donning gloves to perform a body piercing procedure;

(c) Immediately after removing gloves at the conclusion of performing a body piercing 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 other potentially infectious materials;

(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, or by using an antibacterial hand sanitizer by using friction on all surfaces of the hands and wrists.

(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 piercing procedure:

(a) Set-up of instruments used for conducting body piercing procedures and skin preparation of the body piercing procedure area;

(b) The body piercing procedure and post-procedure teardown; or

(c) Cleaning and disinfection of the procedure area after each use or 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 piercing procedures are performed.

(8) When a licensee leaves the body piercing procedure area in the middle of a body piercing procedure, gloves must be removed before leaving the procedure area, hand washing instructions listed in Subsection (2) of this rule must be followed 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 instructions listed in subsection (2) of this rule.

(10) A client's skin must be thoroughly cleaned with an antiseptic solution.

(11) A licensee is prohibited from wearing jewelry under gloves.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-00125

Approved Sterilization Standards for Standard Body

(1) Needles must be single use, used on one client, then properly disposed of in an approved sharps container defined under OAR 331-900-0000.

(2) All non-sterilized or reusable instruments that come in direct contact with a client's skin or are exposed to blood or other potentially infectious materials must be cleaned and sterilized before use on a client or reuse on another client.

(3) New gloves must be worn during any cleaning or sterilization procedure.

(4) The cleaning 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 and sterilization process for non-sterilized or reusable instruments includes the following ordered method after each use:

(a) Clean non-sterilized or reusable instruments by manually brushing or swabbing visible foreign matter and rinsing the instruments with warm water and an appropriate detergent solution to remove blood and other potentially infectious materials;

(b) Clean, non-sterilized or reusable instruments, must be rinsed 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 instruments (including but not limited to piercing forceps) must be in the open position. The ultrasonic cleaner must remain covered when in use;

(c) Remove non-sterilized or reusable instruments from the ultrasonic unit. All instruments must be rinsed, air dried, and individually packaged in sterilization pouches that include use of a color change indicator strip to assure sufficient temperature during each sterilization cycle, the date the sterilization was performed must be applied to the sterilization pouch; OR

(A) Instruments which are sterilized in an autoclave which the manufacturer does not require packaging instruments use of a color change indicator strip must be used immediately after sterilization process is complete. Storage of sterilized Instruments using this method is prohibited;

(d) Non-sterilized or reusable instruments must be sterilized by using an autoclave sterilizer, steam or chemical, registered and listed with the FDA;

(e) A steam sterilization integrator must be used to monitor the essential conditions of steam sterilization for each autoclaved load or cycle. Results must be recorded in a log book for each sterilization cycle. Each steam sterilization integrator must indicate the date the sterilization cycle took place. Steam sterilization integrators must be kept for a minimum of sixty days; and

(f) After sterilization, the sterilized instruments must be stored in individually packaged sterilization pouches that include a color change indicator strip listed under (5)(c) of this rule and in a dry, disinfected, closed cabinet or other tightly-covered container reserved for the storage of such 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 color change indicator strips listed in subsection (5)(c) 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 color change indicator strips listed in subsection (5)(c) of this rule and steam sterilization integrators listed in (5)(e) of this rule must be available at all times for inspection by the Agency.

(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 instruments is one year from the date of sterilization unless the integrity of the package is compromised.

(13) Sterilized 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 sterilized instruments used in body piercing procedures must remain stored in sterile packages and in a dry, disinfected, closed cabinet or other tightly-covered container reserved for the storage of such instruments until just prior to the performance of a body piercing procedure.

(15) If a biological spore test listed in subsection (6) of this rule, result 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 sterilized 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 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.

(17) Following a negative spore test the licensee or facility must contact all clients in writing who may have received services prior to receiving the negative spore test results.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-900-0130

Client Records and Information for Standard Body Piercing

(1) A licensee is responsible for maintaining and keeping copies of all client records. If client records are maintained by the facility the facility owner must provide the licensee with copies of those client records upon request. 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;

(h) Description of complications during procedure(s);

(i) Signature from the client that they have received the following information in writing and verbally:

(A) All information related to the body piercing service including possible reactions, side effects and potential complications of the service and consent to obtaining the body piercing service;

(B) Information listed in OAR 331-900-0110 regarding informed consent for certain standard body piercing procedures;

(C) After care instructions including care following service, possible side effects and complications and restrictions; and

(j) The licensee must obtain proof of age or consent consisting of one of the following:

(A) 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; or

(B) 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: or

(C) 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 maintained 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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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) "EPA" means United States Environmental Protection Agency.

(7) "FDA" means Food and Drug Administration.

(8) "Field of practice" has the definition set forth in ORS 690.350.

(9) "High-level disinfectant" means a chemical agent, registered with the EPA, which has demonstrated tuberculocidal activity.

(10) "Instruments" means equipment used during body piercing services. Types of instruments include but are not limited to needles, forceps, hemostats, tweezers, and jewelry.

(11) "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 a 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.

(12) "Practitioner" means a person licensed to perform services included within a field of practice.

(13) "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.

(14) "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, perineum behind the scrotum (Guiche) and exiting on the underside of the penis (called a "Prince Albert"); and

(b) Female genital piercing including the labia majora, labia minors, piercings of the clitoral hood, and perineum between the vagina and the anus (fourchette).

(15) "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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 completed prior to the practical portion of the curriculum or training.

(1) Education Requirements for Specialty Level One Genital Piercing Student: An individual must obtain a standard body piercing license prior to beginning education for specialty level one genital piercing. The specialty level one genital piercing career school course of study must include 46 hours of theory and practical education. The education must include a minimum of 10 hours of theory instruction, 36 hours of practical experience and a minimum of 36 practical operations.

(2) The 36 practical operations required must include:

(a) 6 practical operations observed by the student which must include a minimum of 3 female genital piercings and a minimum of 3 male genital piercings. Out of the 6 practical operations the student must observe at least 4 different piercing procedures listed in subsection (5) of this rule;

(b) 10 practical operations in which the student participated which must include a minimum of 3 female genital piercings and a minimum of 3 male genital piercings. Out of the 10 practical operations the student must participate in at least 4 different piercing procedures listed in subsection (5) of this rule; and

(c) 20 practical operations performed by the student under direct supervision, but without assistance which must include a minimum of 6 female genital piercings and a minimum of 6 male genital piercings. Out of the 20 practical operations the student must perform at least 4 different piercing procedures listed in subsection (5) of this rule.

(3) The 10 hours of theory instruction required must include:

(a) Male and female genital anatomy and physiology: 6 hours;

(b) Ethics and legalities related to genital piercing: 1 hour;

(c) Client consultation related to genital piercing: 1 hour;

(d) Jewelry and equipment: 1.5 hour; and

(e) Oregon laws and rules: .5 hour.

(4) The 36 hours of required practical training must include client consultation, cleaning, disinfection and sterilization.

(5) The 36 piercings included in the practical training must include at least 3 different piercing procedures listed in Subsection (a) through (i) below and must include content listed in subsection (4) of this rule:

(a) Scrotum;

(b) Frenum;

(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 between the vagina and the anus (fourchette); and

(i) Piercing of the clitoral hood.

(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 a 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 Temporary Trainee: An individual must obtain a standard body piercing license prior to beginning training for specialty level one genital piercing. The specialty level one genital piercing training program must include 46 hours of theory and practical training. The training must include a minimum of 10 hours of theory instruction, 36 hours of practical training and a minimum of 36 practical operations.

(10) The 36 practical operations required must include:

(a) 6 practical operations observed by the trainee which must include a minimum of 3 female genital piercings and a minimum of 3 male genital piercings. Out of the 6 practical operations the trainee must observe at least 4 different piercing procedures listed in subsection (13) of this rule;

(b) 10 practical operations in which the trainee participated which must include a minimum of 3 female genital piercings and a minimum of 3 male genital piercings. Out of the 10 practical operations the trainee must participate in at least 4 different piercing procedures listed in subsection (13) of this rule; and

(c) 20 practical operations performed by the trainee under direct supervision, but without assistance which must include a minimum of 3 female genital piercings and a minimum of 3 male genital piercings. Out of

the 20 practical operations the trainee must perform at least 3 different piercing procedures listed in subsection (13) of this rule.

(11) The 10 hours of theory instruction required must include:

(a) Male and female genital anatomy and physiology: 6 hours;

(b) Ethics and legalities related to genital piercing: 1 hour;

(c) Client consultation related to genital piercing: 1 hour;

(d) Jewelry and equipment: 1.5 hour; and

(e) Oregon laws and rules: .5 hour.

(12) The 36 hours of required practical training must include client consultation, cleaning, disinfection and sterilization.

(13) The 36 piercings included in the practical training must include at least 3 different piercing procedures listed in Subsection (a) through (i) below and must include content listed in subsection (12) of this rule:

(a) Scrotum;

(b) Frenum;

(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 between the vagina and the anus (fourchette); and

(i) Piercing of the clitoral hood.

(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 two months from the date the Agency issues a specialty level one genital piercing temporary 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 completed prior to the practical portion of the curriculum or training.

(1) Education Requirements for Specialty Level Two Genital Piercing Student: An individual must obtain a standard body and specialty level one genital piercing license prior to beginning education for specialty level two genital piercing. The specialty level two genital piercing career school course of study must include 31 hours of theory and practical education. The education must include a minimum of 5 hours of theory instruction, 26 hours of practical experience and a minimum of 26 practical operations.

(2) The 26 practical operations required must include:

(a) 6 practical operations observed by the student. Out of the 6 practical operations the student must observe at least 3 different piercing procedures listed in subsection (5) of this rule;

(b) 10 practical operations in which the student participated. Out of the 10 practical operations the student must participate in at least 3 different piercing procedures listed in subsection (5) of this rule; and

(c) 10 practical operations performed by the student under direct supervision, but without assistance. Out of the 10 practical operations the student must perform at least 3 different piercing procedures listed in subsection (5) of this rule.

(3) The 5 hours of theory instruction required must include:

(a) Male and female genital anatomy and physiology: 3.5 hours;

(b) Client consultation related to genital piercing: .5 hours;

(c) Jewelry and equipment: .5 hours; and

(d) Oregon laws and rules: .5 hours.

(4) The 26 hours of practice required must include client consultation, cleaning, disinfection and sterilization.

(5) The 26 piercings included in the practical training must include at least 3 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) Any piercing of the female genitals through the urethra; and

(h) Any other genital piercings not listed in specialty level one genital piercing.

(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 a 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 Specialty Level Two Genital Piercing Temporary Trainee: An individual must obtain a standard body and specialty level one genital piercing license prior to beginning training for specialty level two genital piercing. The specialty level two genital piercing training program must include 31 hours of theory and practical training. The training must include a minimum of 5 hours of theory instruction, 26 hours of practical training and a minimum of 26 practical operations.

(10) The 26 practical operations required must include:

(a) 6 practical operations observed by the trainee. Out of the 6 practical operations the student must observe at least 3 different piercing procedures listed in subsection (13) of this rule;

(b) 10 practical operations in which the trainee participated. Out of the 10 practical operations the trainee must participate in at least 3 different piercing procedures listed in subsection (13) of this rule; and

(c) 10 practical operations performed by the trainee under direct supervision, but without assistance. Out of the 10 practical operations the student must perform at least 3 different piercing procedures listed in subsection (13) of this rule.

(11) The 5 hours of theory instruction required must include:

(a) Male and female genital anatomy and physiology: 3.5 hours;

(b) Client consultation related to genital piercing: .5 hours;

(c) Jewelry and equipment: .5 hours; and

(d) Oregon laws and rules: .5 hours.

(12) The 26 hours of practice required must include client consultation, cleaning, disinfection and sterilization.

(13) The 26 piercings included in the practical training must include at least three different piercing procedures listed in Subsection (a) through (h) 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 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) Any piercing of the female genitals through the urethra; and

(h) Any other genital piercings not listed in specialty level one genital piercing.

(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 2 months from the date the Agency issues a specialty level two genital piercing temporary 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0012
Application Requirements for Specialty Level One Genital Piercing Trainee License

An individual applying for a Specialty Level One Genital Piercing Temporary Trainee 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 equivalent;

(5) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(6) Submit proof of current blood borne pathogens training from an Agency approved provider;

(7) Submit proof of having a current standard body piercing license which is active with no current or pending disciplinary action; and

(8) Pay applicable licensing 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0014
Application Requirements for Specialty Level Two Genital Piercing Trainee License

An individual applying for a Specialty Level Two Genital Piercing Temporary Trainee 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 equivalent;

(5) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(6) Submit proof of current blood borne pathogens training from an Agency approved provider;

(7) Submit proof of having a current specialty level one genital piercing license which is active with no current or pending disciplinary action; and

(8) Pay applicable licensing 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 10-2012, f. & cert. ef. 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 standard body piercing services defined under OAR 331-900-0000(16).

(2) A specialty level one genital piercing license holder may perform specialty level one services defined under OAR 331-905-0000(14).

(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 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-110, 331-905-0115, 331-905-0120 and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 standard body piercing services defined under OAR 331-900-0000(16)..

(2) A specialty level two genital piercing license holder may perform specialty level one services defined under OAR 331-905-0000(14).

(3) A specialty level two genital piercing license holder may perform specialty level two services defined under OAR 331-905-0000(15).

(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 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-110, 331-905-0115, 331-905-0120 and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0035
Specialty Level One Genital Piercing License

(1) A specialty level one genital piercing license holder may perform standard body piercing services defined under OAR 331-900-0000(16).

(2) A specialty level one genital piercing license holder may perform specialty level one services defined under OAR 331-905-0000(14).

(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 license holder must adhere to all standards within OAR 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-110, 331-905-0115, 331-905-0120 and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 equivalent; and

(g) 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 showing proof of completion of required specialty level one 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 under OAR 331-905-0070(1) and (3) within two years before the date of application; and

(d) 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 Trainee 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 (16), 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 under OAR 331-905-0070(1) and (3) within two years before the date of application; and

(d) 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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(16).

(2) A specialty level two genital piercing license may perform specialty level one services defined under OAR 331-905-0000(14).

(3) A specialty level two genital piercing license may perform specialty level two services defined under OAR 331-905-0000(15).

(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 license holder must adhere to all standards within OAR 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-110, 331-905-0115, 331-905-0120 and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 equivalent; and

(g) 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 (7);

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination under OAR 331-905-0070(2) and (3) within two years before the date of application; and

(d) 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 Two Genital Piercing Temporary Trainee 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 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 under OAR 331-905-0070(2) and (3) within two years before the date of application; and

(d) 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0052
Specialty Level One Genital Piercing Supervisor

(1) An approved supervisor may supervise one specialty level one genital piercing trainee per shift.

(2) An approved supervisor must exercise management, guidance, and control over the activities of the specialty level one genital piercing and must exercise professional judgment and be responsible for all matters relative to the specialty level one genital piercing trainee.

(3) Supervisors must document work done by the specialty level one genital piercing trainee on a form prescribed by the Agency.

(4) An approved supervisor must notify the Agency in writing within five calendar days if a specialty level one genital piercing trainee is no longer being supervised, and must provide the number of hours of training completed on a form prescribed by the Agency.

(5) Not withstanding any other disciplinary actions, an approved supervisor's authorization to supervise may be withdrawn by the Agency for providing incomplete or inadequate training or falsifying documentation.

(6) Supervisors must provide direct supervision to specialty level one genital piercing trainees.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0055
Requirements for Specialty Level One Genital Piercing Supervisor

(1) To be an approved supervisor for a specialty level one genital piercing temporary trainee an individual must:

(a) Submit a completed form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000;

(b) Submit proof of having a specialty level one genital piercing license which is active with no current or pending disciplinary action;

(c) Submit proof of having been actively practicing any combination of body piercing experience prior to January 1, 2012, or standard body piercing experience after January 1, 2012, for at least five 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; and

(e) Submit proof of current blood borne pathogens training from an Agency approved provider.

(2) A specialty level one genital piercing supervisor must adhere to all standards within OAR 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-110, 331-905-0115, 331-905-0120 and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0058
Specialty Level Two Genital Piercing Supervisor

(1) An approved supervisor may supervise one specialty level two genital piercing temporary trainee per shift.

(2) An approved supervisor must exercise management, guidance, and control over the activities of the specialty level two genital piercing temporary trainee and must exercise professional judgment and be responsible for all matters relative to the specialty level two genital piercing trainee.

(3) Supervisors must document work done by the specialty level two genital piercing temporary trainee on a form prescribed by the Agency.

(4) An approved supervisor must notify the Agency in writing within five calendar days if a specialty level two genital piercing temporary trainee is no longer being supervised, and must provide the number of hours of training completed on a form prescribed by the Agency.

(5) Not withstanding any other disciplinary actions, an approved supervisor's authorization to supervise may be withdrawn by the Agency for providing incomplete or inadequate training or falsifying documentation.

(6) Supervisors must provide direct supervision to specialty level two genital piercing temporary trainees.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0060
Requirements for Specialty Level Two Genital Piercing Supervisor

(1) To be an approved supervisor for a specialty level two genital piercing temporary trainee an individual must:

(a) Submit a completed form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000;

(b) Submit proof of having a specialty level one genital piercing license which is active with no current or pending disciplinary action;

(c) Submit proof of having a specialty level two genital piercing license which is active with no current or pending disciplinary action;

(d) Submit proof of having been actively practicing any combination of body piercing experience prior to January 1, 2012, or standard body piercing experience after January 1, 2012, for at least five years prior to submitting application on a form prescribed by the Agency;

(e) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider; and

(f) Submit proof of current blood borne pathogens training from an Agency approved provider.

(2) A specialty level two genital piercing supervisor must adhere to all standards within OAR 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-110, 331-905-0115, 331-905-0120 and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0075
General Specialty Body Piercing Examination Information

(1) To be eligible for examination, an applicant must meet identification requirements listed under OAR 331-030-0000.

(2) The examination is administered in English only, unless an agency approved testing contractor or vendor provides the examination in languages other than English.

(3) Examination candidates may be electronically monitored during the course of testing.

(4) Examination candidates must adhere to the maximum time allowance for each section of the examination, as established by the Agency.

(5) Taking notes, textbooks or notebooks into the examination area is prohibited.

(6) Electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by the agency, are prohibited in the examination area.

(7) Candidate conduct that interferes with the examination may result in the candidate's disqualification during or after the examination, the candidate's examination being deemed invalid, and forfeiture of the candidate's examination fees. Such conduct includes but is not limited to:

(a) Directly or indirectly giving, receiving, soliciting, and attempting to give, receive or solicit aid during the examination process;

(b) Violations of subsections (5), (6), or (7) of this rule;

(c) Removing or attempting to remove any examination-related information, notes or materials from the examination site;

(d) Failing to follow directions relative to the conduct of the examination; and

(e) Exhibiting behavior that impedes the normal progress of the examination.

(8) If the candidate is disqualified from taking the examination or the candidate's examination is deemed invalid for reasons under subsection (7) of this rule, the candidate may be required to reapply, submit additional examination fees, and request in writing to schedule a new examination date, before being considered for another examination opportunity.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0080
Written Examination Retake Requirements

(1) Individuals may take failed sections of the written examination 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 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, 331-905-0005 or 331-905-0010 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, 331-905-0005 or 331-905-0010 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, 331-905-0005 or 331-905-0010 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, 331-905-0005 or 331-905-0010on 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 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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0085
Renewal of a Specialty Level One Genital or Specialty Level Two Genital Piercing 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) LICENSE RENEWAL: To avoid delinquency penalties, specialty level one genital or specialty level two genital piercing 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;

(c) Attestation of having obtained required annual continuing education under OAR 331-900-0085, on a form prescribed by the agency. Continuing education is required whether the license is current or inactive;

(d) Attestation of current certification in cardiopulmonary resuscitation from an Agency approved provider;

(e) Attestation of current first aid training by an Agency approved provider; and

(f) Attestation of current certification in blood borne pathogens training from an Agency approved provider.

NOTE: A licensee is not required to renew the standard body piercing license if renewing a specialty level one genital or specialty level two genital piercing license.
NOTE: A licensee is not required to renew the specialty level one genital license if renewing the specialty level two genital piercing license.

(3) INACTIVE LICENSE RENEWAL: A specialty level one genital or specialty level two genital piercing license may be inactive for up to three years. If a license is inactive the licensee is not authorized to practice. When renewing a license 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;

(c) Attestation of having obtained required annual continuing education under OAR 331-900-0085 on a form prescribed by the Agency. Continuing education is required whether the license is current or inactive;

(d) Attestation of current certification in cardiopulmonary resuscitation from an Agency approved provider;

(e) Attestation of current first aid training by an Agency approved provider; and

(f) Attestation of current certification in blood borne pathogens training from an Agency approved provider.

(4) EXPIRED LICENSE: A specialty level one genital or specialty level two genital piercing license that has been inactive for more than three years is expired and the license holder must reapply and meet the requirements listed in OAR 331-905-0040 or 331-905-0050.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0090

Specialty Body Piercing Practice Standards and Prohibitions

(1) Piercing is prohibited:

(a) On the genital or nipple of a person under the age of 18 regardless of parental consent;

(b) On testes, deep shaft (corpus cavernosa), uvula, eyelids and subclavicle;

(c) On a person who shows signs of being inebriated or appears to be incapacitated by the use of alcohol or drugs;

(d) On a person who shows signs of recent intravenous drug use;

(e) On a person with sunburn or other skin diseases or disorders of the skin such as open lesions, rashes, wounds, or puncture marks in areas of treatment;

(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 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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0095

General Standards for Specialty Body Piercing

(1) The cleanliness of any common in a facility 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;

(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;

(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 all waste or garbage is disposed of in a covered container with a garbage liner;

(m) Ensure all waste which contains blood or other potentially infectious materials be enclosed and secured in a glove or bag then disposed of in a covered container with a garbage liner immediately following the service;

(n) Ensure disposable sharp objects that come in contact with blood or other potentially infectious materials be disposed of in a sharps container;

(o) Ensure biohazard labels or red biohazard bags are available on the facility premises;

(p) Ensure disposable sharp objects that come in contact with blood or other potentially infectious materials must be disposed of in a sharps container;

(q) Adhere to all Centers for Disease Control and Prevention Standards; and

(r) Ensure that all instruments that come in direct contact with client's skin are handled using gloves.

(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) Cross contaminating from touch or air particulates in any procedure area which comes in direct contact with client is prohibited.

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 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0100

Standards for Client Services for Specialty Body Piercing

(1) A licensee must wash hands in accordance with Subsection (2) of this rule as follows:

(a) Prior to donning gloves to set-up of instruments used for conducting body piercing procedures;

(b) Immediately prior to donning gloves to perform a body piercing procedure;

(c) Immediately after removing gloves at the conclusion of performing a body piercing 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 other potentially infectious materials;

(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; and

(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, or by using an antibacterial hand sanitizer by using friction on all surfaces of the hands and wrists.

(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 piercing procedure:

(a) Set-up of instruments used for conducting body piercing procedures and skin preparation of the body piercing procedure area;

(b) The body piercing procedure and post-procedure teardown; and

(c) Cleaning and disinfection of the procedure area after each use or 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 piercing procedures are performed.

(8) When a licensee leaves the body piercing procedure area in the middle of a body piercing procedure, gloves must be removed before leaving the procedure area, hand washing instructions listed in Subsection (2) of this rule must be followed 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 instructions listed in subsection (2) of this rule.

(10) A client's skin must be thoroughly cleaned with an antiseptic solution.

(11) A licensee is prohibited from wearing jewelry under gloves.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0105
Approved Sterilization for Specialty Body Piercing

(1) Needles must be single use, used on one client, then properly disposed of in an approved sharps container defined under OAR 331-905-0000.

(2) All non-sterilized or reusable instruments that come in direct contact with a client's skin or are exposed to blood or other potentially infectious materials must be cleaned and sterilized before use on a client or reuse on another client.

(3) New gloves must be worn during any sterilization procedure.

(4) The cleaning 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 and sterilization process for non-sterilized or reusable instruments includes the following ordered method after each use:

(a) Clean non-sterilized or reusable instruments by manually brushing or swabbing visible foreign matter and rinsing the instruments with warm water and an appropriate detergent solution to remove blood and other potentially infectious materials;

(b) Clean, non-sterilized or reusable instruments must be rinsed 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 instruments (including but not limited to piercing forceps) must be in the open position. The ultrasonic cleaner must remain covered when in use;

(c) Remove non-sterilized or reusable instruments from the ultrasonic unit. All instruments must be rinsed, air dried, and individually packaged in sterilization pouches that include use of a color change indicator strip to assure sufficient temperature during each sterilization cycle, the date the sterilization was performed must be applied to the sterilization pouch; OR

(A) Instruments which are sterilized in an autoclave which the manufacturer does not require packaging instruments use of a color change indicator strip must be used immediately after sterilization process is complete. Storage of sterilized Instruments using this method is prohibited;

(d) Non-sterilized or reusable instruments must be sterilized by using an autoclave sterilizer, steam or chemical, registered and listed with the FDA;

(e) A steam sterilization integrator must be used to monitor the essential conditions of steam sterilization for each autoclaved load or cycle. Results must be recorded in a log book for each sterilization cycle. Each steam sterilization integrator must indicate the date the sterilization cycle took place; and

(f) After sterilization, the sterilized instruments must be stored in individually packaged sterilization pouches that include a color change indicator strip listed under (5)(c) of this rule and in a dry, disinfected, closed cabinet or other tightly-covered container reserved for the storage of such 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)(b) 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 color change indicator strips listed in subsection (5)(c) 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 color change indicator strips listed in subsection (5)(c) of this rule and steam sterilization integrators listed in (5)(e) of this rule must be available at all times for inspection by the Agency. Steam sterilization integrators must be kept for a minimum of sixty 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)(d) 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 instruments is one year from the date of sterilization unless the integrity of the package is compromised.

(13) Sterilized 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 sterilized instruments used in body piercing procedures must remain stored in sterile packages and in a dry, disinfected, closed cabinet or other tightly-covered container reserved for the storage of such instruments 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 sterilized 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, 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.

(17) Following a negative spore test to pursuant to subsection (6) of this rule the licensee or facility must contact all clients in writing who may have received services prior to receiving the negative spore test results.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0110
Client Records and Information for Specialty Body Piercing

(1) A licensee is responsible for maintaining and keeping copies of all client records. If client records are maintained by the facility the facility owner must provide the licensee with copies of those client records upon request. 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;

(h) Description of complications during procedure(s);

(i) Signature from the client that they have received the following information in writing and verbally:

(A) All information related to the body piercing service including possible reactions, side effects and potential complications of the service and consent to obtaining the body piercing service;

(B) Information listed in OAR 331-905-0065 regarding informed consent for specialty body piercing procedures; and

(C) After care instructions including care following service, possible side effects and complications and restrictions.

(l) Proof of age or consent consisting of one of the following:

(A) 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; or

(B) 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; or

(C) 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 maintained 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, 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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0115
Informed Consent for Specialty Body Piercing Procedures

(1) A specialty level one genital piercer must provide information prescribed by the Agency to the client, regarding specialty level one genital piercings.

(2) A specialty level two genital piercer must provide information prescribed by the Agency to the client, regarding specialty level two genital piercings.

(3) Informed consent documents for certain body piercing procedures listed in Subsection (1) and (2) of this rule is published on the Agency's website at http://www.oregon.gov/OHLA/BAP/forms.shtml.

(4) 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.

(5) 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 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-905-0120
Initial Jewelry for Specialty Genital Piercing Services

(1) All specialty genital piercers must meet the following jewelry standards for initial piercings:

(a) Surgical steel that is American Society for Testing and Materials International (ASTM) ASTM F-138 compliant or International Organization for Standardization (ISO) ISO 5832-1 compliant, ISO 10993-(6,10 or 11) compliant, or European Economic Community (EEC) Nickel Directive compliant;

(b) Implant certified titanium (Ti6Al4V ELI) that is ASTM F-136 compliant or ISO 5832-3 compliant, or commercially pure titanium that is ASTM F-67 compliant;

(c) Niobium;

(d) White or yellow gold that is 14k or higher, nickel-free, and solid (no gold plated, gold-filled, or gold overlay/vermeil);

(e) Platinum;

(f) Biocompatible polymers (plastics) including Tygon Medical Surgical Tubing 5-50HL or 5-54HL, PTFE (Teflon), Bioplast™ or any new polymer products that are USP VI compliant;

(g) Glass — Fused quartz glass, lead-free borosilicate, or lead-free soda-lime glass;

(h) Any other material that the APP determines to be appropriate for use in an initial piercing;

(i) Threaded jewelry must be internally threaded and all surfaces and ends must be free of nicks, scratches, burrs and polishing compounds.

(2) A licensee must have on the facility premises a "Mill Test Certificate" for all jewelry used for initial piercings which provides evidence of a specific grade of metal with a code designation from the ASTM or ISO or other documentation approved by the agency which meets one of the requirements listed in subsection (1) of this rule.

(3) Jewelry used for initial piercings must be sterilized before use on each client in accordance with OAR 331-905-0105.

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 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

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. An electrology temporary license holder;

(a) May revive the license up to four times in a 12 month period from the date the Agency receives the initial application. Revivals can be made consecutively with no lapse in active license dates;

(b) Must submit all requests to revive a license 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, 331-910-0075, 331-910-0080, 331-910-0085 and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

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 which may include identification listed under OAR 331-030-0000;

(d) Submit proof of having a high school diploma or equivalent; and

(e) Provide documentation of completing a qualifying pathway.

(2) License Pathway 1 – Graduate from a Oregon Licensed Career School for Electrology must:

(a) Submit official transcript from a licensed electrology school under ORS 345 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.

(3) License Pathway 2 – Individual Qualifying for Licensure Through Reciprocity must:

(a) Submit an affidavit of licensure pursuant to OAR 331-030-0040 demonstrating proof of holding a current electrology license, which is active with no current or pending disciplinary. The licensing requirements must be substantially equivalent to Oregon licensing requirements pursuant

to ORS 690.365 or if not substantially equivalent the applicant must demonstrate to the satisfaction of the Agency that the applicant has been employed or working as an electrologist full time for three of the last five years;

(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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-910-0035

General Examination Information

(1) To be eligible for examination, an applicant must meet identification requirements listed under OAR 331-030-0000.

(2) The examination is administered in English only, unless an Agency approved testing contractor or vendor provides the examination in languages other than English.

(3) Examination candidates may be electronically monitored during the course of testing.

(4) Examination candidates must adhere to the maximum time allowance for each section of the examination, as established by the Agency.

(5) Notes, note taking, textbooks, notebooks, electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by the agency, are prohibited in the examination area.

(6) Taking notes, textbooks or notebooks into the written examination area is prohibited.

(7) Electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by the agency, are prohibited in the written examination area.

(8) Candidate conduct that interferes with the examination may result in the candidate's disqualification during or after the examination, the candidate's examination being deemed invalid, and forfeiture of the candidate's examination fees. Such conduct includes but is not limited to:

(a) Directly or indirectly giving, receiving, soliciting, and attempting to give, receive or solicit aid during the examination process;

(b) Violations of subsections (5), (6), or (7) of this rule;

(c) Removing or attempting to remove any examination-related information, notes or materials from the examination site;

(d) Failing to follow directions relative to the conduct of the examination; and

(e) Exhibiting behavior that impedes the normal progress of the examination.

(9) If the candidate is disqualified from taking the examination or the candidate's examination is deemed invalid for reasons under subsection (8) of this rule, the candidate may be required to reapply, submit additional examination fees, and request in writing to schedule a new examination date, before being considered for another examination opportunity.

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 1-2013, f. & cert. ef. 1-16-13

331-910-0050

Renewal of Electrology 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) Electrology renewal under this rule is valid for one year.

(3) LICENSE RENEWAL: To avoid delinquency penalties, an electrology 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; and

(c) Attestation of having obtained required annual continuing education under OAR 331-910-0055, on a form prescribed by the agency. Continuing education is required whether the license is current or inactive;

(4) INACTIVE LICENSE RENEWAL: An electrology 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 license holder must submit the following:

(a) Renewal application form;

(b) Payment of delinquency and license fees pursuant to OAR 331-940-0000; and

(c) Attestation of having obtained required annual continuing education under OAR 331-910-0055, on a form prescribed by the agency. Continuing education is required whether the license is current or inactive;

(5) EXPIRED LICENSE: An electrology license that has been inactive for more than three years is expired and the license holder must reapply and meet the requirements listed in OAR 331-910-0025.

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 1-2013, f. & cert. ef. 1-16-13

331-910-0060

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Oregon Health Licensing Agency will audit a select percentage of licenses 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 331-910-0055.

(3) Documentation of attendance at a program or course provided by the sponsor must include:

(a) Name of sponsoring institution, agency 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; and

(f) Official transcript, diploma, certificate, statement or affidavit from the sponsor, attesting to attendance.

(4) Documentation substantiating completion of continuing education through self-study, must show a direct relation to the subjects outlined in OAR 331-910-0005, 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 audio-recorded material, including date of publication, publisher, and ISBN Identifier; and

(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 may constitute 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 1-2013, f. & cert. ef. 1-16-13

331-910-0070

Standards for Client Services for Electrology

(1) An electrologist 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 putting on disposable gloves and immediately after disposable gloves are removed; and

(b) 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, or by using an antibacterial hand sanitizer by using friction on all surfaces of the hands and wrists. Use of bar soap is prohibited.

(2) 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 (1) 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 a licensee leaves the electrology procedure area in the middle of an electrology procedure, gloves must be removed before leaving the procedure area, hand washing instructions listed in Subsection (1) of this rule must be followed and a new pair of gloves put on when returning to the procedure area;

(e) Disposable gloves must be removed before leaving the area where electrology services are performed;.

(f) Torn or perforated gloves must be removed immediately, and hand washing instructions listed in Subsection (1) of this rule must be followed and gloves changed following hand washing; and

(g) The use of disposable gloves does not preclude or substitute for hand washing instructions listed in subsection (1) of this rule.

(3) Disposable gloves must be worn during pre-cleaning, cleaning, rinsing, sterilizing and drying of equipment and instruments and disinfecting of surfaces;

(4) A client's skin must be thoroughly cleaned with an astringent. If flammable the astringent should be allowed to dry.

(5) A licensee is prohibited from wearing jewelry under gloves.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-910-0080
General Standards

(1) The cleanliness of any common in a facility 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 (filaments) and protective gloves are used for each client;

(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 all waste or garbage is disposed of in a covered container with a garbage liner;

(l) Ensure all waste which contains blood or other potentially infectious materials be enclosed and secured in a glove or bag then disposed of in a covered container with a garbage liner immediately following the service;

(m) Ensure disposable sharp objects that come in contact with blood or must be disposed of in a sharps container;

(n) Ensure biohazard labels or red biohazard bags are available on the facility premises;

(o) Adhere to all Centers for Disease Control and Prevention Standards;

(p) 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 the 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; and

(q) Ensure that all instruments that come in direct contact with client's skin are handled using gloves.

(3) An electrologist licensee must wear eye goggles, shields or a mask if spattering is possible while providing services.

(4) Cross contaminating from touch or air particulates in any procedure area which comes in direct contact with client is prohibited.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-910-0085
Client Records

(1) A licensee is responsible for maintaining and keeping copies of all client records. If client records are maintained by the facility the facility owner must provide the licensee with copies of those client records upon request. 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;

(c) Name and license number of the licensee providing service. If more than one licensee is providing services on one client 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); and

(h) Signature from the client that they have received the following information in writing and verbally:

(A) 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

(B) After care instructions including care following service, possible side effects and complications and restrictions.

(2) A licensee may obtain advice from a physician 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 maintained 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 legible to 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-915-0000
Tattoo Definitions

The following definitions apply to OAR chapter 331, division 915:

(1) "Affidavit of Licensure" has the meaning set forth in OAR 331-030-0040.

(2) "Agency" means the Oregon Health Licensing Agency.

(3) "Direct supervision" means the supervisor or instructor is present in the facility and actively involved in direct oversight and training of students.

(4) "EPA" means United States Environmental Protection Agency.

(5) "FDA" means Food and Drug Administration.

(6) "Field of practice" has the definition set forth in ORS 690.350.

(7) "High-level disinfectant" means a chemical agent, registered with the EPA, which has demonstrated tuberculocidal activity.

(8) "Instruments" means equipment used during tattooing services. Types of instruments include but are not limited to needles and tubes.

(9) "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.

(10) "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 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 provider in a sealed envelope; or

(b) A document authorized by the appropriate office in the Oregon Department of Education and certified by a career school licensed under ORS 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. Non-original documents shall only be accepted when, and in the manner, approved by the Agency.

(11) "Practitioner" means a person licensed to perform services included within a field of practice.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 provider;

(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 equivalent; and

(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)(a) within two years from the date of application;

(d) Submit passing score of an Agency approved practical skills assessment examination in accordance with OAR 331-915-0030(1)(b) within two years from the date of application; and

(e) Upon passage of all required examinations and before issuance of registration 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 a tattoo artist in Oregon.

(3) License Pathway 2 — Individual Qualifying for Licensure Through Reciprocity must:

(a) Submit an affidavit of licensure pursuant to OAR 331-030-0040 demonstrating proof of holding a current license as a tattoo artist, which is active with no current or pending disciplinary action. The licensing requirements must be substantially equivalent to Oregon licensing requirements pursuant to ORS 690.365 or if not substantially equivalent the applicant must demonstrate to the satisfaction of the Agency that the applicant has been employed or working as a tattoo artist full time for three of the last five years;

(b) Pay examination fees;

(c) Submit passing score of an Agency approved written examination in accordance with OAR 331-915-0030(1)(a) within two years from the date of application;

(d) Submit passing score of an Agency approved practical skills assessment examination in accordance with OAR 331-915-0030(1)(b) within two years from the date of application; and

(e) 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 revive the license up to four times in a 12 month period from the date the Agency receives the initial application. Reviving a license can be done consecutively with no lapse in active license dates;

(b) Must submit all requests to revive a license on a form prescribed by the Agency. Request to revive a license must be received at least 15 days before tattooing 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) A temporary tattoo license holder must adhere to all standards under OAR 331-915-0065, 331-915-0070, 331-915-0075, 331-915-0080, 331-915-0085 and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-915-0025

Application Requirements for Temporary Tattoo License

An individual applying for a Temporary Tattoo License must:

(1) Meet the requirements of OAR 331 division 30;

(2) Submit a completed application form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees and must be received at least 15 days before tattooing services are provided to clients;

(3) Submit proof of being 18 years of age. Documentation may include identification listed under OAR 331-030-0000;

(4) Submit proof of current training in blood-borne pathogens; and

(5) Attest to six months of training or experience, within the last two years, performing tattooing on a form prescribed by the Agency; or

(6) Submit affidavit of licensure pursuant to OAR 331-030-0040.

(7) For the purpose of this rule training or experience includes attendance or participation at an instructional program presented, recognized, or under the sponsorship of any permanently organized institution, agency, or professional organization or association recognized by the Agency.

Stat. Auth: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 7-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12; HLA 8-2012(Temp), f. & cert. ef. 5-3-12 thru 10-16-12; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-915-0035

General Tattooing Examination Information

(1) To be eligible for examination, an applicant must meet identification requirements listed under OAR 331-030-0000.

(2) The examination is administered in English only, unless an agency approved testing contractor or vendor provides the examination in languages other than English.

(3) Examination candidates may be electronically monitored during the course of testing.

(4) Examination candidates must adhere to the maximum time allowance for each section of the examination, as established by the Agency.

(5) Notes, note taking, textbooks, notebooks, electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by the agency, are prohibited in the examination area.

(6) Taking notes, textbooks or notebooks into the written examination area is prohibited.

(7) Electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by the agency, are prohibited in the written examination area.

(8) Candidate conduct that interferes with the examination may result in the candidate's disqualification during or after the examination, the candidate's examination being deemed invalid, and forfeiture of the candidate's examination fees. Such conduct includes but is not limited to:

(a) Directly or indirectly giving, receiving, soliciting, and attempting to give, receive or solicit aid during the examination process;

(b) Violations of subsections (5), (6) or (7) of this rule;

(c) Removing or attempting to remove any examination-related information, notes or materials from the examination site;

(d) Failing to follow directions relative to the conduct of the examination; and

(e) Exhibiting behavior that impedes the normal progress of the examination.

(9) If the candidate is disqualified from taking the examination or the candidate's examination is deemed invalid for reasons under subsection (8) of this rule, the candidate may be required to reapply, submit additional examination fees, and request in writing to schedule a new examination date, before being considered for another examination opportunity.

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 1-2013, f. & cert. ef. 1-16-13

331-915-0050

Renewal of a Tattoo 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) Tattoo license renewal under this rule is valid for one year.

(3) LICENSE RENEWAL: To avoid delinquency penalties, a tattoo 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;

(c) Attestation of having obtained required annual continuing education under OAR 331-915-0055, on a form prescribed by the agency. Continuing education is required whether the license is current or inactive;

(d) Attestation of current certification in cardiopulmonary resuscitation from an Agency approved provider;

(e) Attestation of current first aid training from an Agency approved provider; and

(f) Attestation of current certification in blood borne pathogens training from an Agency approved provider.

(4) INACTIVE LICENSE RENEWAL: A tattoo 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;

(c) Attestation of having obtained required annual continuing education under OAR 331-915-0055, on a form prescribed by the agency. Continuing education is required whether the license is current or inactive;

(d) Attestation of current certification in cardiopulmonary resuscitation from an Agency approved provider;

(e) Attestation of current first aid training an Agency approved provider; and

(f) Attestation of current certification in blood borne pathogens training from an Agency approved provider.

(5) EXPIRED LICENSE: A tattoo license that has been inactive for more than three years is expired and the license holder must reapply and meet the requirements listed in OAR 331-915-0015.

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 1-2013, f. & cert. ef. 1-16-13

331-915-0055

Continuing Education for Tattoo License

A licensed tattoo 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 331-915-0005, 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); or

(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 331-915-0060 pertaining to periodic audit of continuing education.

(4) Continuing education requirements must be met every year, even if the license is inactive or suspended.

(5) A licensee must maintain proof of continuing education for five years following the date of the continuing education hours obtained, for auditing purposes.

(6) A licensee may carry up to 8 continuing education hours forward to the next renewal cycle.

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 1-2013, f. & cert. ef. 1-16-13

331-915-0060

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Agency will audit a select percentage of licenses 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 331-915-0055.

(3) Documentation of attendance at a program or course provided by the sponsor must include:

(a) Name of sponsoring institution, agency 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; and

(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 331-915-0005, 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 identifier; and

(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 1-2013, f. & cert. ef. 1-16-13

331-915-0065
Tattoo Practice Standards and Prohibitions

(1) Inks, dyes, or pigments must be purchased from a commercial supplier or manufacturer. Products banned or restricted by the Food and Drug Administration must not be used.

(2) Notwithstanding OAR 331-930-0025, tattoo artists must disinfect plastic or acetate stencil used to transfer the design to the client's skin, if not using disposable stencils. If the plastic or acetate stencil is reused the licensee must thoroughly clean and rinse and immerse in a high level disinfectant according to the manufacturer's instructions.

(3) Upon completion of a tattoo service, the following procedures are required:

(a) The skin must be cleansed; excluding the area surrounding the eyes, with a clean single-use paper product saturated with an antiseptic solution;

(b) A clean covering must be placed over designs and adhered to the skin; and

(c) An absorbent material must be incorporated into the covering to prevent the spread of bodily fluids and cross contamination, unless the clean covering listed in subsection (3)(a) of this rule is an impenetrable barrier which prevents the spread of bodily fluids and cross contamination.

(4) Tattooing services may be performed on a person under 18 years of age when authorized or prescribed by a physician's statement.

(5) Tattooing is prohibited:

(a) On a person who shows signs of being inebriated or appears to be incapacitated by the use of alcohol or drugs;

(b) On a person who show signs of intravenous drug use;

(c) On a person with sunburn or other skin diseases or disorders such as open lesions, rashes, wounds, puncture marks in areas of treatment;

(d) On a person under 18 years of age, regardless of parental or legal guardian consent unless the requirements of subsection (4) of this rule are met.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-915-0070
General Standards for Tattooing

(1) The cleanliness of any common area in a facility 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, and protective gloves are used for each client. Use of towels and linens are prohibited;

(g) Have unrestricted access or availability to a sink with hot and cold running water, as part of the surrounding premises or adjacent to the facility but separate from a restroom;

(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 all waste or garbage is disposed of in a covered container with a garbage liner;

(m) Ensure all waste which contains blood or other potentially infectious materials be enclosed and secured in a glove or bag then disposed of in a covered container with a garbage liner immediately following the service;

(n) Ensure disposable sharp objects that come in contact with blood and/or body fluids be disposed of in a sharps container;

(o) Ensure biohazard labels or red biohazard bags are available on the facility premises;

(p) Ensure disposable sharp objects that come in contact with blood and/or body fluids must be disposed of in a sharps container;

(q) Adhere to all Centers for Disease Control and Prevention Standards;. and

(r) Ensure that all instruments that come in direct contact with client's skin are handled using gloves.

(3) A licensee must wear eye goggles, shields or a mask if spattering is possible while providing services.

(4) All substances must 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) Cross contaminating from touch or air particulates in any procedure area which comes in direct contact with client is prohibited.

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 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-915-0075
Standards for Client Services for Tattooing

(1) A licensee must wash hands in accordance with Subsection (2) of this rule as follows:

(a) Prior to donning gloves to set-up of instruments used for conducting a tattoo procedure;

(b) Immediately prior to donning gloves to perform a tattoo procedure;

(c) Immediately after removing gloves at the conclusion of performing a tattoo 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 other potentially infectious materials;

(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, or by using an antibacterial hand sanitizer by using friction on all surfaces of the hands and wrists.

(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 tattooing procedure as follows:

(a) Set-up of instruments used for conducting tattooing procedures and skin preparation of the tattooing procedure area;

(b) The tattooing procedure and post-procedure teardown; and

(c) Cleaning and disinfection of the procedure area after each use or 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 tattoo procedures are performed.

(8) When a licensee leaves the tattooing procedure area in the middle of a tattooing procedure, gloves must be removed before leaving the procedure area, hand washing instructions listed in Subsection (2) of this rule

must be followed 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 instructions listed in subsection (2) of this rule.

(10) A client's skin must be thoroughly cleaned with an antiseptic solution.

(11) A licensee is prohibited from wearing jewelry under gloves.

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 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-915-0080

Approved Sterilization Standards for Tattooing

(1) Needles must be single use, used on one client, then properly disposed of in an approved sharps container defined under OAR 331-915-0000.

(2) All non-sterilized or reusable instruments that come in direct contact with a client's skin or are exposed to blood or other potentially infectious materials must be cleaned and sterilized before use on a client or reuse on another client.

(3) New gloves must be worn during any sterilization procedure.

(4) The cleaning 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 and sterilization process for non-sterilized or reusable instruments includes the following ordered method after each use:

(a) Place non-sterilized instruments or reusable instruments 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. The ultrasonic cleaner must remain covered when in use;

(b) Remove non-sterilized or reusable instruments from the ultrasonic unit. Clean non-sterilized or reusable instruments by manually brushing or swabbing visible foreign matter and rinsing the instruments with warm water and an appropriate detergent solution to remove blood and other potentially infectious materials;

(c) Remove non-sterilized or reusable instruments from the ultrasonic unit. All instruments must be rinsed, air dried, and individually packaged in sterilization pouches that include use of a color change indicator strip to assure sufficient temperature during each sterilization cycle, the date the sterilization was performed must be applied to the sterilization pouch; OR

(A) Instruments which are sterilized in an autoclave which the manufacturer does not require packaging instruments use of a color change indicator strip must be used immediately after sterilization process is complete. Storage of sterilized Instruments using this method is prohibited;

(d) Non-sterilized or reusable instruments must be sterilized by using an autoclave sterilizer, steam or chemical, registered and listed with the FDA;

(e) A steam sterilization integrator must be used to monitor the essential conditions of steam sterilization for each autoclaved load or cycle. Results must be recorded in a log book for each sterilization cycle. Each steam sterilization integrator must indicate the date the sterilization cycle took place. Steam sterilization integrators must be kept for a minimum of sixty days; and

(f) After sterilization, the sterilized instruments must be stored in individually packaged sterilization pouches that include a color change indicator strip listed under (5)(c) of this rule and in a dry, disinfected, closed cabinet or other tightly-covered container reserved for the storage of such 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)(a) 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 color change indicator strips listed in subsection (5)(c) 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 color change indicator strips listed in subsection (5)(c) of this rule and steam sterilization integrators listed in (5)(e) of this rule must be available at all times for inspection by the Agency.

(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)(d) 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 instruments is one year from the date of sterilization unless the integrity of the package is compromised.

(13) Sterilized 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 sterilized instruments used in tattooing procedures must remain stored in sterile packages and in a dry, disinfected, closed cabinet or other tightly-covered container reserved for the storage of such instruments until just prior to the performance of a tattooing procedure.

(15) If a biological spore test listed in subsection (6) of this rule, result 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 sterilized instruments that have a sterilization date on or before the date that last negative spore test was recorded; or

(c) Use only single use instruments.

(16) Following a negative spore test 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.

(17) Following a negative spore test the licensee or facility must contact all clients in writing who may have received services prior to receiving the negative spore test results.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-915-0085

Client Records and Information for Tattooing

(1) A licensee is responsible for maintaining and keeping copies of all client records. If client records are maintained by the facility the facility owner must provide the licensee with copies of those client records upon request. 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;

(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) Description of complications during procedure(s); and

(h) Signature from the client that they have received the following information in writing and verbally:

(A) All information related to the tattooing service including possible reactions, side effects and potential complications of the service and consent to obtaining the tattooing service; and

(B) After care instructions including care following service, possible side effects and complications and restrictions.

(2) A licensee may obtain advice from a physician regarding medical Information needed to safeguard client and licensee. Advice from the physician must be documented in the client record.

(3) A licensee must obtain proof of age for all clients; a copy of a government issued photographic identification must be included in the client record.

(4) A physician may authorize or prescribe a tattoo service be performed on a client who is a minor pursuant to OAR 331-915-0065. Written authorization or prescription from the physician is required. The physician authorization or prescription must be submitted to the licensee by the physician prior to tattooing the minor. A copy of the minor's photographic identification must be included in the client record.

(5) For the purpose of Subsection (1) through (4) of this rule records must be maintained on the facility premises for a minimum of three years and must be made immediately available to the agency upon request.

(6) Client records must be typed or printed in a legible format. Client records, which are not legible to 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 10-2012, f. & cert. ef. 6-25-12; HLA 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-920-0000

Dermal Implanting Prohibitions

Dermal implanting services defined under ORS 690.350 are prohibited until education and training programs can be implemented.

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 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-920-0005

Scarification Prohibited

Scarification services defined under ORS 690.350 are prohibited until education and training programs can be implemented..

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 15-2012(Temp), f. & cert. ef. 10-15-12 thru 4-12-13; HLA 1-2013, f. & cert. ef. 1-16-13

331-925-0000

Facility License

(1) A location, where services are performed in a field of practice defined under ORS 690.350 must be licensed as a facility under ORS 690.365.

(2) The holder of a facility license must be a natural person.

[**NOTE**: a natural person is a living individual human being. The facility license holder may be a facility owner, facility manager, or any other 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; the license is not transferable from person-to-person or from location to location. If an existing facility moves or relocates to a new physical address, the facility license holder must submit a new application and meet requirements of OAR 331-925-0005. A natural person may hold more than one facility license, but must submit a separate application, pay required fees and qualify for a facility license for each location.

(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 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-925-0005

Application Requirements for Facility Licensure

An individual applying for a facility 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 fees;

(3) Submit proof of being 18 years of age. Documentation may include identification listed under OAR 331-030-0000;

(4) Provide a map or directions to the facility if it is located in a rural or isolated area;

(5) Provide a list of licensees providing services in the facility;

(6) Provide proof of a current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007; and

(7) Hold a current Assumed Business Name (ABN) filing if applicant is operating 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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.

(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 925.

(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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 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;

(3) Proof of being 18 years of age. Documentation may include identification listed under OAR 331-030-0000,

(4) Provide a map or directions to the facility if it is located in a rural or isolated area;

(5) Provide a list of licensees providing services in the facility;

(6) Provide proof of a current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007;

(7) Hold a current 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-925-0020

Mobile Facility License

(1) Mobile facility license, defined as a facility under ORS 690.350 means an authorization issued under 690.365 to operate a mobile place of business 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 925.

(4) The holder of a mobile facility license must be a natural person.

[NOTE: a natural person is a living individual human being. The mobile facility

license holder may be a facility owner, facility manager, or any other natural person.]

(5) A mobile facility license is not transferable; the license is not transferable from person-to-person. 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; 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) 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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 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;

(3) Submit proof of being 18 years of age. Documentation may include identification listed under OAR 331-030-0000;

(4) Provide a map or directions to the facility if it is located in a rural or isolated area;

(5) Provide a list of licensees providing services in the facility;

(6) Provide proof of a current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007; and

(7) Hold a current 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-925-0030

Event Facility License

(1) Event facility license defined as a facility under ORS 690.350 means an authorization issued under 690.365 to operate a facility on a irregular basis 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 925.

(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.

[**NOTE**: a natural person is a living individual human being. The event facility license holder may be an event facility owner, event facility manager, or any other natural person.]

(8) An event facility license is not transferable; the license is not transferable from person-to-person. 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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;

(4) Provide a map or directions to the facility if it is located in a rural or isolated area;

(5) Provide proof of a current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007;

(6) Hold a current Assumed Business Name (ABN) filing if applicant is operating under an assumed business name prior to applying for a facility license; and

(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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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) Renewal of a facility license issued 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; and

(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; and

(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 and mobile facilities licensed before January 1, 2012 must apply and qualify for a new body art facility license pursuant to OAR 331-925-0005 or 331-925-0025 on or before the electrology, body piercing or tattoo license becomes inactive. The applicant must designate a natural person as the facility or mobile license holder.

(7) If a facility changes ownership, the new owner must apply for a new 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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-925-0050
Facility Standards

Facility standards apply to all licensees under ORS 690.350 unless otherwise specified by rule.

(1) A facility license holder licensed under OAR chapter 331, division 925 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; and

(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; and

(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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-950-0010
Schedule of Penalties for Facility License Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of facility license 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 690.360(d):

(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) License or Authorization, 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) Allowing an employee or individual unlicensed, inactive, suspended, expired or with a revoked license to practice in a field of practice is a violation of ORS 690.360(f) or OAR 331-925-0050(1)(a).

(a) Allowing and unlicensed or revoked license:

(A) 1st offense: $1000;

(B) 2nd offense: $2,500;

(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.

(b) Allowing an employee or individual with inactive, suspended, or expired license:

(A) 1st offense: $200;

(B) 2nd offense: $500;

(C) 3rd offense: $1000.

(3) Failing to allow an Agency enforcement officer to inspect the facility when it is open for business is a violation of OAR 331-925-0050(1)(c) and will result in monetary penalties and any other actions allowed by law.

(a) 1st offense: $1500;

(b) 2nd offense: $2500;

(c) 3rd offense: $5000.

(4) Operating or purporting to operate an event facility without first obtaining a current valid event facility permit is a violation of ORS 690.360(d).

(a) $5000 per violation;

(5) Failing to meet the specifications and standards required under OAR 331-925-0005(3) in a facility may result in an emergency suspension of the facility license until the violation is corrected.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-950-0020
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 OAR 331-020-0060 apply.

(1) Performing, attempting to perform, or purporting to perform services in a field of practice without a license to perform services in that field of practice of ORS 690.360(1)(a) or (c).

(a) License or authorization never held:

(A) 1st offense: $2,500;

(B) 2nd offense: $5,000;

(C) 3rd offense: Monetary penalty or any other actions allowed by law including refusal to issue a new authorization to practice.

(b) License or authorization inactive or expired:

(A) 1st offense: $200;

(B) 2nd offense: $500;

(C) 3rd offense: $1000.

(c) License or authorization suspended or revoked:

(A) 1st offense: $2,500;

(B) 2nd offense: $5,000;

(C) 3rd offense: Monetary penalty or 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 outside a licensed facility is a violation of ORS 690.360(1)(b)

(a) 1st offense: $500;

(b) 2nd offense: $1000;

(c) 3rd offense: $2,500.

(3) A body piercing trainee license holder performing body piercing when not under the direct supervision of their supervisor is a violation of OAR 331-900-0020 for standard body piercing; or OAR 331-905-0011 or 331-905-0013 for specialty body piercing:

(a) 1st offense: $500;
(b) 2nd offense: $1,000;
(c) 3rd offense: $2,500.

(4) Failing, as a supervisor, to provide supervision to their trainee in accordance with OAR 331-900-0050 for standard body piercing; OAR 331-905-0052 for specialty level one body piercing, OAR 331-905-0058 for specialty level two body piercing in addition to any other disciplinary actions, an approved supervisor's authorization to supervise may be withdrawn by the Agency:

(a) 1st offense: $500;
(b) 2nd offense: $1,000;
(c) 3rd offense: $2,500.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

331-950-0040
Schedule of Penalties for Board of Body Art Standards Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of Board of Body Art Standards Violations 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) Any violation of a Mobile Facility License listed in OAR 331-925-0020:

(a) 1st offense: $500;
(b) 2nd offense: $1,000;
(c) 3rd offense: $2,500.

(2) Any violation of a facility standard listed in OAR 331-925-0050(1) or (2) excluding (1)(a) and (1)(c):

(a) 1st offense: $500;
(b) 2nd offense: $1,000;
(c) 3rd offense: $2,500.

(3) Any violation of a Standard for Facilities Located in Residence listed in OAR 331-925-0055:

(a) 1st offense: $300;
(b) 2nd offense: $500;
(c) 3rd offense: $1000.

(4) Any violation of a General Standard listed in OAR 331-900-0097 for earlobe piercing; OAR 331-900-0115 for standard body piercing; OAR 331-905-0095 for specialty body piercing; OAR 331-910-0080 for electrology; or OAR 331-915-0070 for tattooing;

(a) 1st offense: $500;
(b) 2nd offense: $1,000;
(c) 3rd offense: $2,500.

(5) Any violation of Standards for Client Services listed in OAR 331-900-0098 for earlobe piercing; OAR 331-900-0120 for standard body piercing, OAR 331-905-0100 for specialty body piercing; OAR 331-910-0070 for electrology; or OAR 331-915-0075 for tattooing:

(a) 1st offense: $500;
(b) 2nd offense: $1,000;
(c) 3rd offense: $2,500.

(6) Failing to sterilize all instruments that come in direct contact with a client's skin or are exposed to blood or other potentially infectious materials or use single use needles is a violation of OAR 331-900-0125(1) and (2) for body piercing; OAR 331-905-105(1) and (2) for specialty body piercing; OAR 331-910-0075(1) and (2) for electrology; or OAR 331-915-0080(1) and (2) for tattooing;

(a) 1st offense: $1000;
(b) 2nd offense: $2,500;
(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.

(7) Failing to properly use approved sterilization modes or procedures is a violation of OAR 331-900-0125 excluding (1), (2), (9) and (10) for body piercing; OAR 331-905-0105 excluding (1), (2), (9) and (10) for specialty body piercing; OAR 331-910-0075 excluding (1), (2), and (10) for electrology; or OAR 331-915-0080 excluding (1), (2), (9) and (10) for tattooing:

(a) 1st offense: $1000;
(b) 2nd offense: $2,500;
(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.

(8) Failing to maintain monthly Biological test results, chemical indicator strips and steam sterilization integrators on the premises of the facility or allow an enforcement officer access to review those records immediately upon request is a violation of OAR 331-900-0125 (9) or (10) for body piercing; OAR 331-905-0105 (9) and (10) for specialty body piercing; OAR 331-910-0075(10) for electrology; or OAR 331-915-0080(9) and (10) for tattooing:

(a) 1st offense: $500;
(b) 2nd offense: $1,000;
(c) 3rd offense: $2,500.

(9) Failing to collect and maintain complete client records for each client on the premises of the facility or allow an enforcement officer access to review client records immediately upon request is a violation of OAR 331-900-0130 for earlobe piercing; OAR 331-900-0130 for standard body piercing, OAR 331-905-0110 for specialty body piercing; OAR 331-910-0085 for electrology; or OAR 331-915-0085 for tattooing:

(a) 1st offense: $500;
(b) 2nd offense: $1,000;
(c) 3rd offense: $2,500.

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 10-2012, f. & cert. ef. 6-25-12; HLA 1-2013, f. & cert. ef. 1-16-13

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Rule Caption: Amend title of standard body piercing trainee license to temporary trainee license.
Adm. Order No.: HLA 2-2013(Temp)
Filed with Sec. of State: 1-16-2013
Certified to be Effective: 1-16-13 thru 7-14-13
Notice Publication Date:
Rules Amended: 331-900-0020, 331-900-0025, 331-900-0050, 331-900-0055, 331-905-0011, 331-905-0013
Subject: Amend title of standard body piercing trainee license to temporary trainee license to align with statutory authority. Currently the license is listed as a trainee license and the statute does not give authority to issue trainee licenses.
Rules Coordinator: Samantha Patnode—(503) 373-1917

331-900-0020
Standard Body Piercing Temporary Trainee License

(1) A standard body piercing temporary trainee license is valid for one year, and may be renewed one time.

(2) A standard body piercing temporary 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 temporary trainee must adhere to OAR 331-900-0055.

(4) A standard body piercing temporary trainee license holder is prohibited from performing specialty level one genital piercing services defined under OAR 331-905-0000 and specialty level two genital piercing services defined under OAR 331-905-0000.

(5) A standard body piercing temporary trainee license holder is prohibited from piercing the testes, deep shaft (corpus cavernosa), uvula, eyelids or sub-clavicle.

(6) A standard body piercing temporary trainee license holder must adhere to all standards within OAR 331-900-0100, 331-900-0105, 331-900-0110, 331-900-0115, 331-900-0120, 331-900-0125, 331-900-0130, and all applicable rules listed in OAR 331 Division 925.

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; HLA 10-2012, f. & cert. ef. 6-25-12; HLA 2-2013(Temp), f. & cert. ef. 1-16-13 thru 7-14-13

331-900-0025
Application Requirements for Standard Body Piercing Temporary Trainee License

An individual applying for a Standard Body Piercing Temporary Trainee 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 equivalent; and

(5) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(6) Submit proof of current blood borne pathogens training from an Agency approved provider; and

(7) Pay applicable licensing 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 10-2012, f. & cert. ef. 6-25-12; HLA 2-2013(Temp), f. & cert. ef. 1-16-13 thru 7-14-13

331-900-0050
Standard Body Piercing Supervisor

(1) An approved supervisor may supervise one standard body piercing temporary trainee per shift.

(2) An approved supervisor must exercise management, guidance, and control over the activities of the standard body piercing trainee and must exercise professional judgment and be responsible for all matters relative to the standard body piercing.

(3) Supervisors must document work done by the standard body piercing temporary trainee on a form prescribed by the Agency.

(4) An approved supervisor must notify the Agency in writing within five calendar days if a standard body piercing temporary trainee is no longer being supervised, and must provide the number of hours of training completed on a form prescribed by the Agency.

(5) Not withstanding any other disciplinary actions, an approved supervisor's authorization to supervise may be withdrawn by the Agency for providing incomplete or inadequate training or falsifying documentation.

(6) Supervisors must provide direct supervision to standard body piercing temporary trainees.

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 2-2013(Temp), f. & cert. ef. 1-16-13 thru 7-14-13

331-900-0055
Requirements for Standard Body Piercing Supervisor

To be an approved supervisor for a standard body piercing temporary trainee an individual must:

(1) Submit a completed form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000;

(2) Hold an active, body piercing license issued prior to January 1, 2012 or a standard body piercing license issued after January 1, 2012, with no current or pending disciplinary action;

(3) Submit proof of having been actively practicing any combination of body piercing experience prior to January 1, 2012, or standard body piercing experience after January 1, 2012, for at least five years prior to submitting application on a form prescribed by the Agency;

(4) Submit proof of current cardiopulmonary resuscitation and basic first aid training from an Agency approved provider;

(5) Submit proof of current blood borne pathogens training from an Agency approved provider; and

(6) Have passed an Agency approved written and practical examination for standard body piercing in accordance with OAR 331-900-0060(3) and (4).

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 2-2013(Temp), f. & cert. ef. 1-16-13 thru 7-14-13

331-905-0011
Specialty Level One Genital Piercing Trainee

(1) A specialty level one genital piercing temporary trainee license is valid for one year, and may not be renewed.

(2) A specialty level one genital piercing temporary trainee license holder may perform services defined under OAR 331-905-0000(14).

(3) A specialty level one genital piercing temporary trainee license holder, licensed under ORS 690.365, may provide specialty level one genital piercing services under the direct supervision of an Agency approved supervisor pursuant OAR 331-905-0052 and 331-905-0055.

(4) Supervisors of a specialty level one genital piercing temporary trainee must adhere to OAR 331-905-0055.

(5) A specialty level one genital piercing temporary trainee license holder must adhere to all standards within OAR 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-110, 331-905-0115, 331-905-0120 and all applicable rules listed in OAR 331 Division 925.

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 10-2012, f. & cert. ef. 6-25-12; HLA 2-2013(Temp), f. & cert. ef. 1-16-13 thru 7-14-13

331-905-0013
Specialty Level Two Genital Piercing Temporary Trainee

(1) A specialty level two genital piercing temporary trainee license is valid for one year, and may not be renewed.

(2) A specialty level two genital piercing temporary trainee license holder may perform services defined under OAR 331-905-0000(15).

(3) A specialty level two genital piercing temporary trainee license holder, licensed under ORS 690.365, may provide specialty level two genital piercing services under the direct supervision of an Agency approved supervisor pursuant OAR 331-905-0058 and 331-905-0060.

(4) Supervisors of a specialty level two genital piercing temporary trainee must adhere to OAR 331-905-0060.

(5) A specialty level two genital piercing temporary trainee license holder must adhere to all standards within OAR 331-905-0090, 331-905-0095, 331-905-0100, 331-905-0105, 331-905-110, 331-905-0115, 331-905-0120 and all applicable rules listed in OAR 331 Division 925

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 10-2012, f. & cert. ef. 6-25-12; HLA 2-2013(Temp), f. & cert. ef. 1-16-13 thru 7-14-13

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Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Modification of certain standards concerning employer obligations in verification of retirement data process.
Adm. Order No.: PERS 1-2013
Filed with Sec. of State: 1-25-2013
Certified to be Effective: 1-25-13
Notice Publication Date: 11-1-2012
Rules Amended: 459-005-0040
Subject: OAR 459-005-0040 sets forth the standards PERS follows when an eligible member requests a verification. The "reasonable time" for employers to confirm or modify records is currently 60 days. After this period has passed, the member's employer may no longer modify that data. PERS then completes the verification.

The 60-day deadline was established when the data verification process was initiated July 1, 2011. Since that time, a mismatch in time frames has arisen because of the number of members who request data verifications at the same time that they apply for retirement. The 60-day time line for employers to verify data does not allow timely processing of the member's retirement application, because PERS strives to commence payments within 45 days.

As the majority of employers respond to data verification work item requests within 30 days, lowering the standard for a response allows for more timely benefit payment processing and removes what has proven to be an unnecessary delay. The rule modifications also shorten the corresponding period during which an employer can petition for a discretionary extension of the deadline from 45 days to 21 days. This change is needed because a 45-day deadline to petition for an extension would fall after the 30-day period had already

expired. To date, no petitions for extension have been made by any PERS employers.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0040
Verification of Retirement Data

(1) For purposes of this rule:

(a) "Eligible member" means an active or inactive member of the system who is within two years of attaining earliest service retirement age or has attained earliest service retirement age. "Eligible member" does not include a retired member of the system, an alternate payee, or a beneficiary.

(b) "Verification" means a document provided to an eligible member by PERS pursuant to ORS 238.285.

(2)(a) PERS will determine an eligible member's creditable service, retirement credit, final average salary, member account balance, and accumulated unused sick leave for a verification based on employment data reported to PERS by the member's employers, as reflected in PERS' records. Except as provided in this section, an employer may not modify an eligible member's records after the earlier of the 30th day after PERS notifies the eligible member's employer that a request for a verification has been submitted or the date the employer confirms the records in a manner determined by PERS.

(b) PERS may direct an employer to modify records if PERS determines modification is necessary, such as:

(A) To reconcile the member's records before the verification is issued;

(B) To implement the resolution of a dispute under ORS 238.285(2); or

(C) To reissue a verification under subsection (4)(e) of this rule.

(c) An employer may petition PERS for an extension of the 30-day period described in subsection (a) of this section.

(A) The petition must:

(i) Be specific to an eligible member;

(ii) Specify the duration and end date of the extension requested;

(iii) Be received by PERS no later than the 21st day after notice is issued; and

(iv) Establish good cause why the extension should be granted.

(B) The PERS Executive Director or a person designated by the Director may grant or deny the request.

(C) An employer may not request more than one extension for an eligible member.

(3) For any verification provided by PERS:

(a) All data in a verification will be as of December 31 of the last calendar year before the date the verification is produced for which the Board has adopted annual earnings crediting.

(b) If an eligible member requests an additional verification, an employer may not confirm or modify, nor may a member dispute, by reason of the additional verification, data for periods before the date specified in the most recent verification.

(4) When a member who has received a verification retires for service, PERS may not use amounts less than the amounts verified to calculate the member's retirement allowance or pension, except as permitted in ORS 238.285(3) and this section.

(a) Amounts in a verification may be adjusted if a Tier Two member restores forfeited creditable service and establishes Tier One membership in the manner described in ORS 238.430(2)(b).

(b) Amounts in a verification may be adjusted to comply with USERRA.

(c) Amounts in a verification may be adjusted to implement a judgment, administrative order, arbitration award, conciliation agreement, or settlement agreement.

(d) If, subsequent to the date specified in a verification, a member's account is divided pursuant to ORS 238.465, the member and alternate payee accounts will be used to determine compliance with 238.285(3) and this section.

(e) If the amounts in a verification are adjusted under ORS 238.285(3) or this section, the verification will be reissued by PERS as of the date specified in the original verification.

(5) Erroneous payments or overpayments not recoverable under ORS 238.285(6) will be allocated annually by the Board.

Stat. Auth.: ORS 238.650 & 238A.450
Stats. Implemented: ORS 238.285
Hist.: PERS 11-2010, f. & cert. ef. 11-24-10; PERS 1-2013, f. & cert. ef. 1-25-13

Rule Caption: Clarifies employers may use date of hire in determination of method of employee contribution.
Adm. Order No.: PERS 2-2013
Filed with Sec. of State: 1-25-2013
Certified to be Effective: 1-25-13
Notice Publication Date: 1-1-2013
Rules Amended: 459-009-0200
Subject: ORS 238A.335 allows an employer to use MPAT, MPPT, or EPPT for different groups of employees, so long as the employer has a policy or collective bargaining agreement to support any distinction. OAR 459-009-0200 currently requires an employer to apply the method of contribution uniformly to employees who are in similarly situated positions and provides examples of similarly situated positions. The list of examples is not exclusive, but does not include "date of hire" as one of the specifically permissible examples. Employers requested the rule modifications to list a member's date of hire as a permissible method to differentiate among IAP contribution methods.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-009-0200
Employer Remitting of Employee Contributions

(1) A participating employer shall remit to PERS in accordance with OAR 459-070-0110 the contributions required by ORS 238A.330. Unless otherwise agreed to as provided for in section (2) or (3) of this rule, the employer shall withhold and remit the required contributions on an after-tax basis as defined in OAR 459-005-0001(2), which shall be known as "member paid after-tax contributions (MPAT)".

(2) In accordance with Internal Revenue Code (IRC) Section 414(h), and under provision of ORS 238A.335(2)(b), participating employers may voluntarily agree to assume and pay the employee contribution on behalf of its employees, which shall be known as "employer paid pre-tax contributions (EPPT)". The employer assumption and payment of the employee contributions shall be subject to the following terms and conditions:

(a) The employer's employment agreement(s) to assume and pay the contributions must be evidenced by a certified copy of the employer's policy established by statute, charter, ordinance, administrative rule, executive order, collective bargaining agreement, or other written employment policy or agreement. The employer's employment policy(s) or agreement(s) shall specify that:

(A) The required PERS employee contribution is deemed to be picked up for purposes of IRC Section 414(h)(2) and is assumed and paid for purposes of ORS 238A.335(2)(b);

(B) The employees do not have the option of receiving the assumed amount directly;

(C) Employee compensation may not be reduced and the employer shall provide the additional amounts necessary to make the employee contributions; and

(D) The employer's employment policy(s) or agreement(s) is not retroactive in its application.

(b) The employer's employment policy(s) or agreement(s) to assume and pay employee contributions may not be construed to require an employer to open or renegotiate a pre-existing collective bargaining agreement or change an employment policy before its normal expiration date.

(c) The employer's employment policy(s) or agreement(s) must be to assume and pay the full amount, and not a portion thereof, of the affected employees' contributions required by ORS 238A.330.

(d) The employer's policy(s) or agreement(s) may apply to all its employees or some of its employees. If it applies only to some employees, it shall apply uniformly to employees of the public employer who are similarly situated, such as, but not limited to:

(A) The chief executive officer or administrative head of a public employer.

(B) Management personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(C) Confidential personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(D) Administrative personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(E) Personnel covered by a collective bargaining agreement.

(F) Other personnel, whether full time, part time, temporary, or as a substitute, who are not covered by a collective bargaining agreement.

(G) Personnel hired on or after a date established or agreed upon by the employer.

(3) Under provision of ORS 238A.335(2)(a), participating employers may voluntarily agree to "pick-up" the employee contributions withheld, and such picked-up contributions shall be known as "member paid pre-tax contributions (MPPT)". The employer "pick-up" of the employee contributions shall be subject to the following terms and conditions:

(a) The employer's agreement(s) to "pick-up" the contributions must be evidenced by a certified copy of the employer's policy established by statute, charter, ordinance, administrative rule, executive order, collective bargaining agreement, or other written employment policy or agreement. The employer's policy(s) or agreement(s) shall specify that:

(A) The employees do not have the option of receiving the picked-up amount directly;

(B) The employee compensation shall be reduced by the amount necessary to make the employee contributions; and

(C) The employer's policy(s) or agreement(s) is not retroactive in its application.

(b) The employer's employment policy(s) or agreement(s) to "pick-up" employee contributions withheld may not be construed to require an employer to open or re-negotiate a pre-existing collective bargaining agreement or change an employment policy before its normal expiration date.

(c) The employer's policy(s) or agreement(s) must be to "pick-up" the full amount, and not a portion thereof, of the affected employees' contributions required by ORS 238A.330.

(d) The employer's employment policy(s) or agreement(s) may apply to all its employees, or some of its employees. If it applies to only some of its employees, it shall apply uniformly to employees of the public employer who are similarly situated, such as, but not limited to:

(A) The chief executive officer or administrative head of a public employer.

(B) Management personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(C) Confidential personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(D) Administrative personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(E) Personnel covered by a collective bargaining agreement.

(F) Other personnel, whether full time, part time, temporary, or as a substitute, who are not covered by a collective bargaining agreement.

(G) Personnel hired on or after a date established or agreed upon by the employer.

(4) The notification of the employer's written employment policy(s) or agreement(s) to enter into or to revoke (1) the "pick-up", or (2) to assume and pay contributions on behalf of employees, shall be submitted to PERS for review and approval, and shall become effective on the date the notification is received by PERS. Additional information related to the employer's policy or agreement shall be provided at the request of staff and in the manner required by staff. If approved by PERS, such policy and agreement may not be revoked by the employer except with prior written notice to PERS. All costs to correct any errors caused by failure to give required notice shall be borne by the employer.

(5) Notwithstanding sections (1) to (4) of this rule, judge member contributions shall be made in accordance with ORS 238.515.

Stat. Auth.: ORS 238.650 & 238A.450
Stats. Implemented: ORS 238.515, 238A.330 & 238A.335
Hist.: PER 1-1979(Temp), f. & ef. 6-1-79; PER 2-1979, f. & ef. 7-19-79; PER 2-1980, f. & ef. 3-7-80; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0208; PERS 7-1999 f. & cert. ef. 11-22-99; PERS 12-2006, f. & cert. ef. 6-26-06; PERS 6-2010, f. & cert. ef. 8-2-10; PERS 2-2013, f. & cert. ef. 1-25-13

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Oregon State Lottery
Chapter 177

Rule Caption: Amends rules for Lottery second chance drawings, promotions, giveaways, player loyalty programs, housekeeping changes
Adm. Order No.: LOTT 1-2013(Temp)
Filed with Sec. of State: 2-1-2013
Certified to be Effective: 2-1-13 thru 7-27-13
Notice Publication Date:
Rules Amended: 177-010-0003, 177-040-0050, 177-040-0200, 177-046-0015, 177-046-0080, 177-046-0100, 177-046-0110, 177-046-0140, 177-050-0002, 177-050-0024, 177-050-0025, 177-050-0100, 177-051-0000, 177-051-0010, 177-051-0030, 177-051-0035, 177-051-0040, 177-051-0120, 177-051-0130, 177-052-0000, 177-052-0010, 177-052-0020, 177-052-0030, 177-052-0040, 177-052-0050, 177-052-0060, 177-052-0070, 177-070-0005

Subject: The Oregon State Lottery has initiated temporary and permanent rule making to amend the above referenced administrative rules related to Lottery second chance drawings, Scratch-it tickets, promotions, giveaways, and player loyalty programs.

The amendments will add a definition of second chance drawing; amend the definition of prize; require a retailer to return non-winning tickets to the player; prohibit Lottery retailers from conducting second chance drawings using non-winning Lottery tickets; clarify that the Lottery or its authorized drawing agent may conduct drawings; prohibit multiple ownership of non-winning Lottery tickets submitted for second chance drawings; restrict who may claim a prize in a second chance drawing to the person who submitted the entry; authorize Lottery second chance drawings using Scratch-it tickets; require retailers to return unsold Scratch-it tickets within six weeks after activations have ended for that game in order to receive credit for unsold, activated tickets; make general housekeeping updates to Division 51 Promotions; remove an unneeded reference to the awarding of points and the use of a multiplier by the Lottery for player loyalty programs; specify that a person may have only one registered membership at a time; clarify that unclaimed second chance prizes are forfeited and remain the property of the Lottery Commission; and make various housekeeping changes to the rules and correct cross references.
Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-010-0003
Definitions

(1) "Business day" means the period beginning at 5 a.m. of a calendar day and ending at 4:59 a.m. on the morning of the next calendar day.

(2) "Business week" means the period beginning at 5 a.m. on a Sunday and ending at 4:59 a.m. the following Sunday morning.

(3) "Business year" means the period beginning at 5 a.m. on the Sunday immediately following the last Saturday in June, and ending at the end of the business day of the last Saturday of the following June.

(4) "Commissioner" has that definition as defined in ORS 461.010(2).

(5) "Director" has that definition as defined in ORS 461.010(3).

(6) "Drawing coordinator" means the Lottery employee designated by the Assistant Director for Security, subject to the approval of the Director, to develop and implement procedures for conducting drawings.

(7) "Immediate family" and "family member" mean a natural person's spouse, child, brother, sister, or parent by blood or adoption.

(8) "Lottery" or "State Lottery" has that definition as defined in ORS 461.010(1).

(9) "Lottery Commission" or "Commission" has that definition as defined in ORS 461.010(4).

(10) "Lottery contract" means any contract entered into by the Lottery for the purchase, lease, or sale of goods or services.

(11) "Lottery contractor" or "contractor" has that definition as defined in ORS 461.010(9).

(12) "Lottery game" or "game" has that definition as defined in ORS 461.010(5).

(13) "Lottery game retailer" or "retailer" has that definition as defined in ORS 461.010(7).

(14) "Lottery Headquarters" means the Debbs Potts Oregon State Lottery Commission building located at 500 Airport Road SE, Salem, Oregon.

(15) "Lottery Kiosk" means a location, other than Lottery Headquarters, where Lottery tickets or shares are sold directly to the public by Lottery employees.

(16) "Lottery sales location" means a Lottery Kiosk, Lottery Headquarters, or sales by the Lottery through electronic means.

(17) "Lottery vendor" or "vendor" has that definition as defined in ORS 461.010(8).

(18) "Person" has that definition as defined in ORS 461.010(6).

(19) "Prize" means any award of economic value, monetary or otherwise, that may be distributed to a Lottery player for submitting a valid claim based on a winning Lottery ticket or share, or for a winning entry in a second chance drawing.

(20) "Retailer contract" means any written contract entered into by the Lottery with a retailer for selling Lottery tickets or shares to the public.

(21) "Second Chance Drawing" or "2nd Chance Drawing" means a drawing in which an eligible non-winning Oregon Lottery® ticket or share

is submitted to the Lottery for entry into a drawing for a chance to win a prize.

(22) "Share" means an opportunity to win a prize in a Lottery game that does not use certificates or tokens, such as in Video Lottery SM games.

(23) "Ticket" means a certificate or token of the opportunity to win a prize in a Lottery game.

(24) "Traditional Lottery games" means the following lottery games offered by the Oregon State Lottery:

(a) Scratch-its SM;

(b) Lottery Raffle Game;

(c) Megabucks SM;

(d) Pick 4 SM;

(e) Lucky Lines SM;

(f) Powerball®;

(g) Sports Action SM;

(h) Scoreboard SM;

(i) Win for Life SM;

(j) Keno;

(k) Mega Millions®,

(l) Second chance drawing; and

(m) Any other Lottery game designated by the Oregon State Lottery Commission as a Traditional Lottery game.

(25) "Unclaimed prize" means any prize offered in a Lottery game which has not been submitted to the Lottery for validation and prize payment within the specified prize claim period and for which the Lottery has data or evidence that the ticket or share was sold or distributed to the public.

(26) "Video Lottery SM game retailer" or "Video Lottery SM retailer" has that definition as defined in ORS 461.217.

(27) "Video Lottery SM game terminal" means a type of video device for the playing of Video Lottery SM games which is in a console that contains a game platform with a video display and a random number generator, is connected to and monitored by a central system, and accepts cash payments to permit a person to play the Video Lottery SM games offered on the terminal for the opportunity to win a prize. Unless the context or a specially applicable definition indicates otherwise, any reference to a "Video Lottery SM terminal", "video lottery terminal", or "video terminal" in OAR Chapter 177, a Lottery retailer contract, or Lottery form in effect or in use on or after the effective date of this rule shall be deemed to refer to a "Video Lottery SM game terminal" as defined in this section. Video Lottery SM Game Terminal does not include any device determined by the Oregon State Lottery Commission not to be a Video Lottery SM game terminal.

(28) "Website" means the Lottery's Internet address at www.oregonlottery.org, or any other website that may be specified by the Lottery for a particular promotion or promotional program.

(29) "Winner claim form" means a form provided by the Lottery to a player for the purpose of claiming a prize.

Stat. Auth.: ORS 461 & OR Const. Art. XV, § 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.215, 461.217, 461.220 & 461.250
Hist.: LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-040-0050
Retailer Duties

(1) **General:** This rule contains duties to be performed by a Lottery retailer beyond those duties described in the Lottery retailer contract. The duties listed herein are not meant to be exclusive. Other duties and requirements for retailers may be contained elsewhere in OAR Division 177, ORS Chapter 461, or in the Lottery retailer contract.

(2) **All Retailers:** All Lottery retailers shall:

(a) Stock Equipment: Keep all Lottery equipment on the retailer's premises stocked with a variety of Scratch-it SM tickets, play slips, computer-generated tickets, and any other Oregon Lottery® product required to be sold. Unless exempted by the Lottery, if a Lottery retailer fails to stock or replenish these items as they are made available for sale by the Lottery, or as they are depleted because of purchase or use, the Lottery may remove the equipment.

(b) Perform Minor Maintenance: Replace ribbons, ticket stock, and clear paper jams as may be required for any of the equipment provided by the Lottery for the sale of Lottery tickets or shares.

(c) Maintain Paper Stock: Install and use only approved Lottery-provided paper stock which has been specifically assigned to the selling retailer when selling Lottery tickets and shares.

(d) Obtain Permits: Be required to arrange for and obtain all necessary permits required by federal, state, and local governments for electrical installation, electrical power, telephone service, fiber optic lines and connections, and coaxial cable and connections required to sell Lottery tickets or shares at the retail site.

(e) Pay Amounts Due: Pay the amount due to the Lottery for the sale of Lottery tickets or shares by the use of an electronic funds transfer (EFT). In most instances, this EFT shall occur at the end of the fourth day after the close of each Lottery business week. When an applicant operates multiple Lottery retail sites before the effective date of this rule, the routine date of the EFT collection may be set beyond the fourth day after the close of the business week in order to accommodate the needs of the combined sites.

(3) **Traditional Lottery Game Retailers:** A Lottery retailer authorized to sell traditional Lottery games is required to:

(a) Scratch-It SM Validation: Validate a Scratch-It SM ticket presented to the retailer by a player through equipment provided by the Lottery connected to the Lottery's central computer system. The retailer is required to destroy a winning ticket after validation and payment of the prize. Any Lottery retailer who does not destroy a winning ticket after validation and payment of the prize is liable for a prize paid by another Lottery retailer who subsequently pays the ticket. The retailer is required to return a non-winning ticket to the player.

(b) Draw Game Validation: Validate a Draw game ticket through the Draw game terminal before paying a Draw game prize.

(c) Underage Play: Monitor Lottery player-operated vending machines, as defined in OAR 177-045-0000, to prevent underage play.

(4) **Video Retailers:** A Video Lottery SM game retailer is required to:

(a) Cash Slip Validation: Validate any Video Lottery SM cash slip presented for payment that was issued at the retailer's location, through the Lottery's on-site video validation terminal before paying a Video Lottery SM prize, except for those cash slips required to be validated and paid at Lottery Headquarters in Salem.

(b) Restrict Visibility: Restrict Video Lottery SM game terminals from visibility from areas outside of the business and from view of dining areas or other areas where minors are permitted to linger.

(c) Age-Posted Area: Maintain Video Lottery SM game terminals in an area of the business that is prohibited to minors. The area must be posted as such by the Oregon State Lottery or the Oregon Liquor Control Commission. This restriction against minors does not apply to minors who qualify under the exceptions permitted by the Oregon Liquor Control Commission for access to areas normally prohibited to minors.

(5) **Sanctions:** The Director may sanction a Lottery retailer for the loss, damage, or destruction of any winning game ticket or share. This includes, but is not limited to: Imposing a requirement for remedial training for the retailer or the retailer's employees, and any other actions for failure to perform contract duties or requirements as described in the Lottery retailer contract or OAR Chapter 177.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461
Hist.: LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LOTT 5-1999(Temp), f. & cert. ef. 5-26-99 thru 6-26-99, Administrative correction 11-17-99; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert.. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04; LOTT 12-2008, f. 12-23-08, cert. ef. 1-1-09; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 4-2010(Temp), f. 3-10-10, cert. ef. 3-15-10 thru 9-4-10; LOTT 9-2010, f. 8-30-10, cert. ef. 9-5-10; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-040-0200
Lottery Retailer Second Chance Drawings

Lottery retailers are prohibited from conducting second chance drawings for prizes which require the use of a non-winning Oregon Lottery® ticket or share as an entry into a drawing conducted or operated by the retailer.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.200
Hist.: LOTT 12-2001(Temp) f. & cert. ef. 9-12-01 thru 3-7-02; LOTT 14-2001, f. & cert. ef. 12-3-01; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-046-0015
Definitions

For the purposes of Division 46, the following definitions apply except as otherwise specifically provided in OAR Chapter 177 or unless the context requires otherwise:

(1) "Drawing" means the procedure whereby the Lottery, or a drawing agent, selects the winner or the winning combination in accordance with the rules of the game.

(2) "Drawing agent" means a Lottery vendor or other designee who, subject to the approval of the Director, is designated by the Assistant Director of Security to conduct specified drawings on behalf of the Lottery.

(3) "Electronic drawing" means any drawing that involves the use of a random number generator or other computer-driven or computer-assisted device to determine winners or winning combinations, and manual interaction is incidental to the selection process.

(4) "Electronic drawing equipment" includes any computer-driven or computer-assisted device used by the Lottery, or a drawing agent, for the purpose of determining winners or winning combinations, including, but not limited to, devices used by the Lottery's central gaming system for Lottery's Draw games, or for the Lottery's periodic internet entry, raffle, second-chance drawings, or promotional games.

(5) "Manual drawing" means any drawing that does not involve the use of a random number generator or any other computer-driven or computer–assisted device to determine winners or winning combinations, and manual interaction is primary to the selection process.

(6) "Manual equipment" includes any mechanical equipment or non-electronic method used by the Lottery, or a drawing agent, for the purpose of determining winners or winning combinations, including, but not limited, to Lottery's periodic raffle games.

(7) "Random number generator" means a computer-driven electronic device capable of producing numbers at random.

Stat. Auth.: ORS 461
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-046-0080
Drawings

(1) **Drawing Coordinator and Procedures:** Subject to the approval of the Director, the Lottery's Assistant Director for Security may designate a Lottery employee as a Drawing Coordinator, and may designate a drawing agent to conduct drawings. Drawings shall be conducted pursuant to drawing procedures approved by the Lottery's Assistant Director for Security and the Director.

(2) **Drawing Equipment:** The Lottery may use any type of equipment or method, including electronic or manual equipment and any variety of existing or future methods or equipment, for determining the winner or winning combination in any Lottery game that involves a drawing. The Lottery shall ensure the security and integrity of any equipment used to determine a winner or winning combinations. The Lottery will approve the equipment and procedures used by any drawing agent who conducts a drawing for the Lottery.

(a) Electronic Drawing Equipment: Any electronic connections to electronic drawing equipment must be made by a secure method. The Lottery shall test the equipment periodically or as needed to ensure proper operation and lack of tampering or fraud. The Lottery shall have its random number generators, or any other computer-driven or computer-assisted device used for a drawing, statistically analyzed, tested, and certified by an independent, qualified statistician for integrity.

(b) Manual Equipment: The use of any manual equipment used by the Lottery, or a drawing agent, to determine a winner or winning combinations must comply with the provisions of ORS 461.230(2).

(c) Random Number Generators: The Lottery, or a drawing agent with Lottery approval, may use random number generators to determine winning numbers for Lottery games, and to select a winning entry in a Lottery second chance drawing.

(3) **Security:** Subject to the approval of the Director, the Lottery's Assistant Director for Security shall approve procedures to ensure the physical security of the Lottery's drawing equipment, and the drawing equipment used by a drawing agent, and shall specify the individuals who shall have physical access to any drawing equipment. Any random number generator, or any other computer-driven or computer-assisted device, used by the Lottery, or a drawing agent, to determine winners, winning combinations, or winning entries shall be kept in a sealed enclosure within a secure area.

(4) **Drawing Errors:** If, during a game drawing, an equipment failure or operator error causes an interruption in the selection of numbers, symbols, or entries, a technical difficulty will be declared. Any number drawn prior to the declaration of a technical difficulty will stand and be deemed official when verified.

(5) **Delay in Payment and Resolution:** The Director will delay payment of all prizes if any evidence exists or there are grounds to suspect equipment malfunction, tampering, or fraud. In such event, the Lottery will not pay any prize until the Lottery completes an investigation and the Director approves the drawing and authorizes payment. If the Director does not approve the drawing, it will be void and the Lottery, or a drawing agent, will conduct another drawing to determine the winner or the winning combinations.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-046-0100
Ownership of Lottery Tickets and Shares

(1) **Bearer Instrument:** Except for a Lottery ticket or share claimed jointly in accordance with the provisions of OAR 177-046-0110(6) of this rule, until such time as a name of an individual or individuals is placed upon a Lottery ticket or share, the ticket or share is a bearer instrument and is owned by the bearer of the ticket or share. When a name or names is placed on the ticket or share, the ticket or share ceases to be a bearer instrument and the individual whose name appears on the ticket or share is the owner of the ticket or share. Only a natural person may own a ticket or share and claim a prize.

(2) **Multiple Names:** Multiple individuals may jointly own, possess, and claim a prize as owners of a winning ticket or share. Multiple individuals hold the ticket or share as tenants in common. Multiple individuals may specify the percentage of ownership each person holds. Each person must hold $1.00 of the prize at a minimum.

(3) **Second Chance Drawing:** Notwithstanding sections (1) and (2) of this rule, only one natural person can claim ownership of a non-winning ticket or share used to enter a second chance drawing. Non-winning tickets submitted and accepted as a valid entry in a Lottery second chance drawing cannot be jointly owned. Only the person who claims ownership may submit the non-winning ticket as an entry to a second chance drawing and only that person may claim the prize if the person's entry is selected as a winning entry in a second chance drawing.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-046-0110
Payment of Prizes

(1) **General:** All winning Lottery tickets or shares may be presented to the Oregon State Lottery for payment. Winning tickets or shares for prizes of $600 or less may also be presented for payment to the appropriate Lottery retailer specified in the applicable game rule.

(2) **Mailing Address:** Winners who mail a winning Lottery ticket or share to the Lottery must sign the Lottery ticket or share, write the claimant's mailing address on the ticket or share, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended.

(3) **Lottery Headquarters Address:** Winners who present a claim in person at the Lottery may do so by bringing the winning Lottery ticket or share to the Oregon State Lottery Headquarters, Player Services, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours.

(4) **Retailer Validation and Payment of Prizes of $600 or Less:** To determine whether a Lottery ticket or share presented for payment entitles the holder to a prize, a retailer must validate the claim with the Lottery by scanning the bar code or manually entering the bar code number printed on each Lottery ticket or share into equipment provided by the Lottery, and, if authorized by the Lottery, pay the player the prize amount due.

(a) Retailer Payment: A retailer is authorized to pay a prize of $600 or less and shall pay that prize in cash or check, or any combination thereof.

(b) Lottery Payment: If a retailer's prize payment check is dishonored, the player may seek payment from the Lottery by presenting a copy of the dishonored check to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours, or by mailing a copy of the dishonored check with a winner claim form to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. If the Lottery determines that payment of the prize is authorized, the retailer has not paid the prize, and it is unlikely that the retailer will pay the prize, the Lottery may then issue a check to the player in the amount of the prize due less any applicable tax withholding.

(c) Retailer Sanction: A retailer that pays a prize with a check that is dishonored may be subject to termination of the Lottery Retailer Contract.

(5) **Lottery Validation and Prize Payment:** Upon validation of a winning Lottery ticket or share presented to the Lottery for payment, the Director may pay the amount of the prize to the player less any applicable tax withholding. If the Director determines that the ticket or share is invalid, or a non-winning ticket or share, or the claim is invalid, the

Director shall deny the claim and notify the player. An invalid ticket or share will not be returned to the player and is not eligible for any second chance or promotional drawing. A non-winning ticket will only be returned to the player if the player provides return postage and a self-addressed envelope or mailing container in which to return the ticket.

(a) Lottery Prize Payment of $600 or Less: Payment may be made by check, cash card, or in cash, or any combination thereof.

(A) Lottery Headquarters: Cash prize payments made at Lottery Headquarters are limited to $50 per person per day. Any prize payment balance remaining above $50 shall be paid by check. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(B) Lottery Kiosk: Cash prize payments made at a Lottery kiosk are limited to $100 per transaction. Any prize payment balance remaining above $100 shall be paid by cash card.

(C) Prizes by Mail: A winning ticket or share may be submitted to the Lottery by mail. If mailed, the player must sign the ticket or share, write the player's mailing address on the ticket or share, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended.

(b) Lottery Prize Payment of Prizes Greater than $600: A player must claim a Lottery prize of more than $600 by:

(A) Claiming in Person: Bringing the ticket or share to the Oregon State Lottery Headquarters, Player Services Office, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours and presenting the ticket or share to the Lottery; or

(B) Claiming by Mail: Signing the ticket or share, writing the player's mailing address on the ticket or share, completing a winner claim form, and mailing it together with the winning ticket or share to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended. The winner claim form may be obtained from any Lottery retailer, from a Lottery kiosk, from the Lottery Headquarters at the addresses listed above, or downloaded from the Lottery's website.

(c) High Tier Prize Payments: The Lottery will pay a winning ticket or share by check, or subject to OAR 177-010-0050, may pay the prize in merchandise if the prize is merchandise.

(6) **Claiming Lottery Tickets or Shares Jointly:** If more than one name appears on a Lottery ticket or share, or if a Lottery ticket or share is owned by two or more persons, the prize must be claimed in accordance with the following:

(a) General: All persons claiming ownership of the winning Lottery ticket or share must complete and sign the Lottery's request and release form. Each of the persons signing the form must indicate each person's proportionate share of the prize. Each person must receive at least $1.00. At least one of the persons claiming ownership of the ticket or share must sign the ticket or share. That person's signature must also appear on the request and release form. If a winning ticket or share is mailed to the Lottery Headquarters with multiple signatures on it, the Director will mail the request and release form to the claimants.

(b) Deceased Signatories: A deceased signatory who dies before signing the request and release form will be presumed to have an ownership interest equal to that of the other signatories. In the event there is a deceased signatory, the Director may withhold payment for 60 days from the date of validation to allow co-owners the opportunity to seek a declaratory ruling from a court.

(c) Relinquishment of Interest: When a person who has signed a Lottery ticket or share wishes to relinquish the person's ownership interest in the Lottery ticket or share, that person must sign the Lottery's release of ownership form relinquishing the person's ownership interest. In no event will a person be permitted to relinquish ownership interest once it is determined that the person owes money for child support or other legal attachment has taken place. Once the Lottery receives the release of ownership form, it is irrevocable.

(d) Issuance of Prize Checks to Multiple Owners: If a validated winning Lottery ticket or share is claimed by multiple owners who are sharing a single prize, the Director will issue to each person claiming a share of the prize amount, a check for the portion of the prize amount claimed by each multiple owner, the total not to exceed the total prize amount. No cash payments will be made to multiple owners. However, the Director reserves the right to issue a single prize check to an individual whose name appears on the ticket or share instead of multiple prize checks to the owners of the ticket or share if the value of each individual prize check would be less than $50 or if the number of persons claiming a share of the prize exceeds 100 people. The Lottery shall pay multiple winners of a Lottery prize only at the Lottery Headquarters in Salem. Lottery retailers are not authorized to pay multiple winners who share a single prize.

(e) Payment to Multiple Owners at Lottery Kiosk: Notwithstanding subsection (6)(d) of this rule, the Lottery may pay multiple winners of a single Lottery prize at a Lottery kiosk if the total amount of the prize is $600 or less. Payment shall be made as set forth in paragraph (5)(a)(B) of this rule.

(f) Conflicting Information or Discrepancies: If there is conflicting information or discrepancies between the names on a winning Lottery ticket or share and the names on a claim form, the Lottery may withhold prize payment until the owners resolve the conflicting information. Discrepancies include, but are not limited to: Names or addresses scratched out or erased, or unreadable or altered names or addresses.

(g) Investigations: At the discretion of the Director, the Lottery may conduct an investigation to aid in the determination of the rightful owners prior to payment of any prize.

(h) Determinations: The Director's decisions regarding the determination of a winning Lottery ticket or share, or the determination of the rightful owner or owners of a prize, or of any other dispute or matter arising from payment or awarding of prizes are final and binding on all parties.

(7) **Payment of Prizes Donated Anonymously to Non-Profit Groups and Others:**

(a) General: The Director may pay a prize according to written anonymous instructions received with a winning Lottery ticket or share. The recipient must be a natural person or a non-profit group as described in Section 501(c)(3) of the Internal Revenue Code.

(b) Adult Recipient: If the intended recipient is a natural person of majority, the Director will contact the person and make payment to the person in accordance with the anonymous written instructions.

(c) Minor Recipient: If the intended donation benefits a natural person who is a minor, the Director will make payment in accordance with the Oregon Uniform Transfers to Minors Act, Oregon Revised Statutes (ORS) 126.805 to 126.886.

(d) Non-Profit Group as Recipient: If the intended recipient qualifies as a non-profit group as described in Section 501(c)(3) of the Internal Revenue Code, the Director will make payment only as follows:

(A) Identification of Recipient: The Director will attempt to identify and contact the intended recipient. The intended recipient shall designate in writing an agent, (a natural person) to act on its behalf and to receive the prize payment on behalf of the recipient. The Director shall confirm both the written authorization and the agent. An intended recipient is encouraged to select a bonded agent.

(B) Appearance: The agent shall appear in person at the Lottery Headquarters in Salem to claim the prize payment on behalf of the intended recipient. The Director may confirm to the Director's satisfaction that the agent is authorized to accept the donation in the agent's own name on behalf of the intended recipient.

(C) Signature and Payment: Subsequent to receipt of acceptable identification, along with a completed claim form from the agent, and the Director's review and approval, the agent, in the presence of a duly authorized Lottery official, shall sign the agent's own name on the winning Lottery ticket or share in the place indicated on the ticket or share and immediately return it to the Lottery. The Director shall then make payment to the agent less any applicable tax withholding.

(D) Identification of Donor: If the Director can reasonably identify the donor, the Director shall not make payment as specified above, but shall instead contact the donor and notify the donor to retrieve the Lottery ticket or share upon presenting acceptable proof of identification. The donor may retrieve the winning ticket or share in person at the Lottery Headquarters in Salem upon the presentation of acceptable proof of identification. The prize, less any applicable tax withholding, will be paid to the donor upon validation of the winning ticket or share.

(e) Win for Life Prize: If the winning Lottery ticket received is a Win for Life top prize of $1,000 a week for life, the prize paid will be the lump sum guaranteed five year payment under the Win for Life game rules.

(f) Forfeiture of Unclaimed Prize: In the event that the Director is unable to locate the intended recipient or the anonymous donor, the winning Lottery ticket or share shall be retained until the end of the prize claim period. After the end of the prize claim period, the ticket or share shall constitute an unclaimed prize as described in OAR 177-010-0085 and shall be forfeited to the public purpose.

(g) Discharge of Lottery from Liability: The State of Oregon, its agents, officers, employees, and representatives, including but not limited to, the Oregon Lottery, its Director, agents, officers, employees, and representatives, are discharged of all liability upon payment of an anonymously donated prize in accordance with this rule and any applicable game rules to the extent that they do not conflict with this rule. The Lottery is not respon-

sible in any way for the fulfillment or completion of the agreement between the intended recipient and the agent. The Lottery's decisions regarding the determination that a Lottery ticket or share donated anonymously is, or is not, a winning ticket or share or any question or dispute arising from the payment of such a prize is final and binding on all parties. In the event a question or issue arises regarding payment of a prize donated anonymously, the Director may withhold payment until the question or issue is resolved. The Lottery, the intended recipient or custodian, if the intended recipient is a minor, or the designated agent if the intended recipient is a non-profit group, may petition a court of competent jurisdiction for judicial resolution of the matter.

(8) **Second Chance Drawing Prize:** Sections (6) and (7) of this rule are not applicable to a prize claim from a second chance drawing. Prizes awarded by the Lottery from second chance drawings must be claimed in accordance with the provisions of OAR 177-052-0060 and only the person who submitted the winning entry in a second chance drawing may claim and be paid the prize.

(9) **Social Security Numbers:** Each United States resident who is to receive a payment of winnings greater than $600 shall furnish to the Lottery the information required on the Internal Revenue Service Form W-2G (or any other form required by the IRS,) including but not limited to the winner's name, address, and social security number. This disclosure is mandatory and the authority for such disclosure is 42 USC 405(c)(2)(C), 26 CFR 31.3402(q)-1(e), and ORS 461.715(1)(a). A winner's social security number will be used for the purpose of identifying child support obligors and submitting required documents to state and federal tax authorities.

(10) **Payment Decisions:** The Director shall make the final decision on whether any prize is paid or any annual prize payment is made. All prizes shall be paid within a reasonable time after they are validated, unless the Director delays a prize payment. The Director may, at any time, delay any prize payment in order to review the validity of a prize claim, or review a change of circumstances relative to the prize awarded, the payee, or the claim, or review any other relevant matter that may come to the Director's attention. Except as set forth in OAR 177-098-0060, for any prize requiring annual payments, all payments after the first payment shall be made on the anniversary date of the first payment in accordance with the type of prize awarded. Any delayed annual payment will be brought up to date immediately when payment is authorized by the Director.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 9-2010, f. 8-30-10, cert. ef. 9-5-10; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-046-0140
Suspension of Play

(1) **Suspension of Drawings:** At the discretion of the Director, any Lottery drawing may be suspended.

(2) **Refund Options:** If the Director suspends a drawing after Lottery tickets or shares have been sold for that drawing, a player may receive a refund of the player's ticket or share price, or a replacement Lottery ticket or share from another Lottery game, or the Director may hold a replacement drawing at the Director's discretion.

(3) **Termination of Games:** A Lottery game may be discontinued at any time.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-050-0002
Definitions

For the purposes of Division 50, the following definitions apply except as otherwise specifically provided in OAR Chapter 177 or unless the context requires otherwise:

(1) "Pack" means a book of shrink-wrapped Scratch-it SM game tickets which may or may not be attached to each other by perforations.

(2) "Pack-Ticket Number" means the uncovered number printed on a Scratch-it SM ticket which consists of a game number, a unique pack identification number, and a ticket number.

(3) "Play Symbols" mean the figures printed under each of the rub-off spots on the playing surface of a Scratch-it SM ticket.

(4) "Play Symbol Caption" means the material printed below each play symbol on a Scratch-it SM ticket which repeats or explains the play symbol. Only one play symbol caption is printed under each play symbol.

(5) "Retailer Validation Code" means the small letters found under the removable rub-off latex that covers the play symbols on the playing surface of a Scratch-it SM ticket. The letters appear in varying locations beneath the removable rub-off latex and among the play symbols.

(6) "Scratch-it SM" means a game in which winning tickets are produced at the time of manufacture with the aid of equipment, and the winning tickets are identified after purchase by scanning the bar code or manually entering the bar code number printed on each ticket with equipment provided by the Lottery. A Scratch-it SM game ticket offers a player the opportunity to remove a latex covering on the playing surface of a ticket and play the Scratch-it SM ticket for entertainment purposes. A non-winning Scratch-it SM game ticket may also offer a player the opportunity to enter a Lottery second chance drawing for a prize in accordance with the provisions of Division 52 of OAR Chapter 177.

(7) "Ticket Validation Number" means the unique number covered by latex on the playing surface of a Scratch-it SM ticket.

(8) "Void if Removed Number" (VIRN) means the series of digits on a Scratch-it SM ticket covered with latex which is used in the validation process.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.010
Hist.: LC 7-1987, f. & ef. 4-29-87; LC 13-1987(Temp), f. & ef. 7-27-87; LC 15-1987, f. 8-24-87, ef. 9-1-87; LC 4-1988, f. & cert. ef. 1-26-88; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-050-0024
Method of Determining Winners

(1) **General:** Winning tickets in a Scratch-it SM game are determined at the time of manufacture when winning tickets are produced at random with the aid of equipment in accordance with the payout percentage and prize structure established for the game.

(2) **Determination of a Winning Ticket:** To determine a winning ticket, the official bar code or bar code number printed on the ticket must be scanned or manually entered either at the Lottery's Headquarters in Salem or at a retail site by a Lottery retailer into equipment connected to the Lottery's central computer system. If the ticket is a winner, Lottery's computer system will identify it as such based upon the official bar code or bar code number. Removing the latex covering on the playing surface of the ticket does not identify a winning ticket. The latex covering feature is offered for entertainment purposes only. The ticket holder must notify the Lottery or a retailer of the apparent winning ticket and submit it for validation as specified in these rules in order to claim a prize. The ticket must be validated in accordance with Lottery's administrative rules as may be amended from time to time before a prize may be paid.

(3) **Second Chance Drawings:** To determine a winner of a second chance drawing, the Lottery will follow the requirements set forth in OAR 177-052-0050.

(4) **Highest Prize:** Only the highest prize amount will be paid on a winning Scratch-it SM ticket, except for games which are designed to offer multiple prizes. In all events, the determination of prize winners is subject to the general ticket validation requirements set forth in OAR 177-050-0027 and any additional requirements set forth on each Scratch-it SM ticket. If the terms on a ticket conflict with the Lottery's administrative rules, then the rules are the controlling authority.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.230
Hist.: LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 8-1990(Temp), f. & cert. ef. 6-26-90; LC 11-1990, f. & cert. ef. 8-21-90; LC 6-1993, f. & cert. ef. 7-1-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-050-0025
Payment of Prizes

(1) **Prizes of $600 or Less:** Prizes of $600 or less from winning Scratch-it SM tickets shall be claimed by one of the following methods:

(a) Retailer Prize Payment: The player may present a winning Scratch-it SM ticket to a Lottery retailer. The retailer shall determine whether the ticket entitles the holder to a prize, validate the claim with the Lottery by scanning the bar code or manually entering the bar code number printed on the ticket into equipment provided by the Lottery, and, if authorized by the Lottery, pay the player the prize amount due. A retailer that is authorized to pay a prize of $600 or less shall pay that prize in cash or by check, or any combination thereof.

(b) Lottery Prize Payment of $600 or Less: Upon validation of a winning ticket under OAR 177-050-0027, the Lottery will pay the amount of

the prize to the player. Payment may be made by check, cash card, or in cash, or any combination thereof. If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the claimant notified.

(A) Lottery Headquarters: Cash prize payments made at Lottery Headquarters are limited to $50 per person per day. Any prize payment balance remaining above $50 shall be paid by check. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(B) Lottery Kiosk: Cash prize payments made at a Lottery kiosk are limited to $100 per transaction. Any prize payment balance remaining above $100 shall be paid by cash card.

(C) Prizes by Mail: A winning Scratch-it SM ticket may be submitted to the Lottery by mail. If mailed, the player must sign the ticket, write the player's mailing address on the ticket, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended.

(2) **Prizes Greater than $600:** A player must claim a winning Scratch-it SM ticket prize of more than $600 by:

(a) Claiming in Person: Bringing the ticket to the Oregon State Lottery Headquarters, Player Services Office, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours and presenting the ticket to the Lottery; or

(b) Claiming by Mail: Signing the ticket, writing the player's mailing address on the ticket, completing a winner claim form, and mailing it together with the winning ticket to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended. The winner claim form may be obtained from any Lottery retailer offering traditional games, from a Lottery kiosk, from the Lottery Headquarters at the addresses listed above, or downloaded from the Lottery's website.

(c) Lottery Prize Payment: Upon validation of a winning ticket under OAR 177-050-0027, the Lottery will pay by check the amount of the prize to the player, less any applicable tax withholding. If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the player notified.

(3) **Second Chance Drawing Prizes:** Prizes awarded by the Lottery from second chance drawings must be claimed in accordance with the provisions of OAR 177-052-0060.

(4) **Validation and Payment of Lost, Damaged, or Destroyed Tickets for Prizes Greater than $600:** If a player of a Scratch-it SM prize of more than $600 cannot submit an intact winning ticket because a Scratch-it SM game retailer lost, damaged, or destroyed the ticket while attempting to perform validation procedures on the game ticket, a prize claim based on the lost, damaged, or destroyed ticket may still be validated provided the claim is made before the end of the one year claim period after the end of the game as described in OAR 177-050-0100.

(a) Player Form and Affidavit: To claim a prize based on a lost, damaged, or destroyed ticket, the player must obtain, complete, and sign a winner claim form and a claim affidavit furnished by the Lottery. The player shall submit the two completed forms along with any other evidence of the validation attempt that is in the player's possession (including, but not limited to, the "This is not a Ticket" slip produced by the terminal at the time of the validation attempt) to the Lottery at the addresses listed in section (1)(b) of this rule, either by mail (registered mail recommended) or in person at the Lottery Headquarters in Salem during Lottery business hours.

(b) Evidence: The evidence submitted by the player must corroborate the validation attempt including, but not limited to, identification of the Lottery game retailer or clerk who attempted to validate the prize, the time and date of the validation attempt, the ticket validation number, the terminal number, and the prize amount.

(c) Investigation: The Assistant Director for Security will conduct an investigation to determine if the claim and winning game ticket are valid.

(d) Retailer Affidavit: A retailer who is the subject of an investigation conducted under this section must complete and provide to the Lottery a retailer affidavit form explaining the events in question.

(e) Director's Determination: Based upon all the facts and information available, the Director shall make a determination whether prize payment is warranted and authorized.

(f) Payment of Prize: Upon the Director's determination that the ticket submitted under this section is a valid, winning ticket, and that the player is the proper person to whom a prize is payable, the Lottery shall present or mail a check to the player in payment of the appropriate prize amount less any applicable tax withholding.

(g) Restriction of Payment: Payments of claims submitted under this section are restricted to the prize amount.

(h) Retailer Sanctions: The Director may sanction a Lottery game retailer for the loss, damage, or destruction of a winning Scratch-it SM game ticket including, but not limited to, imposing a requirement for training for the retailer or the retailer's employees, and any other actions that the Lottery may take in response to a retailer's failure to perform contract duties or requirements as described in the Lottery retailer contract.

(i) Notification of Denial: If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the player notified.

(5) **Time Limit:** A prize claim for a winning Scratch-it SM ticket must be made under this rule within the time limit specified in OAR 177-050-0100. A prize claim from a second chance drawing must be made within the time limit specified in OAR 177-052-0060.

(6) **Invalid Tickets:** Any ticket not passing all applicable validation checks is invalid and void for claims made under OAR 177-050-0025(3). A player submitting an invalid or void ticket is ineligible for any prize and no prize shall be paid for such a ticket. An invalid ticket will not be returned to the player and is not eligible for any second chance or promotional drawing.

Stat. Auth.: ORS 461, OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250, 461.260
Hist.: SLC 4-1985(Temp), f. & ef. 1-29-85; SLC 8-1985, f. & ef. 6-21-85; SLC 4-1986, f. & ef. 2-25-86; SLC 27-1986, f. & ef. 11-24-86; LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 8-1993, f. 9-22-93, cert. ef. 10-18-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 9-2008, f. 11-21-08, cert. ef. 12-1-08; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-050-0100
Official End of Scratch-it SM Ticket Games and Last Date to Claim a Prize or to Receive Credit for Unsold Scratch-it SM Tickets

(1) **Director's Determination:** The Director shall determine the official ending date of a Scratch-it SM ticket game.

(2) **Notice:** The Director shall announce the official ending date of each Scratch-it SM ticket game by any reasonable means, which may include: Notice on the Lottery's website, media advertisements, or notice through Lottery retail sales sites.

(3)(a) **Last Date to Claim a Prize:** In accordance with ORS 461.250(7), the last date to claim a prize from a winning Scratch-it SM ticket is one calendar year from the official ending date of the particular Scratch-it SM ticket game, unless the Lottery Commission defines a shorter time period to claim a prize in a particular Scratch-it SM ticket game. A prize must be claimed by 5:00 p.m. on the last date to claim a prize and if not claimed by that date is an unclaimed prize. If the final date of the claim period falls on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public.

(b) Second Chance Drawings: Prize claims made under second chance drawings utilizing non-winning Scratch-it SM tickets must be made within the time limits specified in OAR 177-052-0060.

(4) **Unsold Returns:** To receive credit for unsold, activated tickets in a Scratch-it SM ticket game that is ending, a retailer must return the tickets to the Lottery within six weeks following the date when the Lottery stops activating the tickets in that Scratch-it SM ticket game. Lottery will announce to the Lottery retail sales sites the date the tickets will no longer be activated. Upon a showing of good cause by the retailer, the Director may authorize credit for unsold, activated Scratch-it SM tickets returned beyond this six-week period.

Stat. Auth.: ORS 461 & Or. Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250, & 461.260
Hist.: LOTT 9-2008, f. 11-21-08, cert. ef. 12-1-08; LOTT 3-2009, f. 2-27-09, cert. ef. 3-1-09; LOTT 2-2010, f. 1-29-10, cert. ef. 2-1-10; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-051-0000
Purpose

The purpose of this Division of OAR Chapter 177 is to authorize and set forth the provisions for promotions, giveaways that may be conducted from time to time, and Player Loyalty Programs of the Oregon State Lottery. The rules in this Division do not apply to promotions conducted by Lottery retailers or incentive programs that the Lottery may conduct for Lottery retailers.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03; LOTT 3-2011, f. 7-29-11, cert. ef. 8-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-051-0010
Definitions

For purposes of Division 51, the following definitions apply, unless the context requires otherwise:

(1) "Drawing" means a certain type of promotion in which the Lottery, or a drawing agent, randomly selects an entry from among entrants in order to award a promotional reward or giveaway to the person whose entry is selected.

(2) "Giveaway" means Lottery-branded merchandise, cash, a coupon, or any other item of value given by the Lottery to a person as a means of promoting the sale of the Lottery's tickets and shares.

(3) "Player Loyalty Program" refers to a promotional program offered by the Lottery to encourage loyalty to Lottery products, where persons who qualify must register to become a member in order to participate in the Player Loyalty Program.

(4) "Promotion" means an activity that directly or indirectly promotes the sale of Lottery tickets or shares through use of a Player Loyalty Program, promotional rewards, giveaways, or any other item or player incentive offered by the Lottery.

(5) "Promotional Reward" means an item of value that may be awarded to a person in a promotion through a drawing.

(6) "Website" means the Lottery's Internet address at www.oregonlottery.org, or any other website that may be specified by the Lottery for a particular promotion or promotional program.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03; LOTT 3-2011, f. 7-29-11, cert. ef. 8-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-051-0030
Promotions

(1) **Authorization:** At the discretion of the Director, the Lottery may conduct promotions that directly or indirectly promote the sale of Lottery® tickets or shares.

(2) **Participation:** A person may participate in a promotion only if eligible, as solely determined by the Lottery. No purchase is required and there is no fee for participation in a Lottery promotion. No person may claim any right to participate in any promotion or promotional program or to receive from the Lottery any promotional reward, giveaway, or any other item of value offered by the Lottery through a promotion.

(3) **Applicable Laws:** A promotion is subject to all applicable laws and administrative rules related to the Lottery and to any additional terms and conditions relating to the promotion that are posted by the Lottery on its website. The Lottery may change the terms and conditions of a promotion at any time and for any reason, with or without prior notice.

(4) **Void if Prohibited:** Any promotion conducted by the Lottery is void where prohibited by law.

(5) **Non-Transferable:** Promotional rewards, giveaways, or any other items of value offered through a promotion are not transferable and a person may not assign or otherwise transfer any right to receive such items. The Lottery will not make any substitutions.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03; LOTT 3-2011, f. 7-29-11, cert. ef. 8-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-051-0035
Player Loyalty Program

(1) **General:** The Lottery may offer a Player Loyalty Program. A Player Loyalty Program is a promotional program offered by the Lottery to promote the sale of Lottery® tickets and shares. Participation by members who join as members is voluntary and for entertainment purposes only. No person may claim any right to participate in a Player Loyalty Program offered by the Lottery, nor may a person claim any right to receive a promotional reward, giveaway, or any other item of value offered by the Lottery through a Player Loyalty Program.

(2) **Eligibility:** A person must meet the requirements in OAR 177-051-0040 in order to become a member and be eligible to participate in a Player Loyalty Program.

(3) **Membership Application:** To participate in a Player Loyalty Program, a person must become a member by electronically completing a registration process that includes providing the person's name, physical address, e-mail address, and any other information required by the Lottery.

(4) **Terms and Conditions:** Participation in a Player Loyalty Program offered by the Lottery is subject to all terms and conditions governing the program. The terms and conditions shall be posted on the website. By applying for membership, a person expressly accepts the terms and conditions at the time the person completes the registration process. The terms and conditions may be modified at any time, with or without prior notice, even if such modification may affect a member's participation in the Player Loyalty Program or affect the member's receipt of a promotional reward, giveaway, or any other item of value offered by the Lottery under a Player Loyalty Program.

(5) **Discontinuation of Program:** The Lottery may discontinue a Player Loyalty Program at any time, with or without prior notice by the Lottery. Once a program is discontinued, a member's eligibility for promotional rewards, giveaways, or any other item of value offered by the Lottery under the program terminates.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 3-2011, f. 7-29-11, cert. ef. 8-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-051-0040
Eligibility

(1) **Requirements:** To be eligible to receive any promotional reward, giveaway, or any other item of value offered in a Lottery promotion, or to participate in a Player Loyalty Program, a person must meet the following requirements:

(a) Be a natural person 18 years of age or older, unless a specific promotion or Player Loyalty Program requires the entrant to be 21 years of age or older;

(b) Must not be:

(A) An employee or representative of the Lottery, or the spouse, child, brother, sister, or parent of any such employee or representative;

(B) An employee or representative of the Oregon State Police, Gaming Enforcement Division; or

(C) A Lottery vendor who is prohibited by contract with the Lottery from participating in the promotion or is prohibited from playing Lottery games.

(c) Must accept and abide by all terms and conditions applicable to the promotion.

(2) **Disqualification:** If at any time the Lottery determines that a person who participates in a promotion, including, but not limited to a Player Loyalty Program, does not meet the eligibility requirements listed above, that person is disqualified. A person who is disqualified is not eligible to participate in the promotion and is not eligible to receive any promotional reward, giveaway, or any other item of value offered in the promotion. If a person who is disqualified has received a promotional reward, giveaway, or any other item of value in the promotion, the Lottery, in its sole discretion, may require the person to return the promotional reward, giveaway, or other item or incentive to the Lottery.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03; LOTT 3-2011, f. 7-29-11, cert. ef. 8-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-051-0120
Limitation of Liability

(1) **General:** The State of Oregon, its agents, officers, and employees, the Oregon State Lottery Commission, and the Oregon State Lottery, and its agents, officers, and employees, are not liable for any:

(a) Late, lost, misrouted, garbled, distorted, or damaged entries, claims, other communications, or transmissions;

(b) Telephone, electronic, hardware, software, network, Internet, or other computer, or communications-related malfunctions or failures;

(c) Promotion disruptions, any printing or typographical errors in any materials associated with a promotion;

(d) Entries, claims, or other communications not received by the Lottery, or if applicable, by a Lottery contractor, vendor, or authorized agent, or that are lost in the mail or delivered elsewhere, or are electronically misrouted or misdirected; or

(e) Other injuries, losses, or damages arising from, related to, or caused by a promotion, or any claims arising from or related to the acceptance, possession, or use of any promotional reward, giveaway, or any other item of value offered by the Lottery.

(2) **Voluntary Participation:** Participation in a promotion is voluntary. Acceptance of any promotional reward, giveaway, or other item of value offered in a promotion is voluntary. Promotions that require persons to compete with other persons, play games, or complete tasks, or any sim-

ilar activities carry a risk of personal injury or death. Participation is at the person's own risk. The State of Oregon, its agents, officers, and employees and the Oregon State Lottery Commission and the Oregon State Lottery, its agents, officers, and employees, are not liable for any personal injury, loss, or consequential damage arising from, related to, or caused by a person's participation in any promotion. Possession, use, or participation in any activity resulting from the acceptance of a promotional reward, giveaway, or other item of value awarded to a person by the Lottery carry a risk of personal injury or death. Such acceptance is at the person's own risk. The State of Oregon, its agents, officers, and employees and the Oregon State Lottery Commission and the Oregon State Lottery, its agents, officers, and employees, are not liable for any personal injury, loss, or consequential damage arising from, related to, or caused by a person's acceptance of any promotional reward, giveaway, or other item of value awarded to the person by the Lottery.

(3) **Disputes:** In the event a person disagrees with the Lottery's determination that the person is not eligible to participate in a promotion, or has not complied with the terms and conditions of a promotion, and therefore should not receive a promotional reward, giveaway, or any other item of value offered by the Lottery, the Lottery's determination is final. At the sole discretion of the Lottery, and if the person is eligible, the Lottery may provide the person with the opportunity to enter another promotion, or may provide the person a ticket or share from any current Lottery game. This is the person's sole and exclusive remedy.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03; LOTT 3-2011, f. 7-29-11, cert. ef. 8-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-051-0130
Miscellaneous

(1) **Cancellation of Promotions:** The Director may cancel or postpone any promotion at any time in the exercise of the Director's sole discretion, with or without prior notice.

(2) **Conflicting Provisions:** In the event of a conflict between the Lottery's rules in Division 51 and the terms and conditions of any promotion, these rules control.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03; LOTT 3-2011, f. 7-29-11, cert. ef. 8-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-052-0000
Purpose

The purpose of this Division of OAR Chapter 177 is to authorize and set forth the provisions for second chance drawings that the Oregon State Lottery, or a drawing agent, may conduct from time to time.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-052-0010
Definitions

(1) "Active Scratch-it ^{SM} game" means a Lottery Scratch-it ^{SM} game that has not officially ended as set forth in OAR 177-050-0100.

(2) "Entry Requirements" means the instructions that specify how to enter a second chance drawing.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-052-0020
Eligibility

(1) **Requirements:** To be eligible to win a prize in a second chance drawing, a person must meet the following eligibility requirements:

(a) Be a natural person 18 years of age or older;

(b) Must reside in the United States;

(c) Must be a registered member on a Lottery designated website;

(d) Must submit a valid entry with the required information, through whichever method for entry the Lottery requires for the particular second chance drawing and by the deadline specified by the Lottery; and

(e) Must not be:

(A) An employee or representative of the Lottery, or the spouse, child, brother, sister, or parent of any such employee or representative;

(B) An employee or representative of the Oregon State Police, Gaming Enforcement Division; or

(C) A Lottery vendor who is prohibited by contract with the Lottery from participating in a second chance drawing or is prohibited from playing Lottery games.

(2) **Person Ineligible:** If at any time the Lottery determines that a person who submitted a second chance drawing entry does not meet the requirements listed in section (1) of this rule, that person is disqualified and is ineligible for a prize. If the Lottery determines that a person who is disqualified is the winner of a second chance drawing prize, the prize will not be awarded to the winner and becomes an unclaimed prize and is the property of the Lottery Commission to be allocated to the benefit of the public purpose.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-052-0030
Entry Requirements

(1) **Method of Entry:** The Lottery will determine the method of entry for any second chance drawing, which may include, but is not limited to, electronic entry through a website, mail, or walk-in entries.

(2) **Electronic Entry:** To submit a valid electronic entry, a person must:

(a) Register as a member on a Lottery designated website. A person may only have one active membership at a time;

(b) Enter the Game ID number, the box code, and the ticket code from the Lottery game ticket that is eligible for the particular second chance drawing;

(c) Provide any additional information as required by the Lottery; and

(d) Submit the electronic entry prior to the deadline for submission of entries for the second chance drawing as announced by the Lottery.

(3) **Confirmation of Entry:** Each ticket and drawing entry must be validated through the website, and will be considered entered into the drawing once the player receives confirmation of the entry.

(4) **Ticket Requirements:** Only one Lottery game ticket or share may be used for each entry. If the second chance drawing specifies use of a Scratch-it ^{SM} ticket for entry into the drawing, only a Lottery Scratch-it ^{SM} game ticket from an active Scratch-it ^{SM} game, as specified by the Lottery, is eligible for entry into the second chance drawing.

(5) **Single Entrant:** Only one person per entry may submit an entry for a second chance drawing. An entry with more than one name on the entry form is invalid.

(6) **Other Entry Requirements:** The Lottery may establish additional terms and conditions and entry requirements for any second chance drawing. These additional terms and conditions and entry requirements will be posted on a Lottery website or as otherwise announced by the Lottery.

(7) **Invalid Entry:** Failure to follow any of the terms and conditions or entry requirements of a second chance drawing will invalidate the entry. An invalid entry is void and is not eligible for a second chance drawing prize. Invalid entries will not be returned to the entrant. If the Lottery determines the winning entry is invalid, the prize shall be treated as an unclaimed prize and is the property of the Lottery Commission to be allocated to the benefit of the public purpose.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-052-0040
Odds of Winning

General: The odds of winning a Lottery second chance drawing depend on the total number of entries received.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-052-0050
Selection of Winners

(1) **When Drawing Held:** A Lottery second chance drawing will be held at such date, time, place, and in such manner as is determined by the Lottery and will be conducted only after the deadline for submitting entries has closed, as announced by the Lottery.

(2) **Random Drawing:** During the drawing for each available prize in a second chance drawing, the Lottery, or a drawing agent, will randomly select a winning entry from all the entries submitted for that drawing.

(3) **Selection of Entry:** To select a winning entry, the Lottery, or a drawing agent, may conduct a manual or electronic drawing, or may use

any other selection procedure as determined by the Lottery Director that ensures a random selection of a winning entry.

(4) **Suspension or Cancellation of Drawing:** At the discretion of the Lottery Director, a second chance drawing may be suspended. If the Director suspends a drawing the Director may hold a replacement drawing or cancel the drawing. If the second chance drawing is canceled, the Lottery, in its sole discretion, may provide an entrant who entered the drawing with a coupon for a Lottery product, or a promotional reward, the value of which shall be solely determined by the Lottery. This is an entrant's sole and exclusive remedy.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-052-0060
Winner Notification and Claiming of Prizes

(1) **Second Chance Prize Notification:** If the entry is valid, the Lottery will notify the person who submitted the winning entry ("the winner") in a second chance drawing by e-mail. The Lottery may also notify the winner by telephone or by mailing a certified letter through the U.S. Postal Service. The effective date of notification is the date the initial e-mail notification is sent by the Lottery as noted electronically within the Lottery's information processing system.

(2) **Time Limits for Claiming Prize:** A winner of a second chance drawing has 60 calendar days from the date of the e-mail notification in which to claim the prize. A prize must be claimed by 5:00 p.m. on the last date to claim a prize and if not claimed by that date is an unclaimed prize. If the final date of the claim period falls on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public.

(3) **Forfeiture of Prize:** If the winner of a second chance drawing is determined by the Lottery to be ineligible, the entry is invalid, or the winner fails to claim the prize within 60 calendar days as provided in section (2) of this rule, the prize is treated as an unclaimed prize and the winner forfeits the prize.

(4) **Winner Claim Forms:** To claim a prize in a second chance drawing, the winner must submit a winner claim form to the Lottery. To be valid, the winner claim form must contain the required information, such as name, address, signature or identifying mark, social security number (if applicable), and a valid reference number. Only the person who submitted the entry may claim the prize (the winner). A second chance drawing prize may not be claimed by multiple owners. A valid winner claim form must be received by the Lottery within the applicable time period for claiming a prize. An invalid winner claim form will not be accepted by the Lottery and will be returned to the claimant. The winner may resubmit a valid claim form as long as the time for claiming the prize has not expired.

(a) Electronic Claim Form: The Lottery may require that the winner submit an electronic winner claim form through the Internet. The electronic winner claim form is received by the Lottery when the form enters the Lottery's information processing system in a retrievable form. The electronic winner claim form will be deemed received at the time and date noted electronically by the Lottery's information processing system. An electronic winner claim form must include the winner's electronic signature that meets the requirements specified by the Lottery on the instructions for the winner claim form.

(b) Paper Claim Form: Unless specified otherwise, the Lottery may permit a winner to submit a paper winner claim form. The paper winner claim form is deemed received by fax to (503) 540-1001 or upon physical delivery to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon 97301, either in person, or by delivery service, or through the U.S. mail to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. The winner claim form must be received by the Lottery during the Lottery's business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. PST, excluding holidays and furlough closure days.

(5) **Verification of Identity:** The Lottery may require the winner to present valid proof of identity to confirm that the winner is the registered member who submitted the second chance drawing entry. If the Lottery is unable to confirm the person claiming the prize is the registered member, the person is ineligible to receive a prize.

(6) **Delivery of Prize:** The Lottery may require the winner of a second chance drawing prize to claim the winner's prize at the Oregon State Lottery Headquarters, 500 Airport Road SE, Salem, Oregon 97301, or the Lottery may mail or otherwise deliver the prize to the winner's address if it is within the United States.

(7) **Taxes and Fees:** Unless otherwise stated by the Lottery in the terms and conditions for a particular second chance drawing, all taxes and fees are the responsibility of the winner claiming the prize.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-052-0070
Governing Law

(1) **Compliance with Law and Terms and Conditions:** By entering a Lottery second chance drawing, a person agrees to abide by and comply with Oregon law, including the statutes and administrative rules governing Lottery second chance drawings, and any additional terms and conditions and entry requirements for a second chance drawing as posted by the Lottery, which are in effect, and which may be amended from time to time.

(2) **Decisions of the Director:** The decisions of the Lottery Director, including, but not limited to, the amount or nature of a prize, the validity of an entry, whether an entry is a winner, whether it was submitted in error, and whether an entrant has won a prize, are final.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

177-070-0005
Definitions

For the purposes of Division 70, the following definitions apply except as otherwise specifically provided in OAR Chapter 177 or unless the context requires otherwise:

(1) "Drawing" means the procedure whereby the Lottery, or a drawing agent, selects the winning combination in accordance with the rules of the game.

(2) "Drawing agent" means a Lottery vendor or other designee who, subject to the approval of the Director, is designated by the Assistant Director of Security to conduct drawings on behalf of the Lottery.

(3) "Draw game" means a lottery game, other than Video Lottery SM games, in which through a Draw game terminal, the player or the Draw game terminal selects a combination of numbers, events or symbols, the player selects the type of game and amount of play, and the drawing date(s), or the player purchases a Lottery Raffle ticket. Draw games are those Lottery games specified in OAR 177-010-0003(24)(b) through (m) and any other Lottery game designated by the Lottery Commission as a Draw game. Unless the context or a specially applicable definition indicates otherwise, any reference to an "On Line game" in OAR chapter 177, a Lottery retailer contract, or Lottery form in effect or in use on or after the effective date of this rule shall be deemed to refer to a "Draw game" as defined in this section.

(4) "Draw game retailer" means a person or business authorized by the Lottery to sell Draw game tickets.

(5) "Draw game terminal (DGT)" means the computer hardware by which:

(a) A Draw game retailer or player enters the combination of numbers, events, or symbols selected by the player, or

(b) A combination of numbers, events, or symbols is randomly selected for the player, or

(c) A Lottery Raffle ticket is issued; and

(d) Draw game tickets are generated and claims are validated.

(6) "Draw game ticket" means a computer-generated ticket issued by a Draw game terminal to a player as a receipt for the combination a player or the terminal has selected, or a Lottery Raffle ticket. This ticket is the only acceptable evidence of the combination of numbers, events, or symbols selected, or of the unique sequential numbers on a Lottery Raffle game ticket.

(7) "Play slip" means a card used in selecting and marking a player's game plays which may then be inserted into a terminal's play slip reader.

(8) "Validation" means the process of determining whether a Draw game ticket presented for payment is a winning ticket.

(9) "Winning combination" means the one or more numbers or symbols randomly selected by the Lottery in a drawing.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.010
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 5-1986, f. & ef. 3-5-86; LC 3-1992, f. & cert. ef. 4-27-92; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 15-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 26-2002, f. & cert. ef. 11-25-02; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13

Oregon University System,
Oregon State University
Chapter 576

Rule Caption: Criminal history checks for employment and service.
Adm. Order No.: OSU 1-2013
Filed with Sec. of State: 1-16-2013
Certified to be Effective: 1-16-13
Notice Publication Date: 11-1-2012
Rules Adopted: 576-055-0000, 576-055-0010, 576-055-0020, 576-055-0030, 576-055-0040, 576-055-0050, 576-055-0060, 576-055-0070, 576-055-0080, 576-055-0090, 576-055-0100, 576-055-0110, 576-055-0120, 576-055-0130, 576-055-0140, 576-055-0150, 576-055-0160
Subject: Oregon State University is committed to protecting the security, safety, and health of faculty, staff, students and others, as well as safeguarding the assets and resources of the University. To meet these objectives, the University may require a criminal history check as a condition prior to any applicant, employee, or volunteer providing services in a critical or security-sensitive position.
Rules Coordinator: Beth Giddens—(541) 737-2449

576-055-0000
Purpose and Applicability

(1) Oregon State University is committed to protecting the security, safety, and health of faculty, staff, students and others, as well as safeguarding the assets and resources of the University. To meet these objectives, the University may require a criminal history check as a condition prior to any applicant, employee, or volunteer providing services in a critical or security-sensitive position.

(2) A criminal history check may be required of a person currently serving as an employee or volunteer if he or she seeks appointment to position that is designated as a critical or security-sensitive position, or if OAR 576-055-0160 applies.

(3) Criminal history checks for employment and services purposes are limited to position categories identified herein.

Stat. Auth: ORS 181.534, 352.012 & OAR 580-023-0106 et seq.
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0010
Definitions

(1) "Criminal history check" means the review of any and all criminal records containing any information collected and stored in a state or county repository or the criminal records repository of the Federal Bureau of Investigation.

(2) "Conviction" means that a court of law has entered a final judgment on a verdict or finding of guilt, a plea of guilty, or a plea of nolo contendere (no contest).

(3) "Fingerprint-based criminal history check" means a criminal history check using a subject individual's fingerprints for a critical or security-sensitive designated position as described in OAR 576-055-0020(1)(a) through (g).

(4) "Non-fingerprint-based criminal history check" means a criminal history check using a subject individual's personally identifiable information, excluding fingerprints, for a critical or security-sensitive designated position as described in OAR 576-055-0020(a) through (h).

(5) "Subject individual" means a person currently serving as an employee or volunteer, or a person who seeks appointment as an employee or volunteer, to a position that is designated as critical or security-sensitive.

(6) "Youth Program" means an activity or event specifically directed to children 17 years of age or younger. Youth Programs include activities and events directed towards achieving goals of youth development, academic enrichment, recreation, or enrollment in postsecondary education. Such activities and events may be conducted on- or off-campus by University faculty, staff and approved volunteers.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0020
Critical or Security-Sensitive Designated Positions

The categories of critical or security-sensitive designated positions for which the University may conduct criminal history checks include those in which the person:

(1) Has direct access to persons under 18 years of age or to student residence facilities because the person's work duties require the person to be present in the residence facility;

(2) Is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(3) Has access to information, the disclosure of which is prohibited by state or federal laws, rules or regulations or information that is defined as confidential under state or federal laws, rules or regulations;

(4) Has access to property where hazardous materials and other items controlled by state or federal laws or regulations are located;

(5) Has access to laboratories, nuclear facilities or utility plants to which access is restricted in order to protect the health or safety of the public;

(6) Has fiscal, financial aid, payroll or purchasing responsibilities as one of the person's primary responsibilities;

(7) Has access to personal information about employees or members of the public including Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information or criminal background information; or

(8) Has access to or responsibility for the care, safety and security of animals.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0030
Designation of Critical and Security-Sensitive Positions

The Assistant Vice President for Human Resources will designate positions requiring a criminal history check using the criteria described in OAR 576-055-0020 of this policy and in consultation with the hiring supervisor. The designation will be applied based on a position-by-position review of specific job duties and requirements.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0040
Notice to Subject Individuals

All solicitations, application forms, and announcements for positions designated as critical or security-sensitive will include a statement notifying potential applicants of the intent to request consent to conduct a criminal history check and the fact that such consent will be required for employment or service consideration.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0050
Criminal History Check Process

(1) Oregon State University may conduct, or request that the Oregon State Police conduct, a criminal records check, when:

(a) An individual meets the definition of "subject individual"; or

(b) A criminal records check is required by federal law or regulation, by state law or administrative rule, or by contract or written agreement.

(2) Oregon State University may require the subject individual to provide personally identifiable information such as names, current and former addresses, social security number, date of birth, a completed disclosure notice and authorization for background investigation form, and fingerprints.

(3) A fingerprint-based criminal history check may be necessary to verify identity of the subject individual and his or her criminal history; when a subject individual elects not to disclose his or her social security number; or when it may be necessary to obtain nationwide criminal records through the Federal Bureau of Investigation if the subject individual has lived outside the state of Oregon in the last seven (7) years. Except as specifically noted otherwise, fingerprint-based criminal history check results are subject to the same rules and procedures outlined for criminal history check results herein.

(4) A non-fingerprint-based criminal history check may be conducted for critical and security sensitive positions as identified in OAR 576-055-0020(1)(a) through (h). A fingerprint-based criminal history check may be

conducted only for critical and security sensitive positions as identified OAR 576-055-0020(1)(a) through (g).

(5) A non-fingerprint-based criminal history check may be conducted every two years following date of hire, initial service date, or position assignment for an employee or volunteer providing service in a University-sponsored Youth Program or more frequently pursuant to 576-055-0160. A fingerprint-based criminal history check may be conducted in these follow-up checks if subsection (3) of this rule applies.

(6) The University may elect to waive the criminal history check requirement for a subject individual if, as a pre-requisite to providing service or participating in a program, the subject individual is required to submit to a criminal history check and meet a fitness determination as required and conducted by a state or federal agency. The Assistant Vice President for Human Resources is responsible for determining if the state or federal agency's criminal history check meets the University's requirement for critical or security-sensitive designated positions. If not, the subject individual may be subject to a criminal history check conducted by the University.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0060
Determination of Fitness to Hold Position Based on Criminal History Check

(1) A criminal history check is intended to verify that the subject individual does not have criminal convictions related to position responsibilities that would make the individual unfit to perform the responsibilities of the position.

(2) The Assistant Vice President for Human Resources will review the criminal history check information in determining the subject individual's fitness to hold the position. The existence of a criminal history will not automatically preclude a subject individual from employment or service with the University. In making the fitness determination, the Assistant Vice President for Human Resources must consider the following:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment that indicate the making of a false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's proposed employment or service position;

(d) Intervening circumstances relevant to the responsibilities or circumstances of the position including but not limited to: the passage of time since the commission of the crime, the age of the subject individual at the time of the crime, the likelihood of a repetition of offenses or of the commission of another crime, the subsequent commission of another relevant crime, whether the conviction was set aside and the legal effect of setting aside the conviction, a recommendation of an employer and a recommendation of a criminal justice system representative.

(3) Crimes relevant to determining the subject individual's fitness:

(a) All felonies;

(b) All Class A misdemeanors;

(c) Class B misdemeanors of the following kind: unsworn falsification; disorderly conduct; harassment; telephonic harassment; carrying a concealed weapon; animal abuse; animal neglect; animal abandonment; distribution of a controlled substance to a minor; and falsifying drug test results;

(d) Any United States Military crime or international crime;

(e) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this subsection (3) pursuant to ORS 161.405, 161.435, or 161.450; and

(f) Any crime based on criminal liability for conduct of another pursuant to ORS 161.155, when the underlying crime is listed in this subsection (3).

(4) The Assistant Vice President for Human Resources shall evaluate a crime on the basis of Oregon laws and, if applicable, federal laws or the laws of any other jurisdiction in which a criminal records check indicates a subject individual may have committed a crime, as those laws are in effect at the time of the conviction.

(5) A determination of fitness is considered a minimum qualification of a critical or security-sensitive position. However, a positive determination of fitness on the basis of a criminal records check does not guarantee the subject individual a position as an employee or volunteer.

(6) A subject individual who misrepresents or provides misleading or false information, or withholds information as part of the criminal history check process, will be disqualified from further consideration. If misleading or false information is discovered after an individual has been appointed, the individual may be disciplined, up to and including termination of employment or service appointment, or rescinding of tenure appointment, pursuant to University policy and governing rules.

(7) An open criminal case may preclude a final candidate from eligibility for employment or service depending on the relevancy of the charge(s) to the job responsibilities. The Assistant Vice President for Human Resources is responsible for determining relevance in these situations.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0070
Refusal to Consent to Criminal History Check

Refusal to consent shall cause the University to deny the subject individual employment or service as a volunteer, and current employees who refuse to consent may be disciplined, up to and including termination consistent with other University rules, policies or collective bargaining agreements. A subject individual may not appeal a termination of candidacy due to refusal to consent to a criminal history check.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0080
Incomplete Fitness Determination

(1) The University will close a fitness determination as incomplete when:

(a) The person no longer meets the definition of a "subject individual";

(b) The subject individual does not provide information or materials under OAR 576-055-0050;

(c) The University cannot locate or contact the subject individual;

(d) The University determines that the individual is not eligible or qualified for employment or service for a reason unrelated to the fitness determination process; or

(e) The position is no longer open.

(2) A subject individual does not have the right to a hearing pursuant to OAR 580-023-0146 to challenge the closing of an incomplete fitness determination.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0090
Offer of Employment or Service

Appointment of an applicant, current employee or volunteer to a position designated as critical or security-sensitive is contingent on the University's determination of fitness based on the criminal history check. No subject individual for a critical or security-sensitive position will commence employment or service until the criminal history check process has been completed and a satisfactory determination of fitness to hold the position has been made unless an exception has been approved by the President, in consultation with the Assistant Vice President for Human Resources.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0100
Notice of Pre-Adverse Fitness Determination

Before making an adverse fitness determination, a subject individual will be provided notice by the University either by electronic or certified mail to the address provided by the subject individual. The notice will include a copy of the individual's criminal history check report and a summary of his or her rights under the federal Fair Credit Reporting Act.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0110
Notice of Adverse Fitness Determination

A subject individual who has been determined not to be fit based at least in part on information contained in a criminal history check will be notified by certified mail to the most current address provided by the subject individual. The notification will provide information regarding the individual's appeal rights and rights under the federal Fair Credit Reporting Act.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0120
Appeal Process for Fingerprint-Based Criminal History Check

(1) A subject individual may appeal an adverse fitness determination based on a fingerprint- based criminal history check.

(2) The appeal process for a subject individual who is not currently employed by the University will be conducted pursuant to the contested case process set forth in OAR 580-023-0146.

(3) A subject individual who is currently employed by the University and who is determined not to be fit for a position on the basis of information obtained as the result of a fingerprint-based criminal records check may appeal the determination through the contested case process set forth in OAR 580-023-0146 or applicable personnel rules, policies and collective bargaining provisions. An individual's decision to appeal a determination through personnel rules, policies or collective bargaining provisions 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.

(4) The subject individual may not use the appeal process to challenge the accuracy, completeness or lawfulness of the information provided to the University by the Oregon State Police, the Federal Bureau of Investigation, agencies reporting to either of these organizations, or consumer reporting agency(s) engaged by the University for the purposes of providing background information. Such challenges are to be made to the reporting agencies themselves.

(5) The only remedy available to the subject individual under the appeal process is a determination that the applicant is fit. Under no circumstances will the University be required to place a subject individual in any position or be required to accept the individual's services in any capacity.

(6) Appealing a fitness determination or challenging criminal offender information with the reporting agency will not cause delay or postponement of the University's hiring process or decisions regarding employment or service to the institution.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0130
Appeal Process for Non-Fingerprint-Based Criminal History Check

(1) A subject individual who is currently employed by the University and who is determined not to be fit for a position on the basis of information obtained as the result of a non-fingerprint-based criminal records check may appeal the determination through applicable personnel rules, policies and collective bargaining provisions.

(2) A subject individual who is not currently employed by the University and who is determined not to be fit for a position on the basis of information obtained as the result of a non-fingerprint-based criminal records check may appeal the determination by writing a letter within fourteen (14) days to the Assistant Vice President for Human Resources stating the reasons for appeal.

(3) The subject individual may not use the appeal process to challenge the accuracy, completeness or lawfulness of the information provided to the University by the Oregon State Police, the Federal Bureau of Investigation, agencies reporting to either of these organizations, or consumer reporting agency(s) engaged by the University for the purposes of providing background information. Such challenges are to be made to the reporting agencies themselves.

(4) The only remedy available to the subject individual under the appeal process is a determination that the applicant is fit. Under no circumstances will the University be required to place a subject individual in any position or be required to accept the individual's services in any capacity.

(5) Appealing a fitness determination or challenging criminal offender information with the reporting agency will not cause delay or postponement of the University's hiring process or decisions regarding employment or service to the institution.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0140
Restricted Access to and Maintenance of Criminal History Records

(1) Access to information obtained in the criminal records check is restricted. The University restricts access to and dissemination of that information to only those University employees with a demonstrated and legitimate need to know the information. Criminal history record files will be maintained in the Office of Human Resources or the Department of Public Safety.

(2) Supervisors and other University employees will generally not be provided information regarding a subject individual's criminal history check and will be informed only that the subject individual either has a satisfactory or unsatisfactory fitness determination. Criminal history information will only be disclosed to a hiring supervisor or other University employees where the Assistant Vice President for Human Resources believes that person has a demonstrated and legitimate need to know the information and he/she specifically approves the disclosure.

(3) Criminal history records will be retained in accordance with OAR 166-475-0095(17).

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0150
Fees Associated with Conducting Criminal History Check

The University hiring or service department is responsible for fees associated with conducting a criminal history check.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

576-055-0160
Required Employee and Volunteer Notification to the University of Convictions

(1) A criminal history check and determination of fitness will only be required of a current employee or volunteer in his or her position if required by the following: law; rule; regulation; ordinance; applicable court or agency legal or regulatory opinion; grant, as required in writing by a funding or regulatory entity; if necessary to confirm crimes taking place while the current employee is serving in a critical or security sensitive position pursuant to OAR 576-055-0160(2) or (3) below; as permitted by 576-055-0050 to provide service in a University-sponsored Youth Program; or, as required by the assignment of new duties that causes the employee's position to be designated as critical or security-sensitive. Fitness determinations and employment or volunteer service decisions based thereon will be made consistent with this Division and any other applicable University rules, policies or collective bargaining agreements.

(2) All employees and volunteers whose position descriptions have been designated as critical or security sensitive are required to notify the Assistant Vice President or Associate Director of the Office of Human Resources if they are convicted of a crime relevant to determination of fitness as identified in OAR 576-055-0060 while serving in these positions. If the Assistant Vice President of Human Resources determines that the conviction is pertinent to the employee or volunteer's fitness to carry out the duties or functions of his or her position, the University may require the employee or volunteer to consent to a criminal history check. The results of this check will be handled pursuant to the remaining sections of this Division and other applicable University rules and policies. If the University makes an adverse fitness determination, the employee or volunteer will be removed from the position where consistent with other University rules, policies or collective bargaining agreements.

(3) Failure to report relevant crimes and convictions pursuant to this Section may result in disciplinary action, up to and including termination. If the University receives a report of a relevant conviction that is disputed by the employee, the University may require a criminal history check to confirm the report. The Assistant Vice President for Human Resources, or his/her designee, will take all such matters under advisement with University General Counsel.

Stat. Auth: ORS 181.534 & 352.012
Stats. Implemented: ORS 181.534 & 352.012
Hist.: OSU 1-2013, f. & cert. ef. 1-16-13

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Oregon University System, Western Oregon University
Chapter 574

Rule Caption: Revisions to special course fees and general services fees.
Adm. Order No.: WOU 1-2013
Filed with Sec. of State: 1-28-2013
Certified to be Effective: 1-28-13
Notice Publication Date: 1-1-2013
Rules Amended: 574-050-0005
Subject: Amendments will allow for increases, additions, and revisions of special course fees and general services fees.
Rules Coordinator: Debra L. Charlton—(503) 838-8597

574-050-0005
Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

NOTE: The publication(s) referred to or incorporated by reference in this rule are available from the Office of the Vice President for Finance and Administration at Western Oregon University.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 4-1-87, ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 1-2004, f. & cert. ef. 3-24-04; WOU 2-2004, f. & cert. ef. 8-4-04; WOU 1-2005, f. & cert. ef. 3-8-05; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 3-2005, f. & cert. ef. 8-12-05; WOU 1-2006, f. & cert. ef. 3-2-06; WOU 2-2006, f. & cert. ef. 8-7-06; WOU 1-2007, f. & cert. ef. 3-5-07; WOU 2-2007, f. & cert. ef. 7-31-07; WOU 4-2007, f. & cert. ef. 11-1-07; WOU 1-2008, f. & cert. ef. 2-1-08; WOU 2-2008, f. & cert. ef. 9-3-08; WOU 1-2009, f. & cert. ef. 2-13-09; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 1-2010, f. & cert. ef. 1-27-10; WOU 2-2010, f. & cert. ef. 8-4-10; WOU 1-2011, f. & cert. ef. 2-2-11; WOU 2-2011, f. & cert. ef. 5-2-11; WOU 3-2011, f. & cert. ef. 8-5-11; WOU 1-2012, f. & cert. ef. 1-27-12; WOU 2-2012, f. & cert. ef. 7-31-12; WOU 1-2013, f. & cert. ef. 1-28-13

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Oregon Watershed Enhancement Board
Chapter 695

Rule Caption: Revisions to land acquisition grant rules to implement an efficient, transparent, streamlined grant-making process.
Adm. Order No.: OWEB 1-2013
Filed with Sec. of State: 1-30-2013
Certified to be Effective: 1-30-13
Notice Publication Date: 12-1-2012
Rules Adopted: 695-045-0160, 695-045-0165, 695-045-0170, 695-045-0175, 695-045-0180, 695-045-0185, 695-045-0190, 695-045-0195, 695-045-0200, 695-045-0205, 695-045-0210, 695-045-0215
Rules Amended: 695-045-0010, 695-045-0020
Rules Repealed: 695-045-0025, 695-045-0030, 695-045-0035, 695-045-0040, 695-045-0045, 695-045-0050, 695-045-0055, 695-045-0060, 695-045-0065, 695-045-0070, 695-045-0080, 695-045-0090, 695-045-0100, 695-045-0110, 695-045-0120, 695-045-0130, 695-045-0140, 695-045-0150
Subject: The Oregon Watershed Enhancement Board is amending current rules and adopting new rules related to the administration of the land acquisition grant program. The purpose of this process is to develop an efficient, streamlined process for grant-making. Specifically, minor revisions will be made to definitions [695-045-0010] and purpose [695-045-0020]. Rules outlining the previous land acquisition grant process [i.e., 695-045-0025 through 695-045-0150] will be repealed. These rules will be replaced by newly adopted rules describing the following components and requirements of the streamlined grant-making process: Nature of Application [695-045-0160]; Application and Subsequent Grant Processing and Agreement Requirements [695-045-0165]; Use of Grant Funds [695-045-0170]; Matching Contributions [695-045-0175]; Application Evaluation Process [695-045-0180]; Board Approval and Delegation of Authority [695-045-0185]; Public Involvement [695-045-0190]; Director Funding Approval and Distribution of Funds [695-045-0195]; Funding Decision Reconsideration by Board [695-045-0200]; Compliance and Enforcement [695-045-0205]; Subsequent Conveyances [695-045-0210]; and Waiver and Periodic Review of Rules [695-045-0215].
Rules Coordinator: Renee Davis-Born—(503) 986-0029

695-045-0010
Definitions

(1) "Management Plan" is a description of the planned future management of a property proposed for acquisition that addresses species and habitat management practices, proposed restoration projects, stewardship or monitoring, land uses, public access, and educational or research opportunities on the property.

(2) "Profit" means the positive difference between the original purchase price for the property interest acquired with OWEB grant funds and a subsequent purchase price for the same property interest, minus the owner's property improvement costs that, from an accounting or tax perspective, are capitalized and not expensed.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2005, f. & cert. ef. 2-1-05; OWEB 1-2013, f. & cert. ef. 1-30-13

695-045-0020
Purpose

The purpose of this rule is to supplement the OWEB Grant Program rules under OAR 695-005 and to add specific guidance regarding the OWEB land acquisition grant program.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2005, f. & cert. ef. 2-1-05; OWEB 1-2013, f. & cert. ef. 1-30-13

695-045-0160
Nature of Application

In accordance with Section 4(b)(4) of Article XV of the Oregon Constitution, OWEB may consider grant applications that propose the acquisition of interests in lands from willing sellers for the purpose of maintaining or restoring watersheds and habitat(s) for native fish or wildlife. Applications must address the conservation needs of habitat(s) and species consistent with conservation priorities and principles identified by the Board. Interests in land include a lease, purchase of a conservation easement, or purchase of fee simple title.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0165
Application and Subsequent Grant Processing and Agreement Requirements

(1) Land acquisition grant applications must be submitted on the most current form that conforms with the process prescribed by the Board.

(2) The Board may consider proposals that are received for properties that were acquired by the applicant after the previous application deadline.

(3) In the event of any conflict between these requirements and requirements identified in OAR 695-005, the land acquisition requirements in this division will take precedence.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0170
Use of Grant Funds

Land acquisition grant funds may be applied towards costs related to the purchase of the property, including:

(1) The purchase price and the purchase option fees associated with the property or conservation easement. The purchase price shall be based on an appraisal and review appraisal completed in accordance with applicable appraisal standards, including the Uniform Standards of Professional Appraisal Practice, and if required, the Uniform Appraisal Standards for Federal Land Acquisitions.

(2) The interest on loans.

(3) The staff costs incurred as part of the acquisition process related to the property.

(4) The cost of due diligence activities, including appraisal, environmental site assessment, survey, title review and other customary due diligence activities.

(5) The cost of baseline inventory preparation.

(6) The cost of preparation of the initial management plan, including consideration of any restoration needs.

(7) The legal fees incurred.

(8) The closing fees, including recording and title insurance costs.

(9) The cost of securing and maintaining the conservation values associated with the property in accordance with the application or a Management Plan approved by the Director.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0175
Matching Contributions

(1) All applicants shall demonstrate at least 25% of the actual land acquisition project cost is being sought as match, with the grant applicant required to provide matching funds and efforts necessary to complete the purchase. The following costs and activities will qualify as match:

(a) All costs listed under OAR 695-045-0170, including in-kind contributions of those costs.

(b) Funding commitments made by others as a result of grant applicant efforts.

(c) The donated portion of a bargain sale.

(d) Funds deposited in a stewardship endowment, before the time that OWEB funds are released for acquisition of the property.

(2) OWEB funds provided under OAR 695-045-0170 shall not qualify as matching contributions.

(3) The Director retains the discretion to determine that specific matching costs are unreasonable in a particular grant context and will not be recognized as qualifying matching costs.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0180
Application Evaluation Process

(1) Land acquisition grant applications shall be evaluated in accordance with guidance adopted and periodically reviewed by the Board and made available to the public via the agency's website and Board meeting materials.

(2) The grant application evaluation process shall include reviews for:

(a) The consistency of the project with the Board's established priorities and principles for land acquisitions.

(b) The significance of the projected ecological outcomes.

(c) The capacity of the grant applicant, or intended property manager, to complete the acquisition and to achieve and sustain the proposed ecological outcomes over time.

(d) The soundness of the legal and financial terms of the proposed real estate transaction.

(e) The community impacts or benefits resulting from the project, including those related to jobs, agricultural land use, local property taxes, public access and education.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0185
Board Approval and Delegation of Authority

The Board shall approve grants in accordance with guidance adopted by the Board and made available to the public. The Director is delegated the responsibility of ensuring that funding conditions required by the Board are fully satisfied by the grant applicant. Conditionally approved grant funds shall be encumbered for disbursement only after all conditions are fulfilled. The encumbered funds may be made available for other uses by OWEB if all conditions required by the Board are not satisfied within 18 months of the conditional Board approval.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0190
Public Involvement

The public shall be provided with meaningful opportunities to comment on grant applications being considered by the Board. In a manner consistent with this requirement, the governing bodies of cities and counties with jurisdiction in the area of the proposed acquisition, as well as affected governmental agencies, will be provided with written notice of the Board's intent to consider:

(1) Written comments received at least 14 days before the Board meeting at which the application is to be considered by the Board.

(2) Comments made at public hearings held and publicized in accordance with ORS 271.735.

(3) Comments made at the Board meeting at which the grant application is considered.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0195
Director Funding Approval and Distribution of Funds

(1) The Director may approve the distribution of grant funds when:

(a) The funding conditions, if any, imposed by the Board are satisfied to the full satisfaction of the Director.

(b) The legal and financial terms of the proposed real estate transaction are approved by the Director.

(c) The title restrictions required under ORS 541.960 are approved by the Director.

(d) A grant agreement is executed by the Director and the grant applicant.

(e) The Director has reconciled conditionally approved funding with actual project costs.

(f) The grant applicant has satisfied the match requirements under 695-045-0175.

(g) The Board is notified in writing of the Director's intent to distribute the grant funds or hold the grant funds pending Board consideration under 695-045-0200.

(2) Notwithstanding OAR 695-005-0060(1), for grants established under these rules the Director is authorized to reimburse the grant applicant for allowable costs identified in 695-045-0170 and to recognize matching contributions under 695-045-0175that were incurred no earlier than 18 months before the applicable grant application deadline.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0200
Funding Decision Reconsideration by Board

In the event that the Director determines an applicant has not met conditions imposed by the Board, the Director shall forward the determination in writing to the Board for its consideration. The applicant will be provided a copy of the written determination. The conditionally encumbered grant funds will remain encumbered until the Board either affirms the Director's determination or authorizes the continued encumbrance of all or part of the funds in accordance with a modified decision of the Board.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0205
Compliance and Enforcement

(1) The ongoing use of the property acquired with OWEB land acquisition grant funds shall be consistent with the purposes specified in section 4(b) Article XV of the Oregon Constitution. If significant compliance issues cannot be resolved to the full satisfaction of the Director, the Director, after informing the Board and providing reasonable written notice to the recipient of the grant, may in his or her discretion initiate any and all legal remedies available to OWEB, including recovery of the OWEB grant funds that were used to purchase the property, and reasonable interest and penalties at the option of the Director.

(2) OWEB, its contractors and cooperating agencies will be provided sufficient legal access to property acquired with OWEB funds, for the purpose of completing inspections and evaluations required under ORS 541.906(2)(c)(A).

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0210
Subsequent Conveyances

Subsequent conveyances of property acquired with OWEB grant funds must strictly comply with the requirements of ORS 541.960, including but not limited to the requirement that subsequent conveyances be made subject to Board approval and that subsequent conveyances shall not result in profit.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

695-045-0215
Waiver and Periodic Review of Rules

The Director may waive the requirements of division 45 for individual grant applications unless required by statute, when doing so will result in more efficient or effective implementation of the Board's land acquisition grant program. Any waiver must be in writing and included in the grant file to which the waiver applies.

Stat. Auth.: ORS 541.906
Stats. Implemented: ORS 541.932(9)
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

Public Utility Commission
Chapter 860

Rule Caption: In the Matter of a Rulemaking Regarding Energy Utility Billing Error Reporting.
Adm. Order No.: PUC 1-2013
Filed with Sec. of State: 2-14-2013
Certified to be Effective: 2-14-13
Notice Publication Date: 9-1-2012
Rules Adopted: 860-021-0170
Subject: This rule establishes billing error reporting requirements for all energy utilities.
Rules Coordinator: Diane Davis—(503) 378-4372

860-021-0170
Billing Error Reporting

(1) As used in this rule, "billing error" means an error by an energy utility in the calculation of tariffed amounts billed to customers that:

(a) Is due to a single, specific event, reason, or condition;

(b) Resulted in the issuance of a corrected bill; and

(c) Affected an estimated 0.5 percent or more of customer bills issued in any billing month by an average of $5.00 or more.

(2) Within 10 business days of discovering a billing error, an energy utility must report the error via electronic mail to the Commission's Consumer Services Section.

(3) Within 60 calendar days from the date the billing error was first reported, an energy utility must file a final report via electronic mail with the Commission's Consumer Services Section. The report must include the following information:

(a) A description and cause, if known, of the billing error;

(b) The number of bills affected by the billing error;

(c) The number of bills adjusted due to the billing error;

(d) The time period in which the billing error affected customer bills;

(e) The actions taken to correct the error; and

(f) The actions taken to prevent the same error from occurring in the future.

(4) Within 60 calendar days following the end of each calendar year, an energy utility must file an annual report with the Commission's filing center that summarizes all billing errors reported during the prior calendar year.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.020
Hist.: PUC 1-2013, f. & cert. ef. 2-14-13

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Public Utility Commission,
Board of Maritime Pilots
Chapter 856

Rule Caption: Fix rates for pilotage in an emergency for Coos/Yaquina Bays required by statutory amendment.
Adm. Order No.: BMP 1-2013
Filed with Sec. of State: 1-29-2013
Certified to be Effective: 1-31-13
Notice Publication Date: 1-1-2013
Rules Adopted: 856-030-0045
Subject: Adopts existing provisions of pilotage tariff for rates applicable to provision of pilotage services to vessels in an emergency.
Rules Coordinator: Susan Johnson—(971) 673-1530

856-030-0045
Rates in Coos Bay and Yaquina Bay for Vessels in an Emergency

The Board hereby adopts Section (1)(E) of the Oregon Pilotage Tariff for rates for a licensee or trainee who pilots a vessel in an emergency under Oregon Laws 2012, Chapter 55, Section 5.

Stat. Auth.: ORS 776.115, Oregon Laws 2012, Chapter 55, Section 5.
Stats. Implemented: ORS 776.115(7), Oregon Laws 2012, Chapter 55, Section 5(b).
Hist.: BMP 1-2013, f. 1-29-13, cert. ef. 1-31-13

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Secretary of State,
Elections Division
Chapter 165

Rule Caption: Amendment to Penalty Matrix for Other Campaign Finance Violations
Adm. Order No.: ELECT 1-2013
Filed with Sec. of State: 2-4-2013
Certified to be Effective: 2-4-13
Notice Publication Date: 5-1-2012
Rules Amended: 165-013-0010
Subject: This rule is proposed for amendment to clarify penalties assessed for failure to timely a statement of organization. Additionally the proposed amendment clarifies to whom the proposed penalty notice is issued and which party is responsible for payment of the penalty.
Rules Coordinator: Brenda Bayes—(503) 986-1518

165-013-0010
Penalty Matrix for Other Campaign Finance Violations

(1) This penalty matrix applies to civil penalties for campaign finance violations not covered by the penalty matrices in the Campaign Finance Manual.

(2)(a) Spot Check Review. The Secretary of State, Elections Division, will hold exempt from disclosure as a public record any bank account number(s), credit card number(s) or social security number(s) received as required documentation in response to a request for documentation necessary to perform a spot check review in accordance with ORS 260.215(3).

(b) If a committee fails to provide documentation or provides insufficient documentation in response to a request for documentation necessary to perform a spot check review, each omitted or insufficient item is a violation of ORS 260.055(3).

(c) If the committee fails to provide sufficient documentation for a transaction by the deadline stated in the first spot check review letter, the Elections Division shall send a second review letter notifying the committee which transaction(s) lack sufficient documentation. The second review letter shall provide the committee a deadline for response.

(d) Omitted or insufficient information submitted after the deadline provided in the second review letter, but prior to the deadline for a candidate or treasurer to request a hearing will result in a 50% per item reduction of the penalty. If a public hearing is requested, the omitted or insufficient documentation may be submitted up to the date of the hearing. In such an event, the candidate or treasurer will be entitled to a 50% per item reduction of the assessed penalty.

(e) The candidate or treasurer of record at the time the first spot check review letter is generated, along with the candidate if applicable, is responsible for submitting documentation for all transactions selected in the spot check review.

(3) Mitigating Circumstances. Except as specifically provided in paragraph (2)(d) and (4)(b), the only mitigating circumstances that will be considered in a campaign finance violation covered by this rule include:

(a) The violation is a direct result of a valid personal emergency of the candidate or treasurer. A valid personal emergency is an emergency, such as a serious personal illness or death in the immediate family of the candidate or treasurer which caused the violation to occur. A valid personal emergency does not include a common cold or flu, or a long-term illness where other arrangements could have been made. In this case, independent written verification must be provided;

(b) The violation is the direct result of an error by the elections filing officer;

(c) The violation is the direct result of clearly-established fraud, embezzlement, or other criminal activity against the committee, committee treasurer or candidate, as determined in a criminal or civil action in a court of law or independently corroborated by a report of a law enforcement agency or insurer or the sworn testimony or affidavit of an accountant or bookkeeper or the person who actually engaged in the criminal activity. This mitigating circumstance is not available to the candidate or treasurer who was the perpetrator of the wrongdoing described above;

(d) The violation is the direct result of fire, flood, utility failure or other calamitous event, resulting in physical destruction of, or inaccessibility to, committee records. ("Calamitous event" means a phenomenon of an exceptional character, the effects of which could not have been reasonably prevented or avoided by the exercise of due care or foresight);

(e) The violation is the direct result of failure of a professional delivery service to deliver documents in the time guaranteed for delivery by written receipt of the service provider (this does not include delivery by fax); or

(f) The violation is the direct result of negligent record keeping by a former treasurer. Former treasurer refers to the person who was the treasurer of record at the time the transaction was filed or should have been

filed. This mitigating circumstance applies only to a violation of ORS 260.055(3).

(4)(a) Penalty Matrix. These mitigating circumstances may be considered in reducing, in whole or in part, the civil penalty. If the violation is a direct result of an error by the elections filing officer, the violation is waived and no penalty is assessed.

(b) Omitted or insufficient information for a violation of ORS 260.039(4), 260.042(4) or 260.118(3) submitted prior to the deadline for a candidate or treasurer to request a hearing will result in a 50% reduction of the penalty. If a public hearing is requested, the omitted or insufficient information may be submitted up to the date of the hearing. In such an event, the candidate or treasurer will be entitled to a 50% reduction of the assessed penalty.

(c) For the purpose of issuing a proposed penalty notice and subsequent imposition of a civil penalty for any violation in Appendix A of this rule, the candidate of a principal campaign committee, the treasurer of a political action committee, or the chief petitioner of a petition committee, is the party named in a proposed penalty notice and is the party responsible for the payment of any civil penalty if a penalty is assessed.

(d) For purposes of determining penalty amounts for violations of campaign finance violations covered by this rule Appendix A of this rule will apply. [Appendix not included. See ED. NOTE.]

[ED. NOTE: Appendix referenced is available from the agency.]

Stat. Auth.: ORS 246.150, 260.200

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

Hist.: ELECT 13-2000, f. 7-31-00, cert. ef. 8-4-00; ELECT 22-2003, f. & cert. ef. 12-5-03; ELECT 1-2004, f. & cert. ef. 2-13-04; ELECT 16-2005, f. & cert. ef. 12-30-05; ELECT 10-2006(Temp), f. & cert. ef. 7-6-06 thru 1-2-07; ELECT 17-2006, f. & cert. ef. 12-29-06; ELECT 14-2007, f. & cert. ef. 12-31-07; ELECT 30-2009, f. & cert. ef. 12-31-09; ELECT 9-2011, f. & cert. ef. 4-8-11; ELECT 6-2012, f. & cert. ef. 1-3-12; ELECT 1-2013, f. & cert. ef. 2-4-13

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Teacher Standards and Practices Commission
Chapter 584

Rule Caption: Amends licensure and accreditation rules; adopts new standards for elementary math specialist.
Adm. Order No.: TSPC 1-2013
Filed with Sec. of State: 2-14-2013
Certified to be Effective: 2-14-13
Notice Publication Date: 1-1-2013
Rules Adopted: 584-066-0015
Rules Amended: 584-005-0005, 584-018-0205, 584-018-0305, 584-070-0411, 584-100-0016, 584-100-0038, 584-100-0101, 584-100-0106
Subject: 584-005-0005 — Makes needed housekeeping changes to rule definitions;

584-018-0205 — Changes website for administrator licensure standards;

584-018-0305 — Changes website for school counselor standards;

584-066-0015 — Adopts new standards for Elementary Math Instructional Specialist;

584-070-0411 — Eliminates test as mandatory requirement for School Social Worker;

584-100-0016 — Puts limitation on elementary licenses that may be subject to NCLB HOUSSE evaluation;

584-100-0038 — Puts limitation on secondary licenses that may be subject to NCLB HOUSSE evaluation;

584-100-0101 — Adds two licenses to list of "full-state certification" licenses for purposes of NCLB.

584-100-0106 — Adds one license to list of "NOT" full-state certification license for purposes of NCLB.
Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-005-0005
Definitions

These definitions apply to divisions 001-100 unless otherwise indicated by the context:

(1) "Administrators:" Superintendents, assistant, deputy, or associate superintendents, principals, vice principals, assistant principals, associate principals, and such other personnel, regardless of title, whose positions require them to: (a) evaluate other licensed personnel; (b) discipline other licensed personnel; and (c) authorize out-of-school suspension or expulsion of students.

(2) "All Grade Levels:" Grades prekindergarten through 12 (prek–12).

(3) "Application:" A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license. As used in these rules, "complete application" includes the Application Form, C-1, the fee, and all supporting documents necessary for the evaluation for the license.

(4) "Appropriately Assigned:" Assignments for administrator, teacher, school counselor, school psychologist, school social worker or school nurse duties for which the person involved holds the proper license, endorsements and authorizations.

(5) "Approved Institution:" A U.S. regionally accredited institution of higher education approved to prepare licensed personnel by a U.S. governmental jurisdiction in which the institution is located. See definition of "Regional Accrediting Associations" below.

(6) "Approved Program:" An Oregon program of educator preparation approved by TSPC and offered by a regionally accredited Oregon institution or other entity able to meet the Commission's standards. As it applies to out-of-state programs, a program approved by the licensure body of any U.S. governmental jurisdiction authorized to approve educator preparation programs.

(7) "Athletic Coaches:" Licensed personnel employed full time or part time for purposes of participation in interscholastic athletics and whose duties include instruction of students, preprimary through grade twelve.

(8) "Authorization Level:" The grade levels in which a person may teach, i.e., early childhood, elementary, middle level and high school as defined in OAR 584-060-0051.

(9) "Charter School Registration:" The process by which an unlicensed teacher or administrator has cleared the fingerprints and criminal background check by TSPC and is authorized to work as an educator in an established Oregon charter school.

(10) "Commission:" Teacher Standards and Practices Commission (TSPC).

(11) "Completion of Approved Program:" The applicant has met the institution's academic requirements and any additional state or federal requirements and has obtained the institution's recommendation for licensure.

(12) "Conditional Assignment:" (Formerly "Missassignment") Assignment of a licensed educator to a position for which he or she does not hold the subject or specialty area endorsement or authorization level required by the rules for licensure. (See, OAR 584-060-0250).

(13) "Consortium:" An advisory body to the institution in reviewing, evaluating, and making recommendations on the design, implementation, evaluation, and modification of the program.

(14) "Continuing Professional Development:" Professional development that meets the requirements of OAR 584, Division 90 and enables an educator to be eligible for licensure renewal.

(15) "Education Service District (ESD):" A district created under ORS 334.010 that provides regional educational services to component school districts.

(16) "Endorsement:" The subject matter or specialty education field in which the individual is licensed to teach.

(17) "Executive Director:" The Executive Director of the Commission. (See, ORS 342.410.)

(18) "Expired License:" A license for which an application for renewal was not received by TSPC prior to the date of expiration stated on the license.

(19) "Instructional Assistant or Educational Assistant or Teaching Assistant:" A non-licensed position of employment in a school district assigned to assist a licensed teacher in a supportive role in the classroom working directly with students.

(20) "Intern:" A student of an approved institution who serves as a teacher, personnel specialist, or administrator under the supervision of the institution and of the school district in order to acquire practical experience in lieu of student teaching or supervised practica. Interns may receive both academic credit from the institution and financial compensation from the school district. Interns may serve as assistant coaches.

(21) "Joint Application:" Submitted by the school district in cooperation with the applicant.

(22) "Liaison Officer:" The person designated by the unit to submit all program modifications for TSPC approval, issue all recommendations for licensure under the approved program, authorize all waivers of professional courses for students enrolled in the program, and handle all correspondence between TSPC and the unit.

(23) "Major Traffic Violation:" Includes driving while under the influence of intoxicants (ORS 487.540); reckless driving (487.550); fleeing or attempting to elude a police officer (487.555); driving while license is suspended or revoked or beyond license restrictions (487.560); or failure to perform the duties of a driver or witness at an accident (483.602).

(24) "National Board For Professional Teaching Standards (NBPTS):" A professional board established to award a National Teaching Certificate to qualified educators.

(25) "Oregon Educator Licensure Assessments (ORELA):" Licensure tests adopted by the Commission in specified endorsement or licensure areas.

(26) "Out of State Licenses or Certificates:" A certificate or license valid for full-time employment, at least equivalent to the Oregon license being requested, issued by one of the United States, a U.S. jurisdiction (American Samoa, Commonwealth of Northern Marianas, District of Columbia, Guam, Puerto Rico, and Virgin Islands), or the U.S. Department of Defense.

(27) "Personal Qualifications:" Personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(28) "Personnel Service:" A type of license issued to counselors, school psychologists, and school social workers.

(29) "Practicum or Practica:" All supervised field experiences other than student teaching or internships. A practicum may be part of the field experience necessary to add an endorsement.

(30) "PRAXIS:" A series of licensure examinations for beginning educators produced and administered by Educational Testing Service (ETS) and adopted by TSPC as licensure examinations.

(31) "Principal:" The administrator of each school building or buildings as designated by the school district board or district superintendent.

(32) "Professional Development Units (PDU):" A unit of standard-related activity that equals one clock hour of professional development and contributes to completion of an educator's continuing professional development requirements. (See, OAR 584-090 et seq.)

(33) "Program Administrator:" Managers of school programs and coordinators of district-wide programs that are accountable at the building level.

(34) "Program Review Committee or Site Visit Committee:" Committee appointed by the Commission to conduct an on-site review for purposes of approval of an educator preparation program.

(35) "Public Funds:" All monies expended by public school districts and for which the school board has responsibility, including funds from local, state, federal, and private sources. (See, ORS 342.120(9).)

(36) "Public Schools:" Public school districts, education service districts and public charter school created under ORS Ch. 338, which are supported by local, state and federal public funds and for which the school board has responsibility, for the program of instruction carried out in that school.

(37) "Regional Accrediting Associations:" Colleges and universities approved for teacher education must be accredited by the appropriate regional association at the time the degree or program is completed. The regional associations are: New England Association of Schools and Colleges - Commission on Institutions of Higher Education; North Central Association of Colleges and Schools — The Higher Learning Commission; Northwest Commission on Colleges and Universities; Middle States Association of Colleges and Schools — Middle States Commission on Higher Education; Southern Association of Colleges and Schools Commission on Colleges; or Western Association of Schools and Colleges Accrediting Commission for Senior Colleges and Universities.

(38) "Reinstatement:" Restoration of the validity of a license which has expired, been suspended, or been revoked. (See, OAR 584-050-0015.)

(39) "Renewal:" Extension of validity of a current license. An application for renewal must be submitted prior to the expiration date stated on the license.

(40) "School:" A single school building or combination of buildings which the school board or charter school designates as a school.

(41) "School Administrator:" The principal, vice principals and assistant principals or any other title performing those duties at each school.

(42) "School Board:" The board of directors of a local school district or an education service district, the governing board of a public charter school, a registered private school, or the directors of a state, federal, or special state-supported school.

(43) "School Counselor:" A licensed employee of the district assigned to assist students to: develop decision-making skills, obtain information about themselves, understand opportunities and alternatives available in educational programs, set tentative career and educational goals, accept increasing responsibilities for their own actions, develop skills in interpersonal relations, and utilize school and community resources.

(44) "School District:" Includes administrative school districts; common school districts; joint school districts; union high school districts; county units; education service districts; registered private schools; and state, federal, and special state-supported schools; may also include school districts from other states.

(45) "School Nurse:" A registered nurse who is certified by the Teacher Standards and Practices Commission as qualified to conduct and coordinate the health service programs of a school. (See, OAR 584 div. 21.)

(46) "School Psychologist:" A licensed employee of the district assigned to: assessment of students' mental aptitude, emotional development, motor skills, or educational progress; designing educational programs for students and conferring with licensed personnel regarding such programs; and consulting with parents and students regarding interpretation of assessments and the design of educational programs. (See OAR 584, Divs. 44 and 70.)

(47) "School Supervisor:" Educators who assist, supervise, and evaluate students enrolled in the field-centered activities, including but not limited to, practica, internships and student teaching. (See OAR 584, Div. 17.)

(48) "Self-Contained Classroom:" An assignment for teaching in grades preprimary through eight in which the teacher has primary responsibility for the full curriculum.

(49) "Skills:" Ability to use knowledge effectively in the performance of specific tasks typical of those required in an educational position.

(50) "State Board:" The Oregon State Board of Education.

(51) "Student Teacher:" A student of an approved teacher education institution who is assigned to a public or approved private school for professional practica under the supervision of qualified personnel. Student teachers may provide instruction or may serve as assistant coaches.

(52) "Superintendent:" The district's chief administrator who reports directly to the school board.

(53) "Supervisor of Licensed Personnel:" A person assigned to a position which includes the on-the-job supervision or evaluation of licensed personnel.

(54) "Teacher:" Includes all licensed or registered employees in the public schools, charter schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision or evaluation of teachers and who are compensated for their services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455.

(55) "Teacher Education Programs or Educator Preparation Programs:" Programs preparing teachers, personnel service specialists, or administrators. Oregon Revised Statutes use the term "teacher education" to refer to all programs preparing educational personnel for public elementary and secondary schools, not exclusive to those for classroom teachers.

(56) "Transcripts:" An official record of academic preparation which bears the signature of the registrar and the seal of the institution or is received directly by the Commission electronically.

(57) "TSPC:" Teacher Standards and Practices Commission.

(58) "Unit:" The institution, college, school, department, or other administrative body with the responsibility for managing or coordinating all programs offered for the initial and continuing preparation of teachers and other school personnel, regardless of where these programs are administratively housed.

(59) "Vice Principal:" A principal's immediate subordinate assigned to coordination of instruction, discipline, student activities, or supervision or evaluation of staff.

(60) "Work Samples or Teacher Work Samples:" A designed and implemented unit of study that demonstrates capacity to foster student learning.

(61) "Year of Experience:" A period of at least eight consecutive months of full-time work or two consecutive years of one-half time or more while holding a license valid for the assignment.

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

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 5-2000, f. & cert. ef. 9-20-00; TSPC 4-2001, f. & cert. ef. 9-21-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 2-2002, f. & cert. ef. 3-15-02; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 3-2003, f. & cert. ef. 5-15-03; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 11-2006, f. & cert. ef. 8-17-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2008(Temp), f. & cert. ef. 5-30-08 thru 11-25-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; TSPC 5-2009, f. & cert. ef. 10-5-09; TSPC 6-2011, f. 8-15-11, cert. ef. 9-1-11; TSPC 1-2013, f. & cert. ef. 2-14-13

584-018-0205

Educational Leadership for Administrator Licensure Standards

These standards align with the Educational Leadership Constituents Council (ELCC) 2008 standards for Educational Leadership. The knowledge and skill abilities required for each program standard are found within the full document of the 2008 standards. These standards are aligned with the Interstate School Leader Licensure Consortium (ISLLC) recommended standards. Oregon programs must demonstrate integration of principles of cultural competency and equitable practice in each standard through the entire educational leadership and school administration licensure programs.

(1) Visionary Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by stakeholders. [ISLLC Standard 1] Educational Leaders:

(a) Collaboratively develop and implement a shared vision and mission;

(b) Collect and use data to identify goals, assess organizational effectiveness, and promote organizational learning;

(c) Create and implement plans to achieve goals;

(d) Promote continuous and sustainable improvement; and

(e) Monitor and evaluate progress and revise plans.

(2) Instructional Improvement: leader integrates principles of cultural competency and equitable practice and promotes the success of every student by sustaining a positive school culture and instructional program conducive to student learning and staff professional growth. [ISLLC Standard 2] Educational Leaders:

(a) Nurture and sustain a culture of collaboration, trust, learning and high expectations;

(b) Create a comprehensive, rigorous and coherent curricular program;

(c) Create a personalized and motivating learning environment for students;

(d) Supervise and support instruction;

(e) Develop assessment and accountability systems to monitor student progress;

(f) Develop the instructional and leadership capacity of staff;

(g) Maximize time spent on quality instruction;

(h) Promote the use of the most effective and appropriate technologies to support teaching and learning; and

(i) Monitor and evaluate the impact of instruction.

(3) Effective Management: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by ensuring management of the organization, operation, and resources for a safe, efficient, and effective learning environment. [ISLLC Standard 3] Educational Leaders:

(a) Monitor and evaluate the management and operational systems;

(b) Obtain, allocate, align and efficiently use human, fiscal and technological resources;

(c) Promote and protect the welfare and safety of students and staff;

(d) Develop the capacity for adaptive leadership; and

(e) Ensure teacher and organizational time is focused to support quality instruction and student learning.

(4) Inclusive Practice: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by collaborating with faculty and community members, responding to diverse community interests and needs, and mobilizing community resources in order to demonstrate and promote ethical standards of democracy, equity, diversity, and excellence, and to promote communication among diverse groups. [ISLLC Standard 4] Educational leaders:

(a) Collect and analyze data pertinent to equitable outcomes;

(b) Understand and integrate the community's diverse cultural, social and intellectual resources;

(c) Build and sustain positive relationships with families and caregivers; and

(d) Build and sustain productive relationships with community partners.

(5) Ethical Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by acting with integrity, fairness, and in an ethical manner. [ISLLC Standard 5] Educational leaders:

(a) Ensure a system of accountability for every student's academic and social success;

(b) Model principles of self-awareness, reflective practice, transparency and ethical behavior;

(c) Safeguard the values of democracy, equity and diversity;

(d) Evaluate the potential ethical and legal consequences of decision-making; and

(e) Promote social justice and ensure that individual student needs inform all aspects of schooling.

(6) Socio-Political Context: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context. [ISLLC Standard 6] Educational leaders:

(a) Advocate for children, families and caregivers;

(b) Act to influence local, district, state and national decisions affecting student learning; and

(c) Assess, analyze and anticipate emerging trends and initiatives in order to adapt leadership strategies.

(7) Practicum Experience: The practicum provides significant opportunities for candidates to synthesize and apply the knowledge and practice and develop the skills identified in Standards 1-6 through substantial, sustained, standards-based work in real settings, planned and guided cooperatively by the institution and school district personnel for graduate credit.

(a) The practicum will be substantial.

(b) The practicum will be sustained.

(c) The practicum will be standards-based.

(d) The practicum will be planned and guided cooperatively.

(e) The practicum may be for 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; TSPC 5-2012, f. & cert. ef. 5-18-12; TSPC 1-2013, f. & cert. ef. 2-14-13

584-018-0305

Knowledge, Skills, Abilities, Cultural Competencies and Professional Dispositions for Initial School Counselor License

These standards align with the Counsel for Accreditation of Counseling and Related Educational Programs (CACREP) school counselor standards found at: http://www.cacrep.org; (Specifically, pp. 40–46 of the 2009 CACREP standards document.) Candidates who are preparing to work as school counselors will demonstrate the professional knowledge, skills, cultural competence and practices necessary to promote the academic, career, and personal and social development of all K–12 students. In addition to the common core curricular experiences outlined in Professional Identity section of the CACREP standards at subsection (G). Initial School Counselor programs must provide evidence that student learning has occurred in the following domains:

(1) Foundations:

(a) Knowledge:

(A) Know the history, philosophy, and current trends in school counseling and educational systems;

(B) Understands ethical and legal considerations specifically related to the practice of school counseling;

(C) Knows roles, functions, settings, and professional identity of the school counselor in relation to the roles of other professional and support personnel in the school;

(D) Knows professional organizations, preparation standards, and credentials that are relevant to the practice of school counseling;

(E) Understands current models of school counseling programs and their integral relationship to the total educational program;

(F) Understands the effects of: Atypical growth and development, health and wellness, language; ability level, multicultural issues, and factors of resiliency on student learning and development; and

(G) Understands the operation of the school emergency management plan and the roles and responsibilities of the school counselor during crises, disasters, and other trauma-causing events.

(b) Skills and Practices:

(A) Demonstrates the ability to apply and adhere to ethical and legal standards in school counseling; and

(B) Demonstrates the ability to articulate, model, and advocate for an appropriate school counselor identity and program.

(2) Counseling, Prevention and Intervention:

(a) Knowledge:

(A) Knows the theories and processes of effective counseling and wellness programs for individual students and groups of students;

(B) Knows how to design, implement, manage, and evaluate programs to enhance the academic, career, and personal/social development of students;

(C) Knows strategies for helping students identify strengths and cope with environmental and developmental problems;

(D) Knows how to design, implement, manage, and evaluate transition programs, including school-to-work, postsecondary planning, and college admissions counseling;

(E) Understands group dynamics—including counseling, psychoeducational, task, and peer helping groups—and the facilitation of teams to enable students to overcome barriers and impediments to learning; and

(F) Understands the potential impact of crises, emergencies, and disasters on students, educators, and schools, and knows the skills needed for crisis intervention.

(b) Skills and Practices:

(A) Demonstrates self-awareness, sensitivity to others, and the skills needed to relate to each diverse individual, group, and classroom;

(B) Provides individual and group counseling and classroom guidance to promote the academic, career, and personal and social development of students;

(C) Designs and implements prevention and intervention plans related to the effects of: Atypical growth and development, health and wellness, language, ability level, multicultural issues, and factors of resiliency on student learning and development;

(D) Demonstrates the ability to use procedures for assessing and managing suicide risk; and

(E) Demonstrates the ability to recognize his or her limitations as a school counselor and to seek supervision or refer clients when appropriate.

(3) Diversity and Advocacy:

(a) Knowledge:

(A) Understands the cultural, ethical, economic, legal, and political issues surrounding diversity, equity, and multicultural excellence in terms of student learning;

(B) Identifies community, environmental, and institutional opportunities that enhance, as well as barriers that impede, the academic, career, and personal and social development of students;

(C) Understands the ways in which educational policies, programs, and practices can be developed, adapted, and modified to be culturally congruent with the needs of students and their families; and

(D) Understands multicultural counseling issues, as well as the impact of ability levels, stereotyping, family, socioeconomic status, gender, and sexual identity, and their effects on student achievement.

(b) Skills and Practices:

(A) Demonstrates multicultural competencies in relation to diversity, equity, and opportunity in student learning and development;

(B) Advocates for the learning and academic experiences necessary to promote the academic, career, and personal/social development of students;

(C) Advocates for school policies, programs, and services that enhance a positive school climate and are equitable and responsive to multicultural student populations; and

(D) Engages parents, guardians, and families to promote the academic, career, and personal and social development of students.

(4) Assessment:

(a) Knowledge:

(A) Understands the influence of multiple factors such as: Abuse, violence, eating disorders, attention deficit hyperactivity disorder, and childhood depression; that may affect the personal, social, and academic functioning of students;

(B) Knows the signs and symptoms of substance abuse in children and adolescents, as well as the signs and symptoms of living in a home where substance abuse occurs; and

(C) Identifies various forms of needs assessments for academic, career, and personal and social development.

(b) Skills and Practices:

(A) Assesses and interprets students' strengths and needs, recognizing uniqueness in cultures, languages, values, backgrounds, and abilities;

(B) Selects appropriate assessment strategies that can be used to evaluate a student's academic, career, and personal/social development;

(C) Analyzes assessment information in a manner that produces valid inferences when evaluating the needs of individual students and assessing the effectiveness of educational programs;

(D) Makes appropriate referrals to school and/or community resources; and

(E) Assesses barriers that impede students' academic, career, and personal and social development.

(5) Research and Evaluation:

(a) Knowledge:

(A) Understands how to critically evaluate research relevant to the practice of school counseling;

(B) Knows models of program evaluation for school counseling programs;

(C) Knows basic strategies for evaluating counseling outcomes in school counseling such as: behavioral observation and program evaluation;

(D) Knows current methods of using data to inform decision making and accountability such as: school improvement plan and school report card; and

(E) Understands the outcome research data and best practices identified in the school counseling research literature.

(b) Skills and Practices:

(A) Applies relevant research findings to inform the practice of school counseling;

(B) Develops measurable outcomes for school counseling programs, activities, interventions, and experiences; and

(C) Analyzes and uses data to enhance school counseling programs.

(6) Academic Development:

(a) Knowledge:

(A) Understands the relationship of the school counseling program to the academic mission of the school;

(B) Understands the concepts, principles, strategies, programs, and practices designed to close the achievement gap, promote student academic success, and prevent students from dropping out of school; and

(C) Understands curriculum design, lesson plan development, classroom management strategies, and differentiated instructional strategies for teaching counseling- and guidance-related material.

(b) Skills and Practices:

(A) Conducts programs designed to enhance student academic development;

(B) Implements strategies and activities to prepare students for a full range of postsecondary options and opportunities; and

(C) Implements differentiated instructional strategies that draw on subject matter and pedagogical content knowledge and skills to promote student achievement.

(7) Collaboration and Consultation:

(a) Knowledge:

(A) Understands the ways in which student development, well-being, and learning are enhanced by family-school-community collaboration;

(B) Knows strategies to promote, develop, and enhance effective teamwork within the school and the larger community;

(C) Knows how to build effective working teams of school staff, parents, and community members to promote the academic, career, and personal and social development of students;

(D) Understands systems theories, models, and processes of consultation in school system settings;

(E) Knows strategies and methods for working with parents, guardians, families, and communities to empower them to act on behalf of their children;

(F) Understands the various peer programming interventions such as: peer meditation, peer mentoring, and peer tutoring; and how to coordinate them; and

(G) Knows school and community collaboration models for crisis or disaster preparedness and response.

(b) Skills and Practices:

(A) Works with parents, guardians, and families to act on behalf of their children to address problems that affect student success in school;

(B) Locates resources in the community that can be used in the school to improve student achievement and success;

(C) Consults with teachers, staff, and community-based organizations to promote student academic, career, and personal/social development;

(D) Uses peer helping strategies in the school counseling program; and

(E) Uses referral procedures with helping agents in the community such as: mental health centers, businesses, and service groups; to secure assistance for students and their families.

(8) Leadership:

(a) Knowledge:

(A) Knows the qualities, principles, skills, and styles of effective leadership;

(B) Knows strategies of leadership designed to enhance the learning environment of schools;

(C) Knows how to design, implement, manage, and evaluate a comprehensive school counseling program;

(D) Understands the important role of the school counselor as a system change agent; and

(E) Understands the school counselor's role in student assistance programs, school leadership, curriculum, and advisory meetings.

(b) Skills and Practices:

(A) Participates in the design, implementation, management, and evaluation of a comprehensive developmental school counseling program; and

(B) Plans and presents school-counseling-related educational programs for use with parents and teachers such as: parent education programs, materials used in classroom guidance, and advisor and advisee programs for teachers.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 4-2012, f. & cert. ef. 5-18-12; TSPC 1-2013, f. & cert. ef. 2-14-13

584-066-0015
Knowledge, Skills and Abilities for Elementary Mathematics Instructional Leader Specialization

(1) An Elementary Mathematics Instructional Leader specialization may be added to any TSPC Basic, Standard, Initial or Continuing Teaching License upon completion of the requirements and qualifications found in this rule.

(2) To be eligible for the Elementary Mathematics Instructional Leader (EMIL) specialization, the licensed teacher must have all of the following:

(a) A license authorized to teach in grades K-8 and holding the multiple subjects, basic elementary or standard elementary endorsements;

(b) Three complete years of teaching mathematics in grades K-8 as verified by a Professional Educator Experience Form (PEER) or other verifiable experience if the experience is obtained out of state; and

(c) Demonstrated competency in the following Elementary Math Specialist (EMS) standards as determined by a program approved to offer the Elementary Mathematics Instructional Leaders specialization as evidenced by completion of:

(A) Twenty-four quarter or sixteen semester hours of a TSPC-approved Elementary Mathematics Instructional Leader program; and

(B) An EMIL practicum working with a range of students and teachers.

(3) Elementary Mathematics Instructional Leaders specialist standards include:

(a) **Content Knowledge**: EMIL professionals must know and understand deeply the mathematics of elementary school as well as how mathematics concepts and skills develop through middle school. This knowledge includes specialized knowledge that teachers need in order to understand and support student learning of elementary mathematics.

(b) **Pedagogical Knowledge for Teaching Mathematic**: EMIL professionals are expected to have a foundation in *pedagogical content knowledge* (PCK) (Ball, Thames, & Phelps, 2008). This section is informed by and draws upon the 2003 *NCATE/NCTM Program Standards: Standards for Elementary Mathematics Specialists*.

(c) **Leadership Knowledge and Skills**: EMIL professionals need to be prepared to take on collegial non-evaluative leadership roles within their schools and districts. They must have a broad view of many aspects and resources needed to support and facilitate effective instruction and professional growth.

(4) Approval of any EMIL program must satisfy the full set of standards including specific objectives which may be found in the publication: *Standards for Elementary Math Specialists: A Reference for Teacher Credentialing and Degree Programs*; a publication of the Association of Mathematics Teacher Educators.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 1-2013, f. & cert. ef. 2-14-13

584-070-0411
Initial School Social Worker License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted an Initial School Social Worker License for three years. The first license will be issued for three years plus time to the applicant's birthday.

(2) The Initial School Social Worker License is valid for:

(a) School social work at all age or grade levels; and

(b) Substitute counseling at any level.

(3) To be eligible for an Initial School Social Worker License, an applicant must satisfy all of the following general preparation requirements:

(a) A master's or higher degree in social work from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission;

(b) Completion of an initial graduate program in school social work as part of the master's degree or separately at an institution approved for school social worker education by the commission or the out-of-state equivalent;

(c) A passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights laws and professional ethics; and

(d) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application (See also, OAR 584-036-0062 for Criminal Records Check Requirement).

(4) The Initial School Social Worker License may be renewed repeatedly for three years upon completion of professional development requirements in accordance with OAR 584-090.

(5) Persons holding an Initial School Social Worker License may not:

(a) Substitute as a School Counselor for a period greater than three consecutive months without obtaining the School Counselor License;

(b) Substitute as a School Psychologist; or

(c) Accept any full or part-time position as a School Counselor or as a School Psychologist; or

(d) Go by the title of School Counselor or School Psychologist.

(6) Violations of subsection (5) above may result in referral to the Commission for violation of professional practices.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 10-2010, f. 12-30-10, cert. ef. 1-1-11; TSPC 4-2011, f. & cert. ef. 4-14-11; TSPC 6-2011, f. 8-15-11, cert. ef. 9-1-11; TSPC 1-2013, f. & cert. ef. 2-14-13

584-100-0016
Highly Qualified Elementary Teacher Not New to the Profession

Teachers not new to the profession teaching multiple subjects in grades kindergarten (K) through six (6) must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a bachelor's degree;

(2) Hold a Basic, Standard, Initial, Continuing, Pre-1965 Five-Year Elementary Teaching License;

(3) Demonstrate subject-matter competency by passing a rigorous Commission-adopted elementary education examination appropriate for grades kindergarten (K) through six (6); or

(4) Demonstrate competency by meeting the following High Objective Uniform State Standards of Evaluation (HOUSSE):

(a) To qualify for HOUSSE, a teaching license must have been awarded prior to the 2007–2008 school year and a minimum of three years teaching experience in elementary education must have occurred prior to the 2009–2010 school year and

(b) Complete an approved elementary teacher education program or the coursework equivalent to sixty-quarter hours distributed as follows:

(A) Eighteen quarter or twelve semester hours in language arts;

(B) Twelve quarter or eight semester hours in mathematics;

(C) Nine quarter or six semester hours in science;

(D) Nine quarter or six semester hours in U.S. history, cultural geography, and other social sciences;

(E) Three quarter or two semester hours in health education;

(F) Three quarter or two semester hours in physical education;

(G) Three quarter or two semester hours in music education; and

(H) Three quarter or two semester hours in art education. and

(5) Be properly assigned in grades kindergarten (K) through six (6).

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 5-2012, f. & cert. ef. 5-18-12; TSPC 1-2013, f. & cert. ef. 2-14-13

584-100-0038
HOUSSE for Middle-Level and High School Teachers (7–12)

(1) Teachers may use a combination of coursework, professional development and experience to acquire points on a one-hundred (100) point scale to meet the federal definition of Highly Qualified Teacher (HQT) through Oregon's High Objective Uniform State Standard of Evaluation (HOUSSE).

(2) To qualify for HOUSSE, a teaching license must have been awarded prior to the 2007–2008 school year and a minimum of three years teaching experience in the subject to be evaluated must have occurred prior to the 2009–2010 school year.

(3) To qualify for the HOUSSE, a total of one hundred (100) points of combined coursework, professional development and experience must be earned. Experience must meet a 30 point minimum. Experience may not count for more than 50 points.

(4) Teaching Off License in the Core Academic Subjects: Teachers who are conditionally assigned to teach the core academic subject more than 10 hours per week must apply for a License for Conditional Assignment (LCA) pursuant to Division 60 and must add the endorsement to teach the assignment within one to three years after the LCA is first issued. Unless the teacher meets the federal definition for HQT in the core academic subject, the district may not report the teacher as being highly qualified while holding the LCA.

(a) If the educator meets the federal definition for HQT under any circumstances, then the district may report the teacher as HQT for purposes of that core academic subject even if the teacher does not immediately qualify to add the endorsement to the teaching license and even if the teacher is teaching under a License for Conditional Assignment (LCA).

(b) If the educator meets the federal definition for HQT and is teaching less than 10 hours per week in the core academic subject, the district may report the teacher as highly qualified and the teacher does not have to add the core academic endorsement to the license.

(5) Experience: Experience may not exceed more than fifty (50) points in the HOUSSE calculation. Generally, the educator will be given ten (10) points of credit for each full academic year as defined by the district's contracted teacher year. Experience will be valued under the following conditions:

(a) One (1) instructional day is one (1) period or more teaching the core academic subject.

(b) The subject must have been taught at grade 6 or above in a departmentalized setting.

(c) One full instructional year equals 10 points.

(d) Partial instructional years will be calculated as the number of instructional days teaching the subject divided by the number of contracted days in one full instructional year times 10.

Example: 150 days taught/180 days in full instructional year = (5/6 x 10) = 8.3 points.

(e) An educator must have taught at least five complete school years in order to earn the full fifty (50) points.

(6) Academic Coursework in the Core Academic Subject: There is no limit to the number of points that may be obtained through academic coursework related to the core academic subject.

(a) Core academic coursework must be college transfer level or graduate credit and must have a course number of 100 or greater;

(b) Transcripts for core academic coursework must be from a regionally accredited college or university;

(c) Core academic coursework will be valued as follows:

(A) One (1) quarter hour of credit equals three (3) points.

(B) One (1) semester hour of credit equals four and one-half (4.5) points.

(7) Professional Development: Professional Development directly related to the core academic credit may be counted toward the one hundred (100) points needed to meet the state's HOUSSE. Professional Development points will be valued under the following conditions:

(a) One (1) hour of core academic professional development is equal to 0.15 points.

(b) School district personnel authorized to certify professional development must verify that the professional development is directly relevant to the core academic subject in which the teacher is seeking to meet the definition of being "highly qualified." "Directly relevant" means that upon scrutiny, the professional development is more content related than pedagogy related.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2012, f. & cert. ef. 5-18-12; TPSC 10-2012, f. & cert. ef. 11-19-12; TSPC 1-2013, f. & cert. ef. 2-14-13

584-100-0101
Licenses Considered "Full State Certification"

The following Oregon Teaching Licenses are considered to meet full state certification under the federal No Child Left Behind act:

(1) Basic Teaching License;
(2) Standard Teaching License;
(3) Initial Teaching License;
(4) Continuing Teaching License;
(5) Five-Year Elementary Teaching License;
(6) Five-Year Secondary Teaching License;
(7) Approved NCLB Alternative Route Teaching License;
(8) International Teacher; or
(9) Charter School Registry.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 1-2013, f. & cert. ef. 2-14-13

584-100-0106
Licenses Not Considered to be "Full State Certification"

The following Oregon Teaching Licenses are not considered full state certification under the federal No Child Left Behind act, now the Elementary and Secondary Education Act (ESEA):

(1) Personnel Service License:
(a) School Counseling;
(b) School Psychologist;
(c) Supervisor; or
(d) School Social Worker
(2) Limited Student Services License;
(3) Restricted or unrestricted Transitional Counselor License;
(4) Restricted or unrestricted School Psychologist License;
(5) Teaching Associate License;
(6) Substitute Teaching License;
(7) American Indian Languages License;
(8) Emergency Teaching License;
(9) Restricted Transitional Teaching License (See OAR 584-100-0041 for possible Approved NCLB Alternative Route Teaching License eligibility.);
(10) Limited Teaching License;
(11) License for Conditional Assignment;
(12) Any Career and Technical Education License; or
(13) Any Administrative License.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 1-2013, f. & cert. ef. 2-14-13

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
111-010-0015	12-19-2012	Amend	2-1-2013
111-015-0001	12-19-2012	Amend	2-1-2013
121-001-0000	12-1-2012	Repeal	1-1-2013
121-001-0005	12-1-2012	Repeal	1-1-2013
121-020-0000	12-1-2012	Repeal	1-1-2013
121-020-0010	12-1-2012	Am. & Ren.	1-1-2013
121-020-0020	12-1-2012	Am. & Ren.	1-1-2013
121-020-0030	12-1-2012	Am. & Ren.	1-1-2013
121-020-0040	12-1-2012	Am. & Ren.	1-1-2013
121-020-0050	12-1-2012	Am. & Ren.	1-1-2013
121-030-0000	12-1-2012	Am. & Ren.	1-1-2013
121-030-0010	12-1-2012	Am. & Ren.	1-1-2013
121-030-0020	12-1-2012	Am. & Ren.	1-1-2013
121-030-0030	12-1-2012	Am. & Ren.	1-1-2013
121-030-0040	12-1-2012	Am. & Ren.	1-1-2013
121-030-0050	12-1-2012	Am. & Ren.	1-1-2013
121-030-0060	12-1-2012	Am. & Ren.	1-1-2013
121-030-0070	12-1-2012	Am. & Ren.	1-1-2013
121-030-0080	12-1-2012	Am. & Ren.	1-1-2013
121-030-0090	12-1-2012	Am. & Ren.	1-1-2013
121-040-0010	12-1-2012	Am. & Ren.	1-1-2013
123-009-0060	1-2-2013	Amend	2-1-2013
123-009-0090	1-2-2013	Amend	2-1-2013
123-021-0010	11-20-2012	Amend(T)	1-1-2013
123-021-0015	11-20-2012	Amend(T)	1-1-2013
123-021-0080	11-20-2012	Amend(T)	1-1-2013
123-021-0090	11-20-2012	Amend(T)	1-1-2013
123-021-0110	11-20-2012	Amend(T)	1-1-2013
125-021-0005	12-1-2012	Repeal	1-1-2013
125-180-1000	12-17-2012	Adopt(T)	1-1-2013
125-180-1100	12-17-2012	Adopt(T)	1-1-2013
125-180-1200	12-17-2012	Adopt(T)	1-1-2013
125-180-1300	12-17-2012	Adopt(T)	1-1-2013
125-180-1400	12-17-2012	Adopt(T)	1-1-2013
125-180-1500	12-17-2012	Adopt(T)	1-1-2013
125-246-0100	12-1-2012	Amend	1-1-2013
125-246-0110	12-1-2012	Amend	1-1-2013
125-246-0165	12-1-2012	Amend	1-1-2013
125-246-0170	12-1-2012	Amend	1-1-2013
125-246-0210	12-1-2012	Amend	1-1-2013
125-246-0220	12-1-2012	Amend	1-1-2013
125-246-0312	12-1-2012	Repeal	1-1-2013
125-246-0316	12-1-2012	Adopt	1-1-2013
125-246-0318	12-1-2012	Adopt	1-1-2013
125-246-0319	12-1-2012	Adopt	1-1-2013
125-246-0321	12-1-2012	Amend	1-1-2013
125-246-0322	12-1-2012	Amend	1-1-2013
125-246-0323	12-1-2012	Amend	1-1-2013
125-246-0333	12-1-2012	Amend	1-1-2013
125-246-0335	12-1-2012	Amend	1-1-2013
125-246-0345	12-1-2012	Amend	1-1-2013
125-246-0350	12-1-2012	Amend	1-1-2013
125-246-0351	12-1-2012	Amend	1-1-2013
125-246-0353	12-1-2012	Amend	1-1-2013
125-246-0360	12-1-2012	Amend	1-1-2013
125-246-0400	12-1-2012	Amend	1-1-2013
125-246-0410	12-1-2012	Repeal	1-1-2013
125-246-0420	12-1-2012	Repeal	1-1-2013
125-246-0430	12-1-2012	Repeal	1-1-2013
125-246-0440	12-1-2012	Repeal	1-1-2013
125-246-0450	12-1-2012	Repeal	1-1-2013
125-246-0460	12-1-2012	Repeal	1-1-2013
125-246-0470	12-1-2012	Repeal	1-1-2013
125-246-0500	12-1-2012	Amend	1-1-2013
125-246-0556	12-1-2012	Amend	1-1-2013
125-246-0560	12-1-2012	Repeal	1-1-2013
125-246-0576	12-1-2012	Amend	1-1-2013
125-246-0800	12-1-2012	Amend	1-1-2013
125-247-0100	12-1-2012	Amend	1-1-2013
125-247-0110	12-1-2012	Amend	1-1-2013
125-247-0165	12-1-2012	Amend	1-1-2013
125-247-0255	12-1-2012	Amend	1-1-2013
125-247-0260	12-1-2012	Amend	1-1-2013
125-247-0265	12-1-2012	Amend	1-1-2013
125-247-0270	12-1-2012	Amend	1-1-2013
125-247-0275	12-1-2012	Amend	1-1-2013
125-247-0280	12-1-2012	Amend	1-1-2013
125-247-0285	12-1-2012	Amend	1-1-2013
125-247-0287	12-1-2012	Amend	1-1-2013
125-247-0288	12-1-2012	Amend	1-1-2013
125-247-0296	12-1-2012	Amend	1-1-2013
125-247-0300	12-1-2012	Amend	1-1-2013
125-247-0330	12-1-2012	Amend	1-1-2013
125-247-0575	12-1-2012	Amend	1-1-2013
125-247-0600	12-1-2012	Amend	1-1-2013
125-247-0690	12-1-2012	Amend	1-1-2013
125-247-0700	12-1-2012	Amend	1-1-2013
125-247-0710	12-1-2012	Amend	1-1-2013
125-247-0720	12-1-2012	Amend	1-1-2013
125-247-0731	12-1-2012	Amend	1-1-2013
125-247-0740	12-1-2012	Amend	1-1-2013
125-247-0750	12-1-2012	Amend	1-1-2013
125-247-0760	12-1-2012	Amend	1-1-2013
125-247-0805	12-1-2012	Adopt	1-1-2013
125-247-0810	12-1-2012	Adopt	1-1-2013
125-248-0100	12-1-2012	Amend	1-1-2013
125-248-0300	12-1-2012	Amend	1-1-2013
125-249-0630	12-1-2012	Amend	1-1-2013
137-004-0900	1-2-2013	Adopt	2-1-2013
137-004-0900(T)	1-2-2013	Repeal	2-1-2013
137-110-0001	1-7-2013	Adopt	2-1-2013
137-110-0001(T)	1-7-2013	Repeal	2-1-2013
137-110-0005	1-7-2013	Adopt	2-1-2013
137-110-0005(T)	1-7-2013	Repeal	2-1-2013
137-110-0010	1-7-2013	Adopt	2-1-2013
137-110-0010(T)	1-7-2013	Repeal	2-1-2013
137-110-0020	1-7-2013	Adopt	2-1-2013
137-110-0020(T)	1-7-2013	Repeal	2-1-2013
137-110-0110	1-7-2013	Adopt	2-1-2013
137-110-0110(T)	1-7-2013	Repeal	2-1-2013
137-110-0200	1-7-2013	Adopt	2-1-2013
137-110-0200(T)	1-7-2013	Repeal	2-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
137-110-0210	1-7-2013	Adopt	2-1-2013
137-110-0210(T)	1-7-2013	Repeal	2-1-2013
137-110-0410	1-7-2013	Adopt	2-1-2013
137-110-0410(T)	1-7-2013	Repeal	2-1-2013
137-110-0420	1-7-2013	Adopt	2-1-2013
137-110-0420(T)	1-7-2013	Repeal	2-1-2013
137-110-0430	1-7-2013	Adopt	2-1-2013
137-110-0430(T)	1-7-2013	Repeal	2-1-2013
137-110-0500	1-7-2013	Adopt	2-1-2013
137-110-0500(T)	1-7-2013	Repeal	2-1-2013
137-110-0510	1-7-2013	Adopt	2-1-2013
137-110-0510(T)	1-7-2013	Repeal	2-1-2013
137-110-0520	1-7-2013	Adopt	2-1-2013
137-110-0520(T)	1-7-2013	Repeal	2-1-2013
137-110-0600	1-7-2013	Adopt	2-1-2013
137-110-0600(T)	1-7-2013	Repeal	2-1-2013
137-110-0610	1-7-2013	Adopt	2-1-2013
137-110-0610(T)	1-7-2013	Repeal	2-1-2013
137-110-0620	1-7-2013	Adopt	2-1-2013
137-110-0620(T)	1-7-2013	Repeal	2-1-2013
137-110-0630	1-7-2013	Adopt	2-1-2013
137-110-0630(T)	1-7-2013	Repeal	2-1-2013
137-110-0640	1-7-2013	Adopt	2-1-2013
137-110-0640(T)	1-7-2013	Repeal	2-1-2013
137-110-0650	1-7-2013	Adopt	2-1-2013
137-110-0650(T)	1-7-2013	Repeal	2-1-2013
137-110-0660	1-7-2013	Adopt	2-1-2013
137-110-0660(T)	1-7-2013	Repeal	2-1-2013
137-110-0670	1-7-2013	Adopt	2-1-2013
137-110-0670(T)	1-7-2013	Repeal	2-1-2013
137-120-0010	1-7-2013	Adopt	2-1-2013
137-120-0010(T)	1-7-2013	Repeal	2-1-2013
137-120-0020	1-7-2013	Adopt	2-1-2013
137-120-0020(T)	1-7-2013	Repeal	2-1-2013
141-067-0310	3-1-2013	Amend	3-1-2013
141-090-0005	1-1-2013	Amend	1-1-2013
141-090-0010	1-1-2013	Amend	1-1-2013
141-090-0015	1-1-2013	Amend	1-1-2013
141-090-0020	1-1-2013	Amend	1-1-2013
141-090-0025	1-1-2013	Amend	1-1-2013
141-090-0030	1-1-2013	Amend	1-1-2013
141-090-0032	1-1-2013	Amend	1-1-2013
141-090-0035	1-1-2013	Amend	1-1-2013
141-090-0040	1-1-2013	Amend	1-1-2013
141-090-0045	1-1-2013	Amend	1-1-2013
141-090-0050	1-1-2013	Amend	1-1-2013
141-090-0055	1-1-2013	Amend	1-1-2013
150-291.349	1-1-2013	Amend	2-1-2013
150-294.187	1-1-2013	Amend	2-1-2013
150-305.220(1)	1-1-2013	Amend	2-1-2013
150-305.220(2)	1-1-2013	Amend	2-1-2013
150-305.265(14)-(A)	1-1-2013	Am. & Ren.	2-1-2013
150-305.796	1-1-2013	Adopt	2-1-2013
150-306.115	1-1-2013	Amend	2-1-2013
150-306.115-(A)	1-1-2013	Amend	2-1-2013
150-306.115-(C)	1-1-2013	Amend	2-1-2013
150-306.871(3)	1-1-2013	Repeal	2-1-2013
150-309.110	1-1-2013	Repeal	2-1-2013
150-311.668(1)(a)-(A)	1-1-2013	Repeal	2-1-2013
150-311.668(1)(a)-(B)	1-1-2013	Repeal	2-1-2013
150-311.670(1)	1-1-2013	Amend	2-1-2013
150-311.679(10)	1-1-2013	Repeal	2-1-2013
150-311.684	1-1-2013	Amend	2-1-2013
150-311.706	1-1-2013	Repeal	2-1-2013
150-311.706(1)	1-1-2013	Repeal	2-1-2013
150-311.806-(A)	1-1-2013	Amend	2-1-2013
150-314.781	1-1-2013	Amend	2-1-2013
150-316.873	1-1-2013	Repeal	2-1-2013
150-316.874	1-1-2013	Repeal	2-1-2013
150-316.876	1-1-2013	Repeal	2-1-2013
150-316.877	1-1-2013	Repeal	2-1-2013
150-316.878	1-1-2013	Repeal	2-1-2013
150-316.879	1-1-2013	Repeal	2-1-2013
150-316.882	1-1-2013	Repeal	2-1-2013
150-316.884	1-1-2013	Repeal	2-1-2013
150-323.160(1)	1-1-2013	Amend	2-1-2013
150-323.160(2)	1-1-2013	Amend	2-1-2013
150-323.220-(A)	1-1-2013	Amend	2-1-2013
150-323.220-(B)	1-1-2013	Adopt	2-1-2013
161-002-0000	1-31-2013	Amend	3-1-2013
161-003-0020	1-31-2013	Amend	3-1-2013
161-006-0025	1-31-2013	Amend	3-1-2013
161-006-0155	1-31-2013	Adopt	3-1-2013
161-006-0160	1-31-2013	Amend	3-1-2013
161-010-0010	1-31-2013	Amend	3-1-2013
161-010-0020	1-31-2013	Amend	3-1-2013
161-010-0035	1-31-2013	Amend	3-1-2013
161-010-0045	1-31-2013	Amend	3-1-2013
161-010-0065	1-31-2013	Adopt	3-1-2013
161-010-0080	1-31-2013	Amend	3-1-2013
161-015-0000	1-31-2013	Amend	3-1-2013
161-015-0010	1-31-2013	Amend	3-1-2013
161-015-0025	1-31-2013	Amend	3-1-2013
161-015-0030	1-31-2013	Amend	3-1-2013
161-020-0005	1-31-2013	Amend	3-1-2013
161-020-0055	1-31-2013	Amend	3-1-2013
161-020-0110	1-31-2013	Amend	3-1-2013
161-025-0025	1-31-2013	Amend	3-1-2013
161-025-0030	1-31-2013	Amend	3-1-2013
161-025-0050	1-31-2013	Amend	3-1-2013
161-050-0000	1-31-2013	Amend	3-1-2013
161-050-0040	1-31-2013	Amend	3-1-2013
161-050-0050	1-31-2013	Amend	3-1-2013
161-510-0010	1-31-2013	Amend	3-1-2013
161-510-0030	1-31-2013	Repeal	3-1-2013
161-520-0010	1-31-2013	Amend	3-1-2013
161-520-0030	1-31-2013	Amend	3-1-2013
161-520-0035	1-31-2013	Adopt	3-1-2013
161-520-0045	1-31-2013	Amend	3-1-2013
161-520-0050	1-31-2013	Amend	3-1-2013
161-530-0010	1-31-2013	Amend	3-1-2013
161-570-0025	1-31-2013	Adopt	3-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
161-570-0030	1-31-2013	Amend	3-1-2013
161-570-0045	1-31-2013	Repeal	3-1-2013
161-570-0055	1-31-2013	Adopt	3-1-2013
161-570-0060	1-31-2013	Adopt	3-1-2013
162-050-0020	11-27-2012	Adopt	1-1-2013
165-013-0010	2-4-2013	Amend	3-1-2013
165-020-0440	11-29-2012	Adopt	1-1-2013
170-061-0015	12-14-2012	Amend(T)	1-1-2013
170-062-0000	11-19-2012	Amend(T)	1-1-2013
177-010-0003	2-1-2013	Amend(T)	3-1-2013
177-040-0017	1-1-2013	Amend	2-1-2013
177-040-0050	2-1-2013	Amend(T)	3-1-2013
177-040-0200	2-1-2013	Amend(T)	3-1-2013
177-046-0015	2-1-2013	Amend(T)	3-1-2013
177-046-0080	2-1-2013	Amend(T)	3-1-2013
177-046-0100	2-1-2013	Amend(T)	3-1-2013
177-046-0110	2-1-2013	Amend(T)	3-1-2013
177-046-0140	2-1-2013	Amend(T)	3-1-2013
177-050-0002	2-1-2013	Amend(T)	3-1-2013
177-050-0024	2-1-2013	Amend(T)	3-1-2013
177-050-0025	2-1-2013	Amend(T)	3-1-2013
177-050-0100	2-1-2013	Amend(T)	3-1-2013
177-051-0000	2-1-2013	Amend(T)	3-1-2013
177-051-0010	2-1-2013	Amend(T)	3-1-2013
177-051-0030	2-1-2013	Amend(T)	3-1-2013
177-051-0035	2-1-2013	Amend(T)	3-1-2013
177-051-0040	2-1-2013	Amend(T)	3-1-2013
177-051-0120	2-1-2013	Amend(T)	3-1-2013
177-051-0130	2-1-2013	Amend(T)	3-1-2013
177-052-0000	2-1-2013	Amend(T)	3-1-2013
177-052-0010	2-1-2013	Amend(T)	3-1-2013
177-052-0020	2-1-2013	Amend(T)	3-1-2013
177-052-0030	2-1-2013	Amend(T)	3-1-2013
177-052-0040	2-1-2013	Amend(T)	3-1-2013
177-052-0050	2-1-2013	Amend(T)	3-1-2013
177-052-0060	2-1-2013	Amend(T)	3-1-2013
177-052-0070	2-1-2013	Amend(T)	3-1-2013
177-070-0005	2-1-2013	Amend(T)	3-1-2013
177-094-0080	12-16-2012	Amend	1-1-2013
177-094-0080(T)	12-16-2012	Repeal	1-1-2013
177-094-0085	12-16-2012	Amend	1-1-2013
177-094-0085(T)	12-16-2012	Repeal	1-1-2013
255-062-0016	2-15-2013	Amend	3-1-2013
259-008-0005	12-27-2012	Amend	2-1-2013
259-008-0060	12-27-2012	Amend	2-1-2013
259-008-0064	12-27-2012	Amend	2-1-2013
259-008-0065	12-27-2012	Amend	2-1-2013
259-008-0066	12-27-2012	Amend	2-1-2013
259-008-0070	12-14-2012	Amend(T)	1-1-2013
259-008-0070	1-22-2013	Amend	3-1-2013
259-008-0070(T)	1-22-2013	Repeal	3-1-2013
259-008-0076	12-27-2012	Amend	2-1-2013
259-012-0005	1-24-2013	Amend	3-1-2013
259-015-0000	1-30-2013	Repeal	3-1-2013
259-015-0005	1-30-2013	Repeal	3-1-2013
259-015-0010	1-30-2013	Repeal	3-1-2013
259-020-0010	12-26-2012	Amend	2-1-2013
259-020-0015	12-26-2012	Amend	2-1-2013
259-020-0030	12-26-2012	Amend	2-1-2013
259-020-0031	12-26-2012	Repeal	2-1-2013
259-060-0010	12-24-2012	Amend	2-1-2013
259-060-0015	12-24-2012	Amend	2-1-2013
259-060-0600	12-26-2012	Amend	2-1-2013
259-061-0010	1-2-2013	Amend	2-1-2013
259-061-0015	1-2-2013	Repeal	2-1-2013
259-061-0020	1-2-2013	Amend	2-1-2013
259-061-0030	1-2-2013	Repeal	2-1-2013
259-061-0050	1-2-2013	Repeal	2-1-2013
259-061-0055	1-2-2013	Repeal	2-1-2013
259-061-0060	1-2-2013	Repeal	2-1-2013
259-061-0070	1-2-2013	Repeal	2-1-2013
259-061-0080	1-2-2013	Repeal	2-1-2013
259-061-0090	1-2-2013	Repeal	2-1-2013
259-070-0020	12-24-2012	Amend	2-1-2013
291-053-0010	1-17-2013	Amend	3-1-2013
291-053-0075	1-17-2013	Amend	3-1-2013
291-053-0085	1-17-2013	Amend	3-1-2013
291-053-0095	1-17-2013	Amend	3-1-2013
291-053-0105	1-17-2013	Amend	3-1-2013
291-053-0115	1-17-2013	Amend	3-1-2013
291-053-0125	1-17-2013	Amend	3-1-2013
291-053-0135	1-17-2013	Amend	3-1-2013
291-097-0005	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0010	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0015	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0020	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0023	12-28-2012	Suspend	2-1-2013
291-097-0025	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0030	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0031	12-28-2012	Suspend	2-1-2013
291-097-0040	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0050	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0060	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0070	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0080	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0090	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0100	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0120	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0130	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0140	12-28-2012	Am. & Ren.(T)	2-1-2013
291-097-0220	12-28-2012	Adopt(T)	2-1-2013
291-097-0225	12-28-2012	Adopt(T)	2-1-2013
291-097-0230	12-28-2012	Adopt(T)	2-1-2013
291-097-0235	12-28-2012	Adopt(T)	2-1-2013
291-097-0245	12-28-2012	Adopt(T)	2-1-2013
291-207-0100	1-1-2013	Adopt	2-1-2013
309-011-0024	12-28-2012	Adopt	2-1-2013
309-011-0026	12-28-2012	Adopt	2-1-2013
309-011-0028	12-28-2012	Adopt	2-1-2013
309-011-0030	12-28-2012	Adopt	2-1-2013
309-011-0032	12-28-2012	Adopt	2-1-2013
309-011-0034	12-28-2012	Adopt	2-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
309-011-0036	12-28-2012	Adopt	2-1-2013
309-011-0120	12-28-2012	Amend	2-1-2013
309-011-0125	12-28-2012	Amend	2-1-2013
309-011-0130	12-28-2012	Amend	2-1-2013
309-011-0135	12-28-2012	Repeal	2-1-2013
309-011-0140	12-28-2012	Renumber	2-1-2013
309-016-0825	1-7-2013	Adopt(T)	2-1-2013
309-032-1505	2-11-2013	Amend(T)	3-1-2013
309-032-1510	2-11-2013	Amend(T)	3-1-2013
309-032-1525	2-11-2013	Amend(T)	3-1-2013
309-032-1530	2-11-2013	Amend(T)	3-1-2013
309-032-1535	2-11-2013	Amend(T)	3-1-2013
309-032-1540	2-11-2013	Amend(T)	3-1-2013
309-090-0005	12-26-2012	Amend	2-1-2013
309-090-0025	12-26-2012	Amend	2-1-2013
309-112-0000	1-23-2013	Amend(T)	3-1-2013
309-112-0005	1-23-2013	Amend(T)	3-1-2013
309-112-0010	1-23-2013	Amend(T)	3-1-2013
309-112-0015	1-23-2013	Amend(T)	3-1-2013
309-112-0017	1-23-2013	Amend(T)	3-1-2013
309-112-0020	1-23-2013	Amend(T)	3-1-2013
309-112-0025	1-23-2013	Amend(T)	3-1-2013
309-112-0030	1-23-2013	Amend(T)	3-1-2013
309-112-0035	1-23-2013	Amend(T)	3-1-2013
330-070-0010	1-1-2013	Amend	2-1-2013
330-070-0013	1-1-2013	Amend	2-1-2013
330-070-0014	1-1-2013	Amend	2-1-2013
330-070-0019	1-1-2013	Amend	2-1-2013
330-070-0020	1-1-2013	Amend	2-1-2013
330-070-0021	1-1-2013	Amend	2-1-2013
330-070-0022	1-1-2013	Amend	2-1-2013
330-070-0024	1-1-2013	Amend	2-1-2013
330-070-0025	1-1-2013	Amend	2-1-2013
330-070-0026	1-1-2013	Amend	2-1-2013
330-070-0027	1-1-2013	Amend	2-1-2013
330-070-0029	1-1-2013	Amend	2-1-2013
330-070-0040	1-1-2013	Amend	2-1-2013
330-070-0045	1-1-2013	Amend	2-1-2013
330-070-0048	1-1-2013	Amend	2-1-2013
330-070-0055	1-1-2013	Amend	2-1-2013
330-070-0059	1-1-2013	Amend	2-1-2013
330-070-0060	1-1-2013	Amend	2-1-2013
330-070-0062	1-1-2013	Amend	2-1-2013
330-070-0063	1-1-2013	Amend	2-1-2013
330-070-0064	1-1-2013	Amend	2-1-2013
330-070-0070	1-1-2013	Amend	2-1-2013
330-070-0073	1-1-2013	Amend	2-1-2013
330-070-0089	1-1-2013	Amend	2-1-2013
330-070-0091	1-1-2013	Amend	2-1-2013
330-090-0140	11-16-2012	Amend(T)	1-1-2013
330-090-0160	11-16-2012	Amend(T)	1-1-2013
330-110-0005	12-20-2012	Amend	2-1-2013
330-110-0010	12-20-2012	Amend	2-1-2013
330-110-0015	12-20-2012	Amend	2-1-2013
330-110-0016	12-20-2012	Amend	2-1-2013
330-110-0020	12-20-2012	Repeal	2-1-2013
330-110-0025	12-20-2012	Amend	2-1-2013
330-110-0030	12-20-2012	Amend	2-1-2013
330-110-0035	12-20-2012	Amend	2-1-2013
330-110-0036	12-20-2012	Amend	2-1-2013
330-110-0040	12-20-2012	Amend	2-1-2013
330-110-0042	12-20-2012	Amend	2-1-2013
330-110-0045	12-20-2012	Amend	2-1-2013
330-110-0046	12-20-2012	Adopt	2-1-2013
330-110-0047	12-20-2012	Adopt	2-1-2013
330-110-0048	12-20-2012	Adopt	2-1-2013
330-110-0050	12-20-2012	Repeal	2-1-2013
330-110-0055	12-20-2012	Amend	2-1-2013
330-135-0010	1-1-2013	Amend	2-1-2013
330-135-0015	1-1-2013	Amend	2-1-2013
330-135-0018	1-1-2013	Adopt	2-1-2013
330-135-0020	1-1-2013	Amend	2-1-2013
330-135-0025	1-1-2013	Amend	2-1-2013
330-135-0030	1-1-2013	Amend	2-1-2013
330-135-0035	1-1-2013	Amend	2-1-2013
330-135-0040	1-1-2013	Amend	2-1-2013
330-135-0045	1-1-2013	Amend	2-1-2013
330-135-0047	1-1-2013	Adopt	2-1-2013
330-135-0048	1-1-2013	Adopt	2-1-2013
330-135-0050	1-1-2013	Amend	2-1-2013
330-135-0055	1-1-2013	Amend	2-1-2013
331-710-0080	11-19-2012	Amend(T)	1-1-2013
331-710-0090	11-19-2012	Amend(T)	1-1-2013
331-718-0020	11-19-2012	Amend(T)	1-1-2013
331-900-0000	1-16-2013	Amend	3-1-2013
331-900-0005	1-16-2013	Amend	3-1-2013
331-900-0010	1-16-2013	Amend	3-1-2013
331-900-0020	1-16-2013	Amend(T)	3-1-2013
331-900-0025	1-16-2013	Amend(T)	3-1-2013
331-900-0035	1-16-2013	Amend	3-1-2013
331-900-0040	1-16-2013	Amend	3-1-2013
331-900-0050	1-16-2013	Amend(T)	3-1-2013
331-900-0055	1-16-2013	Amend(T)	3-1-2013
331-900-0065	1-16-2013	Amend	3-1-2013
331-900-0080	1-16-2013	Amend	3-1-2013
331-900-0085	1-16-2013	Amend	3-1-2013
331-900-0090	1-16-2013	Amend	3-1-2013
331-900-0095	1-16-2013	Amend	3-1-2013
331-900-0097	1-16-2013	Amend	3-1-2013
331-900-0098	1-16-2013	Amend	3-1-2013
331-900-0105	1-16-2013	Amend	3-1-2013
331-900-0115	1-16-2013	Amend	3-1-2013
331-900-0120	1-16-2013	Amend	3-1-2013
331-900-0125	1-16-2013	Amend	3-1-2013
331-900-0130	1-16-2013	Amend	3-1-2013
331-905-0000	1-16-2013	Amend	3-1-2013
331-905-0005	1-16-2013	Amend	3-1-2013
331-905-0010	1-16-2013	Amend	3-1-2013
331-905-0011	1-16-2013	Amend(T)	3-1-2013
331-905-0012	1-16-2013	Amend	3-1-2013
331-905-0013	1-16-2013	Amend(T)	3-1-2013
331-905-0014	1-16-2013	Amend	3-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
331-905-0015	1-16-2013	Amend	3-1-2013
331-905-0025	1-16-2013	Amend	3-1-2013
331-905-0035	1-16-2013	Amend	3-1-2013
331-905-0040	1-16-2013	Amend	3-1-2013
331-905-0045	1-16-2013	Amend	3-1-2013
331-905-0050	1-16-2013	Amend	3-1-2013
331-905-0052	1-16-2013	Amend	3-1-2013
331-905-0055	1-16-2013	Amend	3-1-2013
331-905-0058	1-16-2013	Amend	3-1-2013
331-905-0060	1-16-2013	Amend	3-1-2013
331-905-0075	1-16-2013	Amend	3-1-2013
331-905-0080	1-16-2013	Amend	3-1-2013
331-905-0085	1-16-2013	Amend	3-1-2013
331-905-0090	1-16-2013	Amend	3-1-2013
331-905-0095	1-16-2013	Amend	3-1-2013
331-905-0100	1-16-2013	Amend	3-1-2013
331-905-0105	1-16-2013	Amend	3-1-2013
331-905-0110	1-16-2013	Amend	3-1-2013
331-905-0115	1-16-2013	Amend	3-1-2013
331-905-0120	1-16-2013	Amend	3-1-2013
331-910-0010	1-16-2013	Amend	3-1-2013
331-910-0025	1-16-2013	Amend	3-1-2013
331-910-0035	1-16-2013	Amend	3-1-2013
331-910-0050	1-16-2013	Amend	3-1-2013
331-910-0060	1-16-2013	Amend	3-1-2013
331-910-0070	1-16-2013	Amend	3-1-2013
331-910-0080	1-16-2013	Amend	3-1-2013
331-910-0085	1-16-2013	Amend	3-1-2013
331-915-0000	1-16-2013	Amend	3-1-2013
331-915-0015	1-16-2013	Amend	3-1-2013
331-915-0020	1-16-2013	Amend	3-1-2013
331-915-0025	1-16-2013	Amend	3-1-2013
331-915-0035	1-16-2013	Amend	3-1-2013
331-915-0050	1-16-2013	Amend	3-1-2013
331-915-0055	1-16-2013	Amend	3-1-2013
331-915-0060	1-16-2013	Amend	3-1-2013
331-915-0065	1-16-2013	Amend	3-1-2013
331-915-0070	1-16-2013	Amend	3-1-2013
331-915-0075	1-16-2013	Amend	3-1-2013
331-915-0080	1-16-2013	Amend	3-1-2013
331-915-0085	1-16-2013	Amend	3-1-2013
331-920-0000	1-16-2013	Amend	3-1-2013
331-920-0005	1-16-2013	Amend	3-1-2013
331-925-0000	1-16-2013	Amend	3-1-2013
331-925-0005	1-16-2013	Amend	3-1-2013
331-925-0010	1-16-2013	Amend	3-1-2013
331-925-0015	1-16-2013	Amend	3-1-2013
331-925-0020	1-16-2013	Amend	3-1-2013
331-925-0025	1-16-2013	Amend	3-1-2013
331-925-0030	1-16-2013	Amend	3-1-2013
331-925-0035	1-16-2013	Amend	3-1-2013
331-925-0040	1-16-2013	Amend	3-1-2013
331-925-0050	1-16-2013	Amend	3-1-2013
331-950-0010	1-16-2013	Amend	3-1-2013
331-950-0020	1-16-2013	Amend	3-1-2013
331-950-0040	1-16-2013	Amend	3-1-2013
333-002-0300	2-4-2013	Adopt(T)	3-1-2013
333-002-0305	2-4-2013	Adopt(T)	3-1-2013
333-002-0310	2-4-2013	Adopt(T)	3-1-2013
333-002-0315	2-4-2013	Adopt(T)	3-1-2013
333-002-0320	2-4-2013	Adopt(T)	3-1-2013
333-002-0325	2-4-2013	Adopt(T)	3-1-2013
333-002-0327	2-4-2013	Adopt(T)	3-1-2013
333-002-0340	2-4-2013	Adopt(T)	3-1-2013
333-002-0345	2-4-2013	Adopt(T)	3-1-2013
333-002-0350	2-4-2013	Adopt(T)	3-1-2013
333-002-0355	2-4-2013	Adopt(T)	3-1-2013
333-002-0360	2-4-2013	Adopt(T)	3-1-2013
333-002-0370	2-4-2013	Adopt(T)	3-1-2013
333-002-0375	2-4-2013	Adopt(T)	3-1-2013
333-002-0380	2-4-2013	Adopt(T)	3-1-2013
333-004-0000	12-26-2012	Amend	2-1-2013
333-004-0010	12-26-2012	Amend	2-1-2013
333-004-0020	12-26-2012	Amend	2-1-2013
333-004-0030	12-26-2012	Amend	2-1-2013
333-004-0040	12-26-2012	Amend	2-1-2013
333-004-0050	12-26-2012	Amend	2-1-2013
333-004-0060	12-26-2012	Amend	2-1-2013
333-004-0070	12-26-2012	Amend	2-1-2013
333-004-0080	12-26-2012	Amend	2-1-2013
333-004-0100	12-26-2012	Amend	2-1-2013
333-004-0110	12-26-2012	Amend	2-1-2013
333-004-0120	12-26-2012	Amend	2-1-2013
333-004-0130	12-26-2012	Amend	2-1-2013
333-004-0140	12-26-2012	Amend	2-1-2013
333-004-0150	12-26-2012	Amend	2-1-2013
333-004-0160	12-26-2012	Amend	2-1-2013
333-004-0170	12-26-2012	Repeal	2-1-2013
333-004-0180	12-26-2012	Repeal	2-1-2013
333-004-0190	12-26-2012	Repeal	2-1-2013
333-004-0200	12-26-2012	Adopt	2-1-2013
333-004-0210	12-26-2012	Adopt	2-1-2013
333-004-0220	12-26-2012	Adopt	2-1-2013
333-004-0230	12-26-2012	Adopt	2-1-2013
333-008-0090	1-1-2013	Amend	2-1-2013
333-010-0400	2-4-2013	Adopt	3-1-2013
333-010-0405	2-4-2013	Adopt	3-1-2013
333-010-0410	2-4-2013	Adopt	3-1-2013
333-010-0415	2-4-2013	Adopt	3-1-2013
333-010-0420	2-4-2013	Adopt	3-1-2013
333-010-0425	2-4-2013	Adopt	3-1-2013
333-010-0430	2-4-2013	Adopt	3-1-2013
333-010-0435	2-4-2013	Adopt	3-1-2013
333-010-0440	2-4-2013	Adopt	3-1-2013
333-010-0445	2-4-2013	Adopt	3-1-2013
333-010-0450	2-4-2013	Adopt	3-1-2013
333-010-0455	2-4-2013	Adopt	3-1-2013
333-010-0460	2-4-2013	Adopt	3-1-2013
333-010-0465	2-4-2013	Adopt	3-1-2013
333-010-0470	2-4-2013	Adopt	3-1-2013
333-012-0260	2-4-2013	Repeal	3-1-2013
333-012-0262	2-4-2013	Repeal	3-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
333-012-0264	2-4-2013	Repeal	3-1-2013
333-012-0265	2-4-2013	Repeal	3-1-2013
333-012-0266	2-4-2013	Repeal	3-1-2013
333-012-0267	2-4-2013	Repeal	3-1-2013
333-012-0268	2-4-2013	Repeal	3-1-2013
333-012-0269	2-4-2013	Repeal	3-1-2013
333-012-0270	2-4-2013	Repeal	3-1-2013
333-012-0280	2-4-2013	Am. & Ren.	3-1-2013
333-012-0290	2-4-2013	Am. & Ren.	3-1-2013
333-012-0300	2-4-2013	Renumber	3-1-2013
333-012-0310	2-4-2013	Renumber	3-1-2013
333-012-0320	2-4-2013	Renumber	3-1-2013
333-012-0330	2-4-2013	Renumber	3-1-2013
333-012-0340	2-4-2013	Am. & Ren.	3-1-2013
333-012-0350	2-4-2013	Renumber	3-1-2013
333-012-0360	2-4-2013	Renumber	3-1-2013
333-012-0370	2-4-2013	Renumber	3-1-2013
333-012-0380	2-4-2013	Renumber	3-1-2013
333-012-0390	2-4-2013	Renumber	3-1-2013
333-012-0400	2-4-2013	Am. & Ren.	3-1-2013
333-022-0200	2-4-2013	Adopt	3-1-2013
333-022-0205	2-4-2013	Adopt	3-1-2013
333-022-0210	2-4-2013	Adopt	3-1-2013
333-022-0300	2-4-2013	Adopt	3-1-2013
333-022-0305	2-4-2013	Adopt	3-1-2013
333-022-0310	2-4-2013	Adopt	3-1-2013
333-022-0315	2-4-2013	Adopt	3-1-2013
333-030-0015	1-25-2013	Amend	3-1-2013
333-030-0020	1-25-2013	Amend	3-1-2013
333-030-0025	1-25-2013	Amend	3-1-2013
333-030-0030	1-25-2013	Amend	3-1-2013
333-030-0035	1-25-2013	Amend	3-1-2013
333-030-0040	1-25-2013	Amend	3-1-2013
333-030-0045	1-25-2013	Repeal	3-1-2013
333-030-0050	1-25-2013	Amend	3-1-2013
333-030-0055	1-25-2013	Amend	3-1-2013
333-030-0060	1-25-2013	Amend	3-1-2013
333-030-0065	1-25-2013	Amend	3-1-2013
333-030-0070	1-25-2013	Amend	3-1-2013
333-030-0075	1-25-2013	Amend	3-1-2013
333-030-0080	1-25-2013	Amend	3-1-2013
333-030-0085	1-25-2013	Amend	3-1-2013
333-030-0090	1-25-2013	Amend	3-1-2013
333-030-0095	1-25-2013	Amend	3-1-2013
333-030-0100	1-25-2013	Amend	3-1-2013
333-030-0103	1-25-2013	Amend	3-1-2013
333-030-0105	1-25-2013	Amend	3-1-2013
333-030-0110	1-25-2013	Amend	3-1-2013
333-030-0115	1-25-2013	Amend	3-1-2013
333-030-0120	1-25-2013	Amend	3-1-2013
333-030-0125	1-25-2013	Amend	3-1-2013
333-030-0130	1-25-2013	Amend	3-1-2013
333-052-0030	12-20-2012	Amend	2-1-2013
333-052-0040	12-20-2012	Amend	2-1-2013
333-052-0043	12-20-2012	Adopt	2-1-2013
333-052-0044	12-20-2012	Adopt	2-1-2013
333-052-0050	12-20-2012	Amend	2-1-2013
333-052-0060	12-20-2012	Amend	2-1-2013
333-052-0065	12-20-2012	Amend	2-1-2013
333-052-0070	12-20-2012	Amend	2-1-2013
333-052-0080	12-20-2012	Amend	2-1-2013
333-052-0090	12-20-2012	Amend	2-1-2013
333-052-0100	12-20-2012	Amend	2-1-2013
333-052-0120	12-20-2012	Amend	2-1-2013
333-052-0130	12-20-2012	Amend	2-1-2013
333-061-0025	1-25-2013	Amend	3-1-2013
333-061-0030	1-25-2013	Amend	3-1-2013
333-061-0032	1-25-2013	Amend	3-1-2013
333-061-0034	1-25-2013	Amend	3-1-2013
333-061-0036	1-25-2013	Amend	3-1-2013
333-061-0040	1-25-2013	Amend	3-1-2013
333-061-0042	1-25-2013	Amend	3-1-2013
333-061-0043	1-25-2013	Amend	3-1-2013
333-061-0045	1-25-2013	Amend	3-1-2013
333-061-0050	1-25-2013	Amend	3-1-2013
333-061-0058	1-25-2013	Repeal	3-1-2013
333-061-0065	1-25-2013	Amend	3-1-2013
333-061-0070	1-25-2013	Amend	3-1-2013
333-061-0071	1-25-2013	Amend	3-1-2013
333-061-0072	1-25-2013	Amend	3-1-2013
333-061-0073	1-25-2013	Amend	3-1-2013
333-061-0074	1-25-2013	Amend	3-1-2013
333-061-0077	1-25-2013	Amend	3-1-2013
333-061-0087	1-25-2013	Amend	3-1-2013
333-061-0090	1-25-2013	Amend	3-1-2013
333-061-0098	1-25-2013	Amend	3-1-2013
333-061-0220	1-25-2013	Amend	3-1-2013
333-061-0225	1-25-2013	Amend	3-1-2013
333-061-0228	1-25-2013	Amend	3-1-2013
333-061-0235	1-25-2013	Amend	3-1-2013
333-061-0245	1-25-2013	Amend	3-1-2013
333-061-0250	1-25-2013	Amend	3-1-2013
333-061-0335	1-25-2013	Amend	3-1-2013
333-100-0005	1-29-2013	Amend	3-1-2013
333-102-0115	1-29-2013	Amend	3-1-2013
333-102-0203	1-29-2013	Amend	3-1-2013
333-102-0250	1-29-2013	Amend	3-1-2013
333-102-0285	1-29-2013	Amend	3-1-2013
333-102-0340	1-29-2013	Amend	3-1-2013
333-106-0045	1-29-2013	Amend	3-1-2013
333-106-0101	1-29-2013	Amend	3-1-2013
333-106-0305	1-29-2013	Amend	3-1-2013
333-106-0315	1-29-2013	Amend	3-1-2013
333-106-0325	1-29-2013	Amend	3-1-2013
333-106-0370	1-29-2013	Amend	3-1-2013
333-106-0720	1-29-2013	Amend	3-1-2013
333-116-0040	1-29-2013	Amend	3-1-2013
333-116-0050	1-29-2013	Amend	3-1-2013
333-116-0090	1-29-2013	Amend	3-1-2013
333-116-0405	1-29-2013	Repeal	3-1-2013
333-116-0640	1-29-2013	Amend	3-1-2013
333-116-0660	1-29-2013	Amend	3-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
333-116-0670	1-29-2013	Amend	3-1-2013
333-116-0680	1-29-2013	Amend	3-1-2013
333-116-0683	1-29-2013	Amend	3-1-2013
333-116-0687	1-29-2013	Amend	3-1-2013
333-116-0690	1-29-2013	Amend	3-1-2013
333-116-0700	1-29-2013	Amend	3-1-2013
333-116-0715	1-29-2013	Amend	3-1-2013
333-116-0720	1-29-2013	Amend	3-1-2013
333-116-0740	1-29-2013	Amend	3-1-2013
333-116-0880	1-29-2013	Amend	3-1-2013
333-116-0905	1-29-2013	Amend	3-1-2013
333-118-0150	1-29-2013	Amend	3-1-2013
333-119-0040	1-29-2013	Amend	3-1-2013
333-119-0041	1-29-2013	Adopt	3-1-2013
333-119-0080	1-29-2013	Amend	3-1-2013
333-120-0630	1-29-2013	Amend	3-1-2013
333-120-0730	1-29-2013	Amend	3-1-2013
333-123-0005	1-29-2013	Amend	3-1-2013
333-123-0055	1-29-2013	Adopt	3-1-2013
333-123-0060	1-29-2013	Adopt	3-1-2013
333-123-0065	1-29-2013	Adopt	3-1-2013
333-123-0070	1-29-2013	Adopt	3-1-2013
333-123-0075	1-29-2013	Adopt	3-1-2013
333-123-0080	1-29-2013	Adopt	3-1-2013
333-123-0085	1-29-2013	Adopt	3-1-2013
333-123-0090	1-29-2013	Adopt	3-1-2013
333-123-0095	1-29-2013	Adopt	3-1-2013
333-123-0100	1-29-2013	Adopt	3-1-2013
333-123-0105	1-29-2013	Adopt	3-1-2013
333-123-0110	1-29-2013	Adopt	3-1-2013
333-123-0115	1-29-2013	Adopt	3-1-2013
333-200-0010	1-1-2013	Amend	2-1-2013
333-200-0020	1-1-2013	Amend	2-1-2013
333-200-0080	1-1-2013	Amend	2-1-2013
333-200-0090	1-1-2013	Amend	2-1-2013
333-250-0010	1-25-2013	Amend	3-1-2013
333-250-0020	1-25-2013	Amend	3-1-2013
333-250-0030	1-25-2013	Amend	3-1-2013
333-250-0031	1-25-2013	Adopt	3-1-2013
333-250-0040	1-25-2013	Amend	3-1-2013
333-250-0041	1-25-2013	Amend	3-1-2013
333-250-0042	1-25-2013	Amend	3-1-2013
333-250-0043	1-25-2013	Amend	3-1-2013
333-250-0044	1-25-2013	Amend	3-1-2013
333-250-0045	1-25-2013	Amend	3-1-2013
333-250-0047	1-25-2013	Amend	3-1-2013
333-250-0048	1-25-2013	Amend	3-1-2013
333-250-0050	1-25-2013	Amend	3-1-2013
333-250-0060	1-25-2013	Amend	3-1-2013
333-250-0070	1-25-2013	Amend	3-1-2013
333-250-0080	1-25-2013	Amend	3-1-2013
333-250-0100	1-25-2013	Amend	3-1-2013
333-255-0000	1-25-2013	Amend	3-1-2013
333-255-0010	1-25-2013	Amend	3-1-2013
333-255-0020	1-25-2013	Amend	3-1-2013
333-255-0030	1-25-2013	Amend	3-1-2013
333-255-0040	1-25-2013	Amend	3-1-2013
333-255-0050	1-25-2013	Amend	3-1-2013
333-255-0060	1-25-2013	Amend	3-1-2013
333-255-0070	1-25-2013	Amend	3-1-2013
333-255-0071	1-25-2013	Amend	3-1-2013
333-255-0072	1-25-2013	Amend	3-1-2013
333-255-0073	1-25-2013	Amend	3-1-2013
333-255-0079	1-25-2013	Amend	3-1-2013
333-255-0080	1-25-2013	Amend	3-1-2013
333-255-0081	1-25-2013	Amend	3-1-2013
333-255-0082	1-25-2013	Amend	3-1-2013
333-255-0090	1-25-2013	Amend	3-1-2013
333-255-0091	1-25-2013	Amend	3-1-2013
333-255-0092	1-25-2013	Amend	3-1-2013
333-255-0093	1-25-2013	Amend	3-1-2013
333-265-0000	1-25-2013	Amend	3-1-2013
333-265-0010	1-25-2013	Amend	3-1-2013
333-265-0011	1-25-2013	Adopt	3-1-2013
333-265-0014	1-25-2013	Amend	3-1-2013
333-265-0015	1-25-2013	Amend	3-1-2013
333-265-0023	1-25-2013	Amend	3-1-2013
333-265-0024	1-25-2013	Adopt	3-1-2013
333-265-0025	1-25-2013	Amend	3-1-2013
333-265-0050	1-25-2013	Amend	3-1-2013
333-265-0060	1-25-2013	Amend	3-1-2013
333-265-0085	1-25-2013	Amend	3-1-2013
333-265-0105	1-25-2013	Amend	3-1-2013
333-265-0110	1-25-2013	Amend	3-1-2013
333-265-0160	1-25-2013	Amend	3-1-2013
333-265-0190	1-25-2013	Repeal	3-1-2013
333-500-0005	1-1-2013	Amend	2-1-2013
333-500-0010	1-1-2013	Amend	2-1-2013
333-500-0031	1-1-2013	Amend	2-1-2013
333-500-0032	1-1-2013	Amend	2-1-2013
333-500-0038	1-1-2013	Amend	2-1-2013
333-505-0001	1-1-2013	Amend	2-1-2013
333-505-0005	1-1-2013	Amend	2-1-2013
333-505-0007	1-1-2013	Amend	2-1-2013
333-505-0010	1-1-2013	Amend	2-1-2013
333-505-0030	1-1-2013	Amend	2-1-2013
333-505-0033	1-1-2013	Amend	2-1-2013
333-505-0050	1-1-2013	Amend	2-1-2013
333-505-0060	1-1-2013	Amend	2-1-2013
333-505-0080	1-1-2013	Amend	2-1-2013
333-510-0020	1-1-2013	Amend	2-1-2013
333-510-0040	1-1-2013	Amend	2-1-2013
333-520-0035	1-1-2013	Amend	2-1-2013
333-520-0050	1-1-2013	Amend	2-1-2013
333-520-0060	1-1-2013	Amend	2-1-2013
333-520-0070	1-1-2013	Amend	2-1-2013
333-525-0010	1-1-2013	Repeal	2-1-2013
334-001-0060	1-1-2013	Amend	1-1-2013
334-010-0027	1-1-2013	Amend	1-1-2013
334-010-0029	1-1-2013	Amend	1-1-2013
334-010-0046	1-1-2013	Amend	1-1-2013
334-040-0010	1-1-2013	Amend	1-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
335-005-0010	12-14-2012	Amend	1-1-2013
335-060-0005	12-14-2012	Amend	1-1-2013
335-060-0006	12-14-2012	Adopt	1-1-2013
335-060-0007	12-14-2012	Adopt	1-1-2013
335-080-0005	12-14-2012	Amend	1-1-2013
335-080-0010	12-14-2012	Amend	1-1-2013
335-080-0015	12-14-2012	Amend	1-1-2013
335-080-0025	12-14-2012	Amend	1-1-2013
335-095-0030	12-14-2012	Amend	1-1-2013
335-095-0040	12-14-2012	Amend	1-1-2013
335-095-0050	12-14-2012	Amend	1-1-2013
340-048-0055	1-16-2013	Amend	3-1-2013
340-049-0010	3-1-2013	Amend	3-1-2013
340-049-0015	3-1-2013	Amend	3-1-2013
340-049-0020	3-1-2013	Amend	3-1-2013
340-049-0025	3-1-2013	Amend	3-1-2013
340-049-0030	3-1-2013	Amend	3-1-2013
340-049-0035	3-1-2013	Amend	3-1-2013
340-049-0040	3-1-2013	Amend	3-1-2013
340-049-0055	3-1-2013	Amend	3-1-2013
340-049-0060	3-1-2013	Amend	3-1-2013
340-049-0065	3-1-2013	Amend	3-1-2013
340-049-0085	3-1-2013	Amend	3-1-2013
340-054-0005	12-14-2012	Amend	1-1-2013
340-054-0010	12-14-2012	Amend	1-1-2013
340-054-0011	12-14-2012	Adopt	1-1-2013
340-054-0015	12-14-2012	Amend	1-1-2013
340-054-0020	12-14-2012	Repeal	1-1-2013
340-054-0021	12-14-2012	Repeal	1-1-2013
340-054-0022	12-14-2012	Amend	1-1-2013
340-054-0023	12-14-2012	Repeal	1-1-2013
340-054-0024	12-14-2012	Repeal	1-1-2013
340-054-0025	12-14-2012	Amend	1-1-2013
340-054-0026	12-14-2012	Adopt	1-1-2013
340-054-0027	12-14-2012	Adopt	1-1-2013
340-054-0035	12-14-2012	Repeal	1-1-2013
340-054-0036	12-14-2012	Adopt	1-1-2013
340-054-0055	12-14-2012	Repeal	1-1-2013
340-054-0056	12-14-2012	Adopt	1-1-2013
340-054-0060	12-14-2012	Amend	1-1-2013
340-054-0065	12-14-2012	Amend	1-1-2013
340-054-0085	12-14-2012	Repeal	1-1-2013
340-054-0087	12-14-2012	Repeal	1-1-2013
340-054-0090	12-14-2012	Repeal	1-1-2013
340-054-0093	12-14-2012	Repeal	1-1-2013
340-054-0095	12-14-2012	Repeal	1-1-2013
340-054-0097	12-14-2012	Repeal	1-1-2013
340-054-0098	12-14-2012	Repeal	1-1-2013
340-054-0100	12-14-2012	Amend	1-1-2013
340-054-0102	12-14-2012	Amend	1-1-2013
340-054-0104	12-14-2012	Amend	1-1-2013
340-054-0106	12-14-2012	Amend	1-1-2013
340-054-0108	12-14-2012	Amend	1-1-2013
340-200-0040	12-10-2012	Amend	1-1-2013
340-200-0040	12-11-2012	Amend	1-1-2013
340-204-0010	12-11-2012	Amend	1-1-2013
340-220-0030	12-11-2012	Amend	1-1-2013
340-220-0040	12-11-2012	Amend	1-1-2013
340-220-0050	12-11-2012	Amend	1-1-2013
340-225-0090	12-11-2012	Amend	1-1-2013
340-240-0010	12-11-2012	Amend	1-1-2013
340-240-0030	12-11-2012	Amend	1-1-2013
340-240-0500	12-11-2012	Adopt	1-1-2013
340-240-0510	12-11-2012	Adopt	1-1-2013
340-240-0520	12-11-2012	Adopt	1-1-2013
340-240-0530	12-11-2012	Adopt	1-1-2013
340-240-0540	12-11-2012	Adopt	1-1-2013
340-240-0550	12-11-2012	Adopt	1-1-2013
340-240-0560	12-11-2012	Adopt	1-1-2013
340-240-0570	12-11-2012	Adopt	1-1-2013
340-240-0580	12-11-2012	Adopt	1-1-2013
340-240-0610	12-11-2012	Adopt	1-1-2013
340-240-0620	12-11-2012	Adopt	1-1-2013
340-240-0630	12-11-2012	Adopt	1-1-2013
340-253-0000	12-11-2012	Adopt	1-1-2013
340-253-0040	12-11-2012	Adopt	1-1-2013
340-253-0060	12-11-2012	Adopt	1-1-2013
340-253-0100	12-11-2012	Adopt	1-1-2013
340-253-0200	12-11-2012	Adopt	1-1-2013
340-253-0250	12-11-2012	Adopt	1-1-2013
340-253-0310	12-11-2012	Adopt	1-1-2013
340-253-0320	12-11-2012	Adopt	1-1-2013
340-253-0330	12-11-2012	Adopt	1-1-2013
340-253-0340	12-11-2012	Adopt	1-1-2013
340-253-0400	12-11-2012	Adopt	1-1-2013
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340-253-0600	12-11-2012	Adopt	1-1-2013
340-253-0630	12-11-2012	Adopt	1-1-2013
340-253-0650	12-11-2012	Adopt	1-1-2013
340-253-1000	12-11-2012	Adopt	1-1-2013
340-253-1010	12-11-2012	Adopt	1-1-2013
340-253-1020	12-11-2012	Adopt	1-1-2013
340-253-1030	12-11-2012	Adopt	1-1-2013
340-253-3000	12-11-2012	Adopt	1-1-2013
340-253-3010	12-11-2012	Adopt	1-1-2013
340-253-3020	12-11-2012	Adopt	1-1-2013
340-253-3030	12-11-2012	Adopt	1-1-2013
340-253-3040	12-11-2012	Adopt	1-1-2013
340-253-3050	12-11-2012	Adopt	1-1-2013
340-262-1000	12-11-2012	Adopt	1-1-2013
340-264-0040	12-11-2012	Amend	1-1-2013
340-264-0078	12-11-2012	Amend	1-1-2013
340-264-0080	12-11-2012	Amend	1-1-2013
340-264-0100	12-11-2012	Amend	1-1-2013
340-264-0175	12-11-2012	Adopt	1-1-2013
345-029-0060	1-28-2013	Amend	3-1-2013
345-060-0004	1-28-2013	Amend	3-1-2013
345-060-0007	1-28-2013	Amend	3-1-2013
345-060-0025	1-28-2013	Amend	3-1-2013
407-007-0210	2-5-2013	Amend(T)	3-1-2013
407-007-0290	2-5-2013	Amend(T)	3-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
409-021-0130	2-1-2013	Amend	3-1-2013
409-025-0160	2-1-2013	Amend	3-1-2013
409-035-0020	2-1-2013	Amend	3-1-2013
409-060-0100	2-1-2013	Adopt	3-1-2013
409-060-0110	2-1-2013	Adopt	3-1-2013
409-060-0120	2-1-2013	Adopt	3-1-2013
409-060-0130	2-1-2013	Adopt	3-1-2013
409-060-0140	2-1-2013	Adopt	3-1-2013
409-060-0150	2-1-2013	Adopt	3-1-2013
410-120-0006	12-1-2012	Amend(T)	1-1-2013
410-120-0006	1-1-2013	Amend	2-1-2013
410-120-0006	1-1-2013	Amend(T)	2-1-2013
410-120-0006	1-8-2013	Amend(T)	2-1-2013
410-120-0006	1-30-2013	Amend(T)	3-1-2013
410-120-0006(T)	12-1-2012	Suspend	1-1-2013
410-120-0006(T)	1-1-2013	Repeal	2-1-2013
410-120-0006(T)	1-1-2013	Suspend	2-1-2013
410-120-0006(T)	1-8-2013	Suspend	2-1-2013
410-120-0006(T)	1-30-2013	Suspend	3-1-2013
410-120-1210	1-1-2013	Amend(T)	2-1-2013
410-121-0030	1-1-2013	Amend	2-1-2013
410-121-0030(T)	1-1-2013	Repeal	2-1-2013
410-121-0033	1-1-2013	Amend	2-1-2013
410-121-0033(T)	1-1-2013	Repeal	2-1-2013
410-121-0040	1-1-2013	Amend	2-1-2013
410-121-0040(T)	1-1-2013	Repeal	2-1-2013
410-121-0100	1-1-2013	Amend	2-1-2013
410-121-0100(T)	1-1-2013	Repeal	2-1-2013
410-121-0111	1-1-2013	Adopt	2-1-2013
410-121-0111(T)	1-1-2013	Repeal	2-1-2013
410-121-0190	12-28-2012	Amend(T)	2-1-2013
410-122-0186	12-27-2012	Amend	2-1-2013
410-122-0325	12-27-2012	Amend	2-1-2013
410-130-0180	12-28-2012	Amend(T)	2-1-2013
410-130-0240	12-28-2012	Amend(T)	2-1-2013
410-141-3060	1-1-2013	Amend(T)	2-1-2013
410-141-3060	2-7-2013	Amend(T)	3-1-2013
410-141-3060(T)	2-7-2013	Suspend	3-1-2013
410-141-3160	1-4-2013	Amend(T)	2-1-2013
410-147-0400	1-1-2013	Amend(T)	2-1-2013
411-020-0002	11-28-2012	Amend	1-1-2013
411-020-0002(T)	11-28-2012	Repeal	1-1-2013
411-020-0030	11-28-2012	Amend	1-1-2013
411-020-0030(T)	11-28-2012	Repeal	1-1-2013
411-020-0085	11-28-2012	Amend	1-1-2013
411-020-0085(T)	11-28-2012	Repeal	1-1-2013
411-020-0123	11-28-2012	Adopt	1-1-2013
411-020-0123(T)	11-28-2012	Repeal	1-1-2013
411-020-0126	11-28-2012	Adopt	1-1-2013
411-020-0126(T)	11-28-2012	Repeal	1-1-2013
411-070-0470	1-1-2013	Amend(T)	2-1-2013
411-330-0020	1-4-2013	Amend	2-1-2013
411-330-0020(T)	1-4-2013	Repeal	2-1-2013
411-330-0065	1-4-2013	Adopt	2-1-2013
411-330-0065(T)	1-4-2013	Repeal	2-1-2013
413-020-0236	1-15-2013	Amend	2-1-2013
413-020-0245	1-15-2013	Amend	2-1-2013
413-030-0000	1-15-2013	Amend	2-1-2013
413-030-0003	1-15-2013	Amend	2-1-2013
413-030-0006	1-15-2013	Amend	2-1-2013
413-030-0009	1-15-2013	Amend	2-1-2013
413-030-0013	1-15-2013	Amend	2-1-2013
413-030-0016	1-15-2013	Amend	2-1-2013
413-030-0019	1-15-2013	Amend	2-1-2013
413-030-0023	1-15-2013	Amend	2-1-2013
413-030-0026	1-15-2013	Amend	2-1-2013
413-030-0030	1-15-2013	Amend	2-1-2013
413-030-0405	1-15-2013	Amend	2-1-2013
413-030-0410	1-15-2013	Amend	2-1-2013
413-030-0445	1-15-2013	Amend	2-1-2013
413-030-0449	1-15-2013	Amend	2-1-2013
413-030-0454	1-15-2013	Amend	2-1-2013
413-030-0456	1-15-2013	Adopt	2-1-2013
413-040-0005	1-15-2013	Amend	2-1-2013
413-040-0006	1-15-2013	Amend	2-1-2013
413-040-0008	1-15-2013	Amend	2-1-2013
413-040-0009	1-15-2013	Amend	2-1-2013
413-040-0010	1-15-2013	Amend	2-1-2013
413-040-0011	1-15-2013	Amend	2-1-2013
413-040-0013	1-15-2013	Amend	2-1-2013
413-040-0016	1-15-2013	Amend	2-1-2013
413-040-0017	1-15-2013	Amend	2-1-2013
413-040-0024	1-15-2013	Amend	2-1-2013
413-040-0032	1-15-2013	Amend	2-1-2013
413-040-0210	1-15-2013	Amend	2-1-2013
413-040-0215	1-15-2013	Amend	2-1-2013
413-040-0240	1-15-2013	Amend	2-1-2013
413-040-0270	1-15-2013	Amend	2-1-2013
413-040-0290	1-15-2013	Amend	2-1-2013
413-040-0300	1-15-2013	Amend	2-1-2013
413-070-0524	1-15-2013	Amend	2-1-2013
413-070-0536	1-15-2013	Amend	2-1-2013
413-070-0551	1-15-2013	Amend	2-1-2013
413-070-0552	1-15-2013	Amend	2-1-2013
413-070-0556	1-15-2013	Amend	2-1-2013
413-070-0565	1-15-2013	Amend	2-1-2013
413-070-0620	1-15-2013	Amend	2-1-2013
413-070-0625	1-15-2013	Amend	2-1-2013
413-070-0630	1-15-2013	Amend	2-1-2013
413-070-0640	1-15-2013	Amend	2-1-2013
413-080-0040	1-15-2013	Amend	2-1-2013
413-080-0050	1-15-2013	Amend	2-1-2013
413-080-0052	1-15-2013	Amend	2-1-2013
413-080-0054	1-15-2013	Adopt	2-1-2013
413-080-0055	1-15-2013	Amend	2-1-2013
413-080-0059	1-15-2013	Amend	2-1-2013
413-080-0063	1-15-2013	Repeal	2-1-2013
413-080-0067	1-15-2013	Amend	2-1-2013
413-120-0860	1-15-2013	Amend	2-1-2013
415-012-0000	1-14-2013	Amend(T)	2-1-2013
415-012-0010	1-14-2013	Amend(T)	2-1-2013
415-012-0020	1-14-2013	Amend(T)	2-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
415-012-0030	1-14-2013	Amend(T)	2-1-2013
415-020-0053	1-14-2013	Amend(T)	2-1-2013
415-050-0000	2-4-2013	Amend(T)	3-1-2013
415-050-0005	2-4-2013	Amend(T)	3-1-2013
415-050-0015	2-4-2013	Amend(T)	3-1-2013
415-050-0025	2-4-2013	Amend(T)	3-1-2013
415-050-0035	2-4-2013	Amend(T)	3-1-2013
415-050-0040	2-4-2013	Amend(T)	3-1-2013
415-050-0045	2-4-2013	Amend(T)	3-1-2013
415-050-0050	2-4-2013	Amend(T)	3-1-2013
415-050-0055	2-4-2013	Amend(T)	3-1-2013
415-050-0060	2-4-2013	Amend(T)	3-1-2013
415-050-0065	2-4-2013	Amend(T)	3-1-2013
415-050-0070	2-4-2013	Amend(T)	3-1-2013
415-050-0075	2-4-2013	Amend(T)	3-1-2013
415-050-0090	2-4-2013	Amend(T)	3-1-2013
436-001-0003	12-28-2012	Amend	1-1-2013
436-001-0004	12-28-2012	Amend	1-1-2013
436-001-0005	12-28-2012	Amend	1-1-2013
436-001-0009	12-28-2012	Amend	1-1-2013
436-001-0019	12-28-2012	Amend	1-1-2013
436-001-0023	12-28-2012	Amend	1-1-2013
436-001-0170	12-28-2012	Amend	1-1-2013
436-001-0225	12-28-2012	Amend	1-1-2013
436-001-0246	12-28-2012	Amend	1-1-2013
436-001-0300	12-28-2012	Repeal	1-1-2013
436-001-0410	12-28-2012	Amend	1-1-2013
436-001-0420	12-28-2012	Amend	1-1-2013
436-001-0430	12-28-2012	Amend	1-1-2013
436-035-0002	1-1-2013	Amend	1-1-2013
436-035-0003	1-1-2013	Amend	1-1-2013
436-035-0005	1-1-2013	Amend	1-1-2013
436-035-0007	1-1-2013	Amend	1-1-2013
436-035-0008	1-1-2013	Amend	1-1-2013
436-035-0009	1-1-2013	Amend	1-1-2013
436-035-0011	1-1-2013	Amend	1-1-2013
436-035-0012	1-1-2013	Amend	1-1-2013
436-035-0017	1-1-2013	Amend	1-1-2013
436-035-0018	1-1-2013	Amend	1-1-2013
436-035-0030	1-1-2013	Amend	1-1-2013
436-035-0040	1-1-2013	Amend	1-1-2013
436-035-0110	1-1-2013	Amend	1-1-2013
436-035-0230	1-1-2013	Amend	1-1-2013
436-035-0235	1-1-2013	Amend	1-1-2013
436-035-0255	1-1-2013	Amend	1-1-2013
436-035-0260	1-1-2013	Amend	1-1-2013
436-035-0265	1-1-2013	Amend	1-1-2013
436-035-0340	1-1-2013	Amend	1-1-2013
436-035-0350	1-1-2013	Amend	1-1-2013
436-035-0370	1-1-2013	Amend	1-1-2013
436-035-0380	1-1-2013	Amend	1-1-2013
436-035-0385	1-1-2013	Amend	1-1-2013
436-035-0390	1-1-2013	Amend	1-1-2013
436-035-0395	1-1-2013	Amend	1-1-2013
436-035-0400	1-1-2013	Amend	1-1-2013
436-035-0410	1-1-2013	Amend	1-1-2013
436-035-0420	1-1-2013	Amend	1-1-2013
436-035-0430	1-1-2013	Amend	1-1-2013
436-035-0440	1-1-2013	Amend	1-1-2013
436-035-0450	1-1-2013	Amend	1-1-2013
436-035-0500	1-1-2013	Amend	1-1-2013
436-050-0003	1-23-2013	Amend(T)	3-1-2013
436-050-0175	1-1-2013	Amend	1-1-2013
436-050-0300	1-23-2013	Amend(T)	3-1-2013
436-070-0002	4-1-2013	Amend	1-1-2013
436-070-0003	4-1-2013	Amend	1-1-2013
436-070-0010	4-1-2013	Amend	1-1-2013
437-002-0005	12-14-2012	Amend	1-1-2013
437-002-0020	4-1-2013	Amend	3-1-2013
437-002-0023	4-1-2013	Adopt	3-1-2013
437-002-0120	12-14-2012	Amend	1-1-2013
437-002-0134	4-1-2013	Amend	3-1-2013
437-002-0240	12-14-2012	Amend	1-1-2013
437-003-0001	12-14-2012	Amend	1-1-2013
437-003-0001	2-14-2013	Amend	3-1-2013
437-003-0001	4-1-2013	Amend	3-1-2013
437-003-0128	4-1-2013	Repeal	3-1-2013
437-003-0134	4-1-2013	Adopt	3-1-2013
437-005-0001	12-14-2012	Amend	1-1-2013
437-005-0002	12-14-2012	Amend	1-1-2013
437-005-0003	12-14-2012	Amend	1-1-2013
438-005-0015	4-1-2013	Amend	3-1-2013
438-009-0005	4-1-2013	Amend	3-1-2013
438-009-0020	4-1-2013	Amend	3-1-2013
438-011-0010	4-1-2013	Amend	3-1-2013
438-011-0045	4-1-2013	Amend	3-1-2013
438-012-0001	4-1-2013	Amend	3-1-2013
438-012-0020	4-1-2013	Amend	3-1-2013
438-012-0031	4-1-2013	Amend	3-1-2013
438-012-0035	4-1-2013	Amend	3-1-2013
438-012-0036	4-1-2013	Amend	3-1-2013
438-012-0050	4-1-2013	Amend	3-1-2013
438-012-0060	4-1-2013	Amend	3-1-2013
438-012-0062	4-1-2013	Amend	3-1-2013
438-016-0005	4-1-2013	Amend	3-1-2013
438-019-0010	4-1-2013	Amend	3-1-2013
438-020-0010	4-1-2013	Amend	3-1-2013
438-022-0005	4-1-2013	Amend	3-1-2013
441-505-3090	1-23-2013	Adopt	3-1-2013
441-505-3090(T)	1-23-2013	Repeal	3-1-2013
441-710-0270	2-1-2013	Amend(T)	2-1-2013
442-005-0000	1-1-2013	Amend	2-1-2013
442-005-0010	1-1-2013	Amend	2-1-2013
442-005-0020	1-1-2013	Amend	2-1-2013
442-005-0030	1-1-2013	Amend	2-1-2013
442-005-0040	1-1-2013	Amend	2-1-2013
442-005-0050	1-1-2013	Amend	2-1-2013
442-005-0070	1-1-2013	Amend	2-1-2013
442-005-0080	1-1-2013	Amend	2-1-2013
442-005-0090	1-1-2013	Amend	2-1-2013
442-005-0100	1-1-2013	Amend	2-1-2013
442-005-0110	1-1-2013	Amend	2-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
442-005-0130	1-1-2013	Amend	2-1-2013
442-005-0140	1-1-2013	Amend	2-1-2013
442-005-0150	1-1-2013	Amend	2-1-2013
442-005-0160	1-1-2013	Amend	2-1-2013
442-005-0170	1-1-2013	Amend	2-1-2013
442-005-0180	1-1-2013	Amend	2-1-2013
442-005-0190	1-1-2013	Amend	2-1-2013
442-005-0200	1-1-2013	Amend	2-1-2013
442-005-0210	1-1-2013	Amend	2-1-2013
442-005-0220	1-1-2013	Amend	2-1-2013
442-005-0230	1-1-2013	Amend	2-1-2013
442-005-0235	1-1-2013	Adopt	2-1-2013
442-005-0240	1-1-2013	Amend	2-1-2013
442-005-0260	1-1-2013	Amend	2-1-2013
442-005-0270	1-1-2013	Amend	2-1-2013
442-005-0280	1-1-2013	Amend	2-1-2013
442-005-0290	1-1-2013	Amend	2-1-2013
442-005-0300	1-1-2013	Amend	2-1-2013
442-005-0310	1-1-2013	Amend	2-1-2013
442-005-0320	1-1-2013	Amend	2-1-2013
442-005-0330	1-1-2013	Amend	2-1-2013
442-005-0340	1-1-2013	Amend	2-1-2013
442-005-0350	1-1-2013	Repeal	2-1-2013
442-010-0010	1-1-2013	Amend	2-1-2013
442-010-0020	1-1-2013	Amend	2-1-2013
442-010-0030	1-1-2013	Amend	2-1-2013
442-010-0040	1-1-2013	Amend	2-1-2013
442-010-0050	1-1-2013	Amend	2-1-2013
442-010-0055	1-1-2013	Amend	2-1-2013
442-010-0060	1-1-2013	Amend	2-1-2013
442-010-0070	1-1-2013	Amend	2-1-2013
442-010-0075	1-1-2013	Amend	2-1-2013
442-010-0080	1-1-2013	Amend	2-1-2013
442-010-0085	1-1-2013	Amend	2-1-2013
442-010-0090	1-1-2013	Amend	2-1-2013
442-010-0100	1-1-2013	Amend	2-1-2013
442-010-0110	1-1-2013	Repeal	2-1-2013
442-010-0120	1-1-2013	Amend	2-1-2013
442-010-0140	1-1-2013	Amend	2-1-2013
442-010-0150	1-1-2013	Amend	2-1-2013
442-010-0160	1-1-2013	Amend	2-1-2013
442-010-0170	1-1-2013	Amend	2-1-2013
442-010-0180	1-1-2013	Amend	2-1-2013
442-010-0190	1-1-2013	Amend	2-1-2013
442-010-0210	1-1-2013	Amend	2-1-2013
442-010-0215	1-1-2013	Amend	2-1-2013
442-010-0220	1-1-2013	Amend	2-1-2013
442-010-0230	1-1-2013	Amend	2-1-2013
442-010-0240	1-1-2013	Amend	2-1-2013
442-010-0260	1-1-2013	Amend	2-1-2013
442-010-0270	1-1-2013	Amend	2-1-2013
442-010-0280	1-1-2013	Repeal	2-1-2013
459-005-0040	1-25-2013	Amend	3-1-2013
459-005-0400	12-5-2012	Adopt	1-1-2013
459-009-0200	1-25-2013	Amend	3-1-2013
459-035-0001	12-5-2012	Amend	1-1-2013
459-035-0200	12-5-2012	Repeal	1-1-2013
459-035-0220	12-5-2012	Repeal	1-1-2013
461-115-0016	1-1-2013	Amend	2-1-2013
461-115-0016(T)	1-1-2013	Repeal	2-1-2013
461-115-0430	1-1-2013	Amend	2-1-2013
461-120-0340	12-29-2012	Amend	2-1-2013
461-125-0830	1-1-2013	Amend(T)	2-1-2013
461-130-0310	1-1-2013	Amend(T)	2-1-2013
461-130-0330	1-1-2013	Amend	2-1-2013
461-130-0335	1-1-2013	Amend	2-1-2013
461-135-0089	1-1-2013	Amend	2-1-2013
461-135-0400	1-1-2013	Amend(T)	2-1-2013
461-135-0407	1-1-2013	Adopt	2-1-2013
461-135-0407(T)	1-1-2013	Repeal	2-1-2013
461-135-0780	1-1-2013	Amend(T)	2-1-2013
461-135-1102	12-1-2012	Amend(T)	1-1-2013
461-145-0080	12-29-2012	Amend	2-1-2013
461-145-0220	1-1-2013	Amend(T)	2-1-2013
461-145-0260	1-1-2013	Amend	2-1-2013
461-145-0260	1-1-2013	Amend(T)	2-1-2013
461-145-0260(T)	1-1-2013	Repeal	2-1-2013
461-145-0580	1-1-2013	Amend	2-1-2013
461-145-0580(T)	1-1-2013	Repeal	2-1-2013
461-155-0150	1-1-2013	Amend(T)	2-1-2013
461-155-0180	1-30-2013	Amend	3-1-2013
461-155-0180	2-1-2013	Amend(T)	3-1-2013
461-155-0235	1-30-2013	Amend	3-1-2013
461-155-0250	1-1-2013	Amend(T)	2-1-2013
461-155-0270	1-1-2013	Amend(T)	2-1-2013
461-155-0270	1-8-2013	Amend(T)	2-1-2013
461-155-0270(T)	1-8-2013	Suspend	2-1-2013
461-155-0300	1-1-2013	Amend(T)	2-1-2013
461-160-0015	1-1-2013	Amend	2-1-2013
461-160-0015	1-1-2013	Amend(T)	2-1-2013
461-160-0055	1-1-2013	Amend	2-1-2013
461-160-0055(T)	1-1-2013	Repeal	2-1-2013
461-160-0580	1-1-2013	Amend	2-1-2013
461-160-0620	1-1-2013	Amend	2-1-2013
461-165-0010	2-6-2013	Amend	3-1-2013
461-165-0060	1-1-2013	Amend	2-1-2013
461-180-0100	1-1-2013	Amend	2-1-2013
461-190-0211	1-1-2013	Amend(T)	2-1-2013
461-190-0211	1-23-2013	Amend(T)	3-1-2013
461-190-0211(T)	1-1-2013	Suspend	2-1-2013
461-190-0211(T)	1-23-2013	Suspend	3-1-2013
462-130-0010	12-31-2012	Amend	2-1-2013
574-050-0005	1-28-2013	Amend	3-1-2013
576-010-0000	1-1-2013	Amend	2-1-2013
576-026-0005	1-1-2013	Repeal	2-1-2013
576-026-0010	1-1-2013	Repeal	2-1-2013
576-050-0015	1-1-2013	Amend	2-1-2013
576-055-0000	1-16-2013	Adopt	3-1-2013
576-055-0010	1-16-2013	Adopt	3-1-2013
576-055-0020	1-16-2013	Adopt	3-1-2013
576-055-0030	1-16-2013	Adopt	3-1-2013
576-055-0040	1-16-2013	Adopt	3-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
576-055-0050	1-16-2013	Adopt	3-1-2013
576-055-0060	1-16-2013	Adopt	3-1-2013
576-055-0070	1-16-2013	Adopt	3-1-2013
576-055-0080	1-16-2013	Adopt	3-1-2013
576-055-0090	1-16-2013	Adopt	3-1-2013
576-055-0100	1-16-2013	Adopt	3-1-2013
576-055-0110	1-16-2013	Adopt	3-1-2013
576-055-0120	1-16-2013	Adopt	3-1-2013
576-055-0130	1-16-2013	Adopt	3-1-2013
576-055-0140	1-16-2013	Adopt	3-1-2013
576-055-0150	1-16-2013	Adopt	3-1-2013
576-055-0160	1-16-2013	Adopt	3-1-2013
576-056-0000	1-1-2013	Adopt	2-1-2013
576-056-0010	1-1-2013	Adopt	2-1-2013
576-056-0020	1-1-2013	Adopt	2-1-2013
576-056-0030	1-1-2013	Adopt	2-1-2013
576-056-0040	1-1-2013	Adopt	2-1-2013
576-056-0050	1-1-2013	Adopt	2-1-2013
576-056-0060	1-1-2013	Adopt	2-1-2013
576-056-0070	1-1-2013	Adopt	2-1-2013
576-056-0080	1-1-2013	Adopt	2-1-2013
576-056-0090	1-1-2013	Adopt	2-1-2013
576-056-0100	1-1-2013	Adopt	2-1-2013
576-056-0110	1-1-2013	Adopt	2-1-2013
576-056-0120	1-1-2013	Adopt	2-1-2013
576-056-0130	1-1-2013	Adopt	2-1-2013
579-070-0005	12-20-2012	Amend	2-1-2013
581-001-0016	1-15-2013	Adopt	2-1-2013
581-002-0090	1-15-2013	Adopt	2-1-2013
581-015-2110	1-17-2013	Amend	3-1-2013
581-021-0500	1-17-2013	Amend	3-1-2013
581-021-0500(T)	1-17-2013	Repeal	3-1-2013
581-022-1065	1-15-2013	Repeal	2-1-2013
581-045-0003	1-15-2013	Amend	2-1-2013
581-045-0586	1-17-2013	Amend	3-1-2013
581-045-0586(T)	1-17-2013	Repeal	3-1-2013
584-005-0005	2-14-2013	Amend	3-1-2013
584-018-0205	2-14-2013	Amend	3-1-2013
584-018-0220	11-19-2012	Adopt	1-1-2013
584-018-0305	2-14-2013	Amend	3-1-2013
584-036-0082	11-19-2012	Repeal	1-1-2013
584-052-0030	11-19-2012	Repeal	1-1-2013
584-052-0031	11-19-2012	Repeal	1-1-2013
584-052-0032	11-19-2012	Repeal	1-1-2013
584-052-0033	11-19-2012	Repeal	1-1-2013
584-066-0015	2-14-2013	Adopt	3-1-2013
584-070-0411	2-14-2013	Amend	3-1-2013
584-080-0031	11-19-2012	Amend	1-1-2013
584-090-0115	11-19-2012	Amend	1-1-2013
584-100-0016	2-14-2013	Amend	3-1-2013
584-100-0038	11-19-2012	Amend	1-1-2013
584-100-0038	2-14-2013	Amend	3-1-2013
584-100-0091	11-19-2012	Amend	1-1-2013
584-100-0096	11-19-2012	Amend	1-1-2013
584-100-0101	2-14-2013	Amend	3-1-2013
584-100-0106	2-14-2013	Amend	3-1-2013
585-001-0007	12-17-2012	Adopt	2-1-2013
585-001-0009	12-17-2012	Adopt	2-1-2013
589-002-0100	12-26-2012	Amend	2-1-2013
589-002-0110	12-26-2012	Adopt	2-1-2013
589-002-0120	12-26-2012	Adopt	2-1-2013
589-002-0130	12-26-2012	Adopt	2-1-2013
589-007-0700	12-26-2012	Amend	2-1-2013
603-013-0905	2-7-2013	Adopt	3-1-2013
603-013-0910	2-7-2013	Adopt	3-1-2013
603-013-0920	2-7-2013	Adopt	3-1-2013
603-013-0932	2-7-2013	Adopt	3-1-2013
603-017-0900	2-7-2013	Adopt	3-1-2013
603-017-0910	2-7-2013	Adopt	3-1-2013
603-017-0920	2-7-2013	Adopt	3-1-2013
603-017-0930	2-7-2013	Adopt	3-1-2013
603-021-0900	2-7-2013	Adopt	3-1-2013
603-021-0910	2-7-2013	Adopt	3-1-2013
603-021-0920	2-7-2013	Adopt	3-1-2013
603-021-0930	2-7-2013	Adopt	3-1-2013
603-022-0900	2-7-2013	Adopt	3-1-2013
603-022-0910	2-7-2013	Adopt	3-1-2013
603-022-0920	2-7-2013	Adopt	3-1-2013
603-022-0930	2-7-2013	Adopt	3-1-2013
603-024-0900	2-7-2013	Adopt	3-1-2013
603-024-0910	2-7-2013	Adopt	3-1-2013
603-024-0920	2-7-2013	Adopt	3-1-2013
603-024-0930	2-7-2013	Adopt	3-1-2013
603-025-0030	1-1-2013	Amend	2-1-2013
603-025-0900	2-7-2013	Adopt	3-1-2013
603-025-0910	2-7-2013	Adopt	3-1-2013
603-025-0920	2-7-2013	Adopt	3-1-2013
603-025-0930	2-7-2013	Adopt	3-1-2013
603-028-0900	2-7-2013	Adopt	3-1-2013
603-028-0910	2-7-2013	Adopt	3-1-2013
603-028-0920	2-7-2013	Adopt	3-1-2013
603-028-0930	2-7-2013	Adopt	3-1-2013
603-047-0010	12-21-2012	Adopt	2-1-2013
603-047-0100	12-21-2012	Adopt	2-1-2013
603-047-0200	12-21-2012	Adopt	2-1-2013
603-047-0300	12-21-2012	Adopt	2-1-2013
603-047-0400	12-21-2012	Adopt	2-1-2013
603-047-0500	12-21-2012	Adopt	2-1-2013
603-052-0850	2-6-2013	Repeal	3-1-2013
603-052-0852	2-6-2013	Repeal	3-1-2013
603-052-0860	2-6-2013	Amend	3-1-2013
603-052-0861	2-6-2013	Adopt	3-1-2013
603-052-0862	2-6-2013	Adopt	3-1-2013
603-052-0870	2-6-2013	Amend	3-1-2013
603-052-0880	2-6-2013	Amend	3-1-2013
603-052-0882	2-6-2013	Adopt	3-1-2013
603-052-0884	2-6-2013	Adopt	3-1-2013
603-052-0886	2-6-2013	Adopt	3-1-2013
603-052-0888	2-6-2013	Adopt	3-1-2013
603-052-0901	2-6-2013	Adopt	3-1-2013
603-052-0921	2-6-2013	Adopt	3-1-2013
603-052-1080	12-3-2012	Adopt	1-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
603-052-1090	12-3-2012	Adopt	1-1-2013
603-052-1206	12-12-2012	Adopt	1-1-2013
603-052-1209	12-12-2012	Adopt	1-1-2013
603-052-1211	12-12-2012	Adopt	1-1-2013
603-100-0900	2-7-2013	Adopt	3-1-2013
603-100-0910	2-7-2013	Adopt	3-1-2013
603-100-0920	2-7-2013	Adopt	3-1-2013
603-100-0930	2-7-2013	Adopt	3-1-2013
635-004-0220	1-1-2013	Amend	2-1-2013
635-004-0275	1-3-2013	Amend	2-1-2013
635-004-0310	1-1-2013	Amend	2-1-2013
635-004-0350	1-1-2013	Amend	2-1-2013
635-004-0355	1-1-2013	Amend	2-1-2013
635-004-0465	1-1-2013	Amend	2-1-2013
635-005-0410	1-1-2013	Amend	2-1-2013
635-005-0465	12-12-2012	Amend(T)	1-1-2013
635-005-0465(T)	12-12-2012	Suspend	1-1-2013
635-005-0480	1-1-2013	Amend	2-1-2013
635-005-0585	1-1-2013	Amend	2-1-2013
635-005-0740	1-1-2013	Amend	2-1-2013
635-005-0800	1-1-2013	Amend	2-1-2013
635-006-0001	1-1-2013	Amend	2-1-2013
635-006-0200	1-1-2013	Amend	2-1-2013
635-006-0210	1-1-2013	Amend	2-1-2013
635-006-0211	1-1-2013	Amend	2-1-2013
635-006-0215	1-1-2013	Amend	2-1-2013
635-006-0232	1-14-2013	Amend	2-1-2013
635-008-0175	1-1-2013	Amend	2-1-2013
635-011-0100	1-1-2013	Amend	2-1-2013
635-011-0102	1-1-2013	Amend	2-1-2013
635-013-0003	1-1-2013	Amend	2-1-2013
635-013-0004	1-1-2013	Amend	2-1-2013
635-014-0080	1-1-2013	Amend	2-1-2013
635-014-0090	1-1-2013	Amend	2-1-2013
635-016-0080	1-1-2013	Amend	2-1-2013
635-016-0090	1-1-2013	Amend	2-1-2013
635-016-0090	1-1-2013	Amend(T)	2-1-2013
635-017-0080	1-1-2013	Amend	2-1-2013
635-017-0090	1-1-2013	Amend	2-1-2013
635-017-0095	1-1-2013	Amend	2-1-2013
635-017-0095	2-14-2013	Amend(T)	3-1-2013
635-018-0080	1-1-2013	Amend	2-1-2013
635-018-0090	1-1-2013	Amend	2-1-2013
635-019-0080	1-1-2013	Amend	2-1-2013
635-019-0090	1-1-2013	Amend	2-1-2013
635-019-0090	1-1-2013	Amend(T)	2-1-2013
635-021-0080	1-1-2013	Amend	2-1-2013
635-021-0090	1-1-2013	Amend	2-1-2013
635-023-0080	1-1-2013	Amend	2-1-2013
635-023-0090	1-1-2013	Amend	2-1-2013
635-023-0095	1-1-2013	Amend	2-1-2013
635-023-0095	1-1-2013	Amend(T)	2-1-2013
635-023-0095	2-28-2013	Amend(T)	3-1-2013
635-023-0095(T)	2-28-2013	Suspend	3-1-2013
635-023-0125	1-1-2013	Amend	2-1-2013
635-023-0125	2-28-2013	Amend(T)	3-1-2013
635-023-0128	1-1-2013	Amend	2-1-2013
635-023-0130	1-1-2013	Amend	2-1-2013
635-023-0134	1-1-2013	Amend	2-1-2013
635-039-0080	1-3-2013	Amend	2-1-2013
635-039-0090	1-1-2013	Amend	2-1-2013
635-039-0090	1-1-2013	Amend(T)	2-1-2013
635-041-0020	1-1-2013	Amend	2-1-2013
635-041-0045	2-1-2013	Amend(T)	3-1-2013
635-041-0065	2-1-2013	Amend(T)	3-1-2013
635-042-0135	1-31-2013	Amend(T)	3-1-2013
635-042-0145	2-11-2013	Amend(T)	3-1-2013
635-042-0160	2-11-2013	Amend(T)	3-1-2013
635-042-0170	2-11-2013	Amend(T)	3-1-2013
635-042-0180	2-11-2013	Amend(T)	3-1-2013
635-045-0000	1-1-2013	Amend	2-1-2013
635-045-0002	1-1-2013	Amend	2-1-2013
635-053-0035	1-23-2013	Amend(T)	3-1-2013
635-056-0050	12-18-2012	Amend	2-1-2013
635-056-0075	12-18-2012	Amend	2-1-2013
635-060-0005	1-23-2013	Amend	3-1-2013
635-065-0001	1-1-2013	Amend	2-1-2013
635-065-0011	1-1-2013	Adopt	2-1-2013
635-065-0011	2-7-2013	Amend	3-1-2013
635-065-0015	1-1-2013	Amend	2-1-2013
635-065-0090	1-1-2013	Amend	2-1-2013
635-065-0401	1-1-2013	Amend	2-1-2013
635-065-0625	1-1-2013	Amend	2-1-2013
635-065-0735	1-1-2013	Amend	2-1-2013
635-065-0740	1-1-2013	Amend	2-1-2013
635-065-0760	1-1-2013	Amend	2-1-2013
635-065-0765	2-1-2013	Amend	2-1-2013
635-065-0765	2-7-2013	Amend	3-1-2013
635-065-0765(T)	2-7-2013	Repeal	3-1-2013
635-066-0000	1-1-2013	Amend	2-1-2013
635-066-0010	1-1-2013	Amend	2-1-2013
635-066-0020	1-1-2013	Amend	2-1-2013
635-067-0000	1-1-2013	Amend	2-1-2013
635-067-0004	1-1-2013	Amend	2-1-2013
635-068-0000	3-1-2013	Amend	3-1-2013
635-069-0000	2-1-2013	Amend	2-1-2013
635-070-0020	2-7-2013	Amend	3-1-2013
635-072-0000	1-1-2013	Amend	2-1-2013
635-073-0000	2-1-2013	Amend	2-1-2013
635-073-0065	2-1-2013	Amend	2-1-2013
635-073-0070	2-1-2013	Amend	2-1-2013
635-078-0011	1-1-2013	Amend	2-1-2013
635-095-0125	12-31-2012	Amend(T)	2-1-2013
635-500-6650	1-14-2013	Adopt	2-1-2013
635-500-6700	1-1-2013	Adopt	2-1-2013
635-500-6705	1-1-2013	Adopt	2-1-2013
635-500-6710	1-1-2013	Adopt	2-1-2013
635-500-6715	1-1-2013	Adopt	2-1-2013
635-500-6720	1-1-2013	Adopt	2-1-2013
635-500-6725	1-1-2013	Adopt	2-1-2013
635-500-6730	1-1-2013	Adopt	2-1-2013
635-500-6735	1-1-2013	Adopt	2-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
635-500-6740	1-1-2013	Adopt	2-1-2013
635-500-6745	1-1-2013	Adopt	2-1-2013
635-500-6750	1-1-2013	Adopt	2-1-2013
635-500-6755	1-1-2013	Adopt	2-1-2013
635-500-6760	1-1-2013	Adopt	2-1-2013
635-500-6765	1-1-2013	Adopt	2-1-2013
660-006-0005	2-1-2013	Amend	3-1-2013
660-006-0025	2-1-2013	Amend	3-1-2013
660-024-0040	12-10-2012	Amend	1-1-2013
660-024-0045	12-10-2012	Adopt	1-1-2013
660-033-0130	1-29-2013	Amend	3-1-2013
660-044-0000	1-1-2013	Amend	1-1-2013
660-044-0005	1-1-2013	Amend	1-1-2013
660-044-0040	1-1-2013	Adopt	1-1-2013
660-044-0045	1-1-2013	Adopt	1-1-2013
660-044-0050	1-1-2013	Adopt	1-1-2013
660-044-0055	1-1-2013	Adopt	1-1-2013
660-044-0060	1-1-2013	Adopt	1-1-2013
690-501-0005	12-12-2012	Amend	1-1-2013
690-501-0010	12-12-2012	Amend	1-1-2013
690-501-0020	12-12-2012	Repeal	1-1-2013
690-501-0030	12-12-2012	Amend	1-1-2013
690-515-0000	12-12-2012	Amend	1-1-2013
690-515-0010	12-12-2012	Amend	1-1-2013
690-515-0020	12-12-2012	Amend	1-1-2013
690-515-0030	12-12-2012	Amend	1-1-2013
690-515-0040	12-12-2012	Amend	1-1-2013
690-515-0050	12-12-2012	Amend	1-1-2013
690-515-0060	12-12-2012	Amend	1-1-2013
690-516-0005	12-12-2012	Amend	1-1-2013
690-516-0010	12-12-2012	Amend	1-1-2013
690-516-0020	12-12-2012	Repeal	1-1-2013
690-516-0030	12-12-2012	Amend	1-1-2013
690-517-0000	12-12-2012	Amend	1-1-2013
690-517-0020	12-12-2012	Amend	1-1-2013
690-517-0030	12-12-2012	Amend	1-1-2013
690-517-0040	12-12-2012	Amend	1-1-2013
690-517-0050	12-12-2012	Repeal	1-1-2013
690-518-0010	12-12-2012	Amend	1-1-2013
690-518-0030	12-12-2012	Amend	1-1-2013
690-518-0040	12-12-2012	Repeal	1-1-2013
690-518-0050	12-12-2012	Amend	1-1-2013
695-045-0010	1-30-2013	Amend	3-1-2013
695-045-0020	1-30-2013	Amend	3-1-2013
695-045-0025	1-30-2013	Repeal	3-1-2013
695-045-0030	1-30-2013	Repeal	3-1-2013
695-045-0035	1-30-2013	Repeal	3-1-2013
695-045-0040	1-30-2013	Repeal	3-1-2013
695-045-0045	1-30-2013	Repeal	3-1-2013
695-045-0050	1-30-2013	Repeal	3-1-2013
695-045-0055	1-30-2013	Repeal	3-1-2013
695-045-0060	1-30-2013	Repeal	3-1-2013
695-045-0065	1-30-2013	Repeal	3-1-2013
695-045-0070	1-30-2013	Repeal	3-1-2013
695-045-0080	1-30-2013	Repeal	3-1-2013
695-045-0090	1-30-2013	Repeal	3-1-2013
695-045-0100	1-30-2013	Repeal	3-1-2013
695-045-0110	1-30-2013	Repeal	3-1-2013
695-045-0120	1-30-2013	Repeal	3-1-2013
695-045-0130	1-30-2013	Repeal	3-1-2013
695-045-0140	1-30-2013	Repeal	3-1-2013
695-045-0150	1-30-2013	Repeal	3-1-2013
695-045-0160	1-30-2013	Adopt	3-1-2013
695-045-0165	1-30-2013	Adopt	3-1-2013
695-045-0170	1-30-2013	Adopt	3-1-2013
695-045-0175	1-30-2013	Adopt	3-1-2013
695-045-0180	1-30-2013	Adopt	3-1-2013
695-045-0185	1-30-2013	Adopt	3-1-2013
695-045-0190	1-30-2013	Adopt	3-1-2013
695-045-0195	1-30-2013	Adopt	3-1-2013
695-045-0200	1-30-2013	Adopt	3-1-2013
695-045-0205	1-30-2013	Adopt	3-1-2013
695-045-0210	1-30-2013	Adopt	3-1-2013
695-045-0215	1-30-2013	Adopt	3-1-2013
734-010-0220	11-21-2012	Amend	1-1-2013
734-010-0290	11-21-2012	Amend	1-1-2013
734-010-0300	11-21-2012	Amend	1-1-2013
734-010-0310	11-21-2012	Repeal	1-1-2013
734-010-0320	11-21-2012	Amend	1-1-2013
734-010-0330	11-21-2012	Amend	1-1-2013
734-010-0340	11-21-2012	Amend	1-1-2013
734-010-0350	11-21-2012	Amend	1-1-2013
734-010-0370	11-21-2012	Repeal	1-1-2013
734-010-0380	11-21-2012	Amend	1-1-2013
734-030-0005	3-1-2013	Amend	3-1-2013
734-030-0010	3-1-2013	Amend	3-1-2013
734-030-0015	3-1-2013	Amend	3-1-2013
734-030-0016	3-1-2013	Adopt	3-1-2013
734-059-0100	11-20-2012	Amend	1-1-2013
734-073-0090	12-21-2012	Repeal	2-1-2013
735-001-0062	1-1-2013	Adopt	2-1-2013
735-012-0000	11-19-2012	Amend	1-1-2013
735-012-0000(T)	11-19-2012	Repeal	1-1-2013
735-062-0080	2-1-2013	Amend	3-1-2013
735-070-0006	11-19-2012	Adopt	1-1-2013
736-010-0060	11-16-2012	Amend	1-1-2013
736-015-0006	11-16-2012	Amend	1-1-2013
736-015-0015	11-16-2012	Amend	1-1-2013
736-018-0045	12-31-2012	Amend	1-1-2013
736-021-0010	2-1-2013	Amend	2-1-2013
736-021-0020	2-1-2013	Amend	2-1-2013
736-021-0030	2-1-2013	Amend	2-1-2013
736-021-0040	2-1-2013	Amend	2-1-2013
736-021-0050	2-1-2013	Amend	2-1-2013
736-021-0060	2-1-2013	Amend	2-1-2013
736-021-0065	2-1-2013	Adopt	2-1-2013
736-021-0070	2-1-2013	Amend	2-1-2013
736-021-0080	2-1-2013	Amend	2-1-2013
736-021-0090	2-1-2013	Amend	2-1-2013
736-021-0100	2-1-2013	Amend	2-1-2013
736-021-0110	2-1-2013	Repeal	2-1-2013
736-021-0120	2-1-2013	Amend	2-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
736-021-0130	2-1-2013	Amend	2-1-2013
736-021-0140	2-1-2013	Amend	2-1-2013
736-021-0150	2-1-2013	Amend	2-1-2013
736-021-0160	2-1-2013	Amend	2-1-2013
736-045-0006	12-13-2012	Adopt	1-1-2013
736-045-0011	12-13-2012	Adopt	1-1-2013
736-045-0100	12-13-2012	Adopt	1-1-2013
736-045-0200	12-13-2012	Adopt	1-1-2013
736-045-0300	12-13-2012	Adopt	1-1-2013
736-045-0305	12-13-2012	Adopt	1-1-2013
736-045-0310	12-13-2012	Adopt	1-1-2013
736-045-0320	12-13-2012	Adopt	1-1-2013
736-045-0330	12-13-2012	Adopt	1-1-2013
736-045-0340	12-13-2012	Adopt	1-1-2013
736-045-0400	12-13-2012	Adopt	1-1-2013
736-045-0405	12-13-2012	Adopt	1-1-2013
736-045-0410	12-13-2012	Adopt	1-1-2013
736-045-0412	12-13-2012	Adopt	1-1-2013
736-045-0414	12-13-2012	Adopt	1-1-2013
736-045-0416	12-13-2012	Adopt	1-1-2013
736-045-0418	12-13-2012	Adopt	1-1-2013
736-045-0420	12-13-2012	Adopt	1-1-2013
736-045-0422	12-13-2012	Adopt	1-1-2013
736-045-0424	12-13-2012	Adopt	1-1-2013
736-045-0426	12-13-2012	Adopt	1-1-2013
736-045-0428	12-13-2012	Adopt	1-1-2013
736-045-0430	12-13-2012	Adopt	1-1-2013
736-045-0432	12-13-2012	Adopt	1-1-2013
736-045-0434	12-13-2012	Adopt	1-1-2013
736-045-0436	12-13-2012	Adopt	1-1-2013
736-045-0438	12-13-2012	Adopt	1-1-2013
736-045-0440	12-13-2012	Adopt	1-1-2013
736-045-0442	12-13-2012	Adopt	1-1-2013
736-045-0444	12-13-2012	Adopt	1-1-2013
736-045-0446	12-13-2012	Adopt	1-1-2013
736-045-0448	12-13-2012	Adopt	1-1-2013
736-045-0500	12-13-2012	Adopt	1-1-2013
736-045-0505	12-13-2012	Adopt	1-1-2013
740-060-0030	1-18-2013	Amend(T)	3-1-2013
740-060-0040	1-18-2013	Amend(T)	3-1-2013
740-060-0080	1-18-2013	Amend(T)	3-1-2013
740-200-0010	1-17-2013	Amend	3-1-2013
740-200-0020	1-17-2013	Amend	3-1-2013
740-200-0040	1-17-2013	Amend	3-1-2013
800-001-0020	2-1-2013	Amend	2-1-2013
800-010-0020	2-1-2013	Amend	2-1-2013
800-010-0030	2-1-2013	Amend	2-1-2013
800-015-0010	2-1-2013	Amend	2-1-2013
800-020-0015	2-1-2013	Amend	2-1-2013
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800-020-0035	2-1-2013	Amend	2-1-2013
800-030-0025	2-1-2013	Amend	2-1-2013
801-001-0035	1-8-2013	Amend	2-1-2013
804-010-0000	11-21-2012	Amend	1-1-2013
804-010-0000(T)	11-21-2012	Repeal	1-1-2013
804-020-0001	11-21-2012	Amend	1-1-2013
804-020-0001(T)	11-21-2012	Repeal	1-1-2013
804-020-0003	11-21-2012	Amend	1-1-2013
804-020-0003(T)	11-21-2012	Repeal	1-1-2013
804-020-0010	11-21-2012	Amend	1-1-2013
804-020-0010(T)	11-21-2012	Repeal	1-1-2013
804-020-0015	11-21-2012	Amend	1-1-2013
804-020-0015(T)	11-21-2012	Repeal	1-1-2013
804-020-0030	11-21-2012	Amend	1-1-2013
804-020-0030(T)	11-21-2012	Repeal	1-1-2013
804-020-0040	11-21-2012	Amend	1-1-2013
804-020-0040(T)	11-21-2012	Repeal	1-1-2013
804-020-0045	11-21-2012	Amend	1-1-2013
804-020-0045(T)	11-21-2012	Repeal	1-1-2013
804-020-0065	11-21-2012	Amend	1-1-2013
804-020-0065(T)	11-21-2012	Repeal	1-1-2013
804-040-0000	11-21-2012	Amend	1-1-2013
804-040-0000(T)	11-21-2012	Repeal	1-1-2013
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806-010-0105	2-12-2013	Amend	3-1-2013
808-002-0020	12-4-2012	Amend	1-1-2013
808-002-0755	2-1-2013	Adopt	3-1-2013
808-005-0020	12-4-2012	Amend	1-1-2013
808-040-0025	12-4-2012	Amend	1-1-2013
808-040-0050	12-4-2012	Amend	1-1-2013
808-040-0060	12-4-2012	Amend	1-1-2013
809-001-0000	12-21-2012	Amend	1-1-2013
809-001-0020	12-21-2012	Repeal	1-1-2013
809-001-0025	12-21-2012	Repeal	1-1-2013
809-001-0030	12-21-2012	Repeal	1-1-2013
809-010-0025	12-21-2012	Amend	1-1-2013
809-020-0030	12-21-2012	Amend	1-1-2013
809-055-0000	12-21-2012	Amend	1-1-2013
811-015-0080	11-28-2012	Adopt	1-1-2013
813-004-0200	1-4-2013	Adopt	2-1-2013
813-004-0210	1-4-2013	Adopt	2-1-2013
813-004-0220	1-4-2013	Adopt	2-1-2013
813-004-0230	1-4-2013	Adopt	2-1-2013
813-004-0240	1-4-2013	Adopt	2-1-2013
813-004-0250	1-4-2013	Adopt	2-1-2013
813-004-0260	1-4-2013	Adopt	2-1-2013
813-004-0270	1-4-2013	Adopt	2-1-2013
813-004-0280	1-4-2013	Adopt	2-1-2013
813-004-0290	1-4-2013	Adopt	2-1-2013
813-004-0300	1-4-2013	Adopt	2-1-2013
813-004-0310	1-4-2013	Adopt	2-1-2013
813-250-0000	12-6-2012	Amend(T)	1-1-2013
813-250-0010	12-6-2012	Suspend	1-1-2013
813-250-0020	12-6-2012	Amend(T)	1-1-2013
813-250-0030	12-6-2012	Amend(T)	1-1-2013
813-250-0040	12-6-2012	Amend(T)	1-1-2013
813-250-0050	12-6-2012	Suspend	1-1-2013
833-020-0051	2-1-2013	Amend	2-1-2013
833-020-0081	2-1-2013	Amend	2-1-2013
833-030-0041	2-1-2013	Amend	2-1-2013
833-040-0041	2-1-2013	Amend	2-1-2013
836-011-0000	2-6-2013	Amend	3-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
836-031-0765	2-6-2013	Amend	3-1-2013
836-053-1404	12-20-2012	Amend(T)	2-1-2013
836-053-1405	12-20-2012	Amend(T)	2-1-2013
837-085-0040	2-1-2013	Amend	3-1-2013
837-085-0070	2-1-2013	Amend	3-1-2013
837-085-0080	2-1-2013	Amend	3-1-2013
839-009-0335	11-21-2012	Amend	1-1-2013
839-009-0390	11-21-2012	Amend	1-1-2013
839-009-0410	11-21-2012	Amend	1-1-2013
839-025-0700	1-1-2013	Amend	2-1-2013
845-015-0170	1-1-2013	Amend	2-1-2013
847-008-0040	1-11-2013	Amend(T)	2-1-2013
847-008-0065	1-11-2013	Amend	2-1-2013
847-050-0027	1-11-2013	Amend	2-1-2013
847-050-0041	1-11-2013	Amend	2-1-2013
847-050-0041(T)	1-11-2013	Repeal	2-1-2013
847-050-0065	1-11-2013	Amend	2-1-2013
847-050-0065(T)	1-11-2013	Repeal	2-1-2013
848-005-0020	1-1-2013	Amend(T)	1-1-2013
852-001-0001	1-3-2013	Amend	2-1-2013
852-001-0002	1-3-2013	Amend	2-1-2013
852-005-0005	1-3-2013	Amend	2-1-2013
852-005-0015	1-3-2013	Amend	2-1-2013
852-005-0030	1-3-2013	Amend	2-1-2013
852-005-0040	1-3-2013	Repeal	2-1-2013
852-010-0005	1-3-2013	Amend	2-1-2013
852-010-0015	1-3-2013	Amend	2-1-2013
852-010-0020	1-3-2013	Amend	2-1-2013
852-010-0022	1-3-2013	Amend	2-1-2013
852-010-0023	1-3-2013	Amend	2-1-2013
852-010-0030	1-3-2013	Amend	2-1-2013
852-010-0035	1-3-2013	Amend	2-1-2013
852-010-0051	1-3-2013	Amend	2-1-2013
852-010-0080	1-3-2013	Amend	2-1-2013
852-020-0029	1-3-2013	Amend	2-1-2013
852-020-0031	1-3-2013	Amend	2-1-2013
852-020-0035	1-3-2013	Amend	2-1-2013
852-020-0045	1-3-2013	Amend	2-1-2013
852-020-0050	1-3-2013	Amend	2-1-2013
852-020-0060	1-3-2013	Amend	2-1-2013
852-020-0070	1-3-2013	Amend	2-1-2013
852-050-0001	1-3-2013	Amend	2-1-2013
852-050-0005	1-3-2013	Amend	2-1-2013
852-050-0006	1-3-2013	Amend	2-1-2013
852-050-0012	1-3-2013	Amend	2-1-2013
852-050-0013	1-3-2013	Amend	2-1-2013
852-050-0014	1-3-2013	Amend	2-1-2013
852-050-0016	1-3-2013	Amend	2-1-2013
852-050-0018	1-3-2013	Amend	2-1-2013
852-050-0021	1-3-2013	Amend	2-1-2013
852-050-0022	1-3-2013	Adopt	2-1-2013
852-050-0025	1-3-2013	Amend	2-1-2013
852-060-0025	1-3-2013	Amend	2-1-2013
852-060-0027	1-3-2013	Amend	2-1-2013
852-060-0060	1-3-2013	Amend	2-1-2013
852-060-0065	1-3-2013	Amend	2-1-2013
852-060-0070	1-3-2013	Amend	2-1-2013
852-070-0005	1-3-2013	Amend	2-1-2013
852-070-0010	1-3-2013	Amend	2-1-2013
852-070-0016	1-3-2013	Amend	2-1-2013
852-070-0020	1-3-2013	Amend	2-1-2013
852-070-0025	1-3-2013	Amend	2-1-2013
852-070-0030	1-3-2013	Amend	2-1-2013
852-070-0035	1-3-2013	Amend	2-1-2013
852-070-0040	1-3-2013	Repeal	2-1-2013
852-070-0045	1-3-2013	Amend	2-1-2013
852-070-0050	1-3-2013	Repeal	2-1-2013
852-070-0055	1-3-2013	Amend	2-1-2013
852-070-0060	1-3-2013	Am. & Ren.	2-1-2013
852-080-0020	1-3-2013	Amend	2-1-2013
852-080-0025	1-3-2013	Amend	2-1-2013
852-080-0030	1-3-2013	Amend	2-1-2013
852-080-0040	1-3-2013	Amend	2-1-2013
855-041-0005	12-17-2012	Am. & Ren.	2-1-2013
855-041-0007	12-17-2012	Repeal	2-1-2013
855-041-0010	12-17-2012	Renumber	2-1-2013
855-041-0015	12-17-2012	Am. & Ren.	2-1-2013
855-041-0016	12-17-2012	Renumber	2-1-2013
855-041-0017	12-17-2012	Renumber	2-1-2013
855-041-0020	12-17-2012	Renumber	2-1-2013
855-041-0025	12-17-2012	Renumber	2-1-2013
855-041-0026	12-17-2012	Am. & Ren.	2-1-2013
855-041-0030	12-17-2012	Repeal	2-1-2013
855-041-0035	12-17-2012	Am. & Ren.	2-1-2013
855-041-0036	12-17-2012	Renumber	2-1-2013
855-041-0037	12-17-2012	Renumber	2-1-2013
855-041-0040	12-17-2012	Renumber	2-1-2013
855-041-0055	12-17-2012	Renumber	2-1-2013
855-041-0056	12-17-2012	Renumber	2-1-2013
855-041-0057	12-17-2012	Renumber	2-1-2013
855-041-0060	12-17-2012	Am. & Ren.	2-1-2013
855-041-0060	12-17-2012	Am. & Ren.	2-1-2013
855-041-0060	12-17-2012	Am. & Ren.	2-1-2013
855-041-0061	12-17-2012	Renumber	2-1-2013
855-041-0065	12-17-2012	Am. & Ren.	2-1-2013
855-041-0065	12-17-2012	Am. & Ren.	2-1-2013
855-041-0065	12-17-2012	Am. & Ren.	2-1-2013
855-041-0065	12-17-2012	Am. & Ren.	2-1-2013
855-041-0075	12-17-2012	Renumber	2-1-2013
855-041-0080	12-17-2012	Renumber	2-1-2013
855-041-0086	12-17-2012	Renumber	2-1-2013
855-041-0095	12-17-2012	Renumber	2-1-2013
855-041-0103	12-17-2012	Renumber	2-1-2013
855-041-0135	12-17-2012	Am. & Ren.	2-1-2013
855-041-0140	12-17-2012	Renumber	2-1-2013
855-041-0145	12-17-2012	Am. & Ren.	2-1-2013
855-041-0160	12-17-2012	Am. & Ren.	2-1-2013
855-041-0162	12-17-2012	Am. & Ren.	2-1-2013
855-041-0164	12-17-2012	Renumber	2-1-2013
855-041-0165	12-17-2012	Am. & Ren.	2-1-2013
855-041-0170	12-17-2012	Renumber	2-1-2013
855-041-0173	12-17-2012	Renumber	2-1-2013

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin
855-041-0175	12-17-2012	Renumber	2-1-2013
855-041-0177	12-17-2012	Renumber	2-1-2013
855-041-0300	12-17-2012	Renumber	2-1-2013
855-041-0350	12-17-2012	Renumber	2-1-2013
855-041-0355	12-17-2012	Renumber	2-1-2013
855-041-0360	12-17-2012	Am. & Ren.	2-1-2013
855-041-0365	12-17-2012	Renumber	2-1-2013
855-041-0600	12-17-2012	Renumber	2-1-2013
855-041-0610	12-17-2012	Renumber	2-1-2013
855-041-0620	12-17-2012	Am. & Ren.	2-1-2013
855-041-0645	12-17-2012	Renumber	2-1-2013
855-041-6410	12-21-2012	Amend	2-1-2013
855-065-0005	12-13-2012	Amend	1-1-2013
855-110-0007	12-13-2012	Amend	1-1-2013
856-030-0045	1-31-2013	Adopt	3-1-2013
858-010-0010	2-5-2013	Amend	3-1-2013
858-010-0010(T)	2-5-2013	Repeal	3-1-2013
858-010-0015	2-5-2013	Amend	3-1-2013
858-010-0015(T)	2-5-2013	Repeal	3-1-2013
858-010-0016	11-20-2012	Amend(T)	1-1-2013
858-010-0016	2-5-2013	Amend	3-1-2013
858-010-0016(T)	2-5-2013	Repeal	3-1-2013
858-010-0017	11-20-2012	Amend(T)	1-1-2013
858-010-0017	2-5-2013	Amend	3-1-2013
858-010-0017(T)	11-20-2012	Suspend	1-1-2013
858-010-0017(T)	2-5-2013	Repeal	3-1-2013
858-010-0030	2-5-2013	Amend	3-1-2013
858-010-0030(T)	2-5-2013	Repeal	3-1-2013
858-010-0050	11-19-2012	Amend	1-1-2013
858-020-0025	2-5-2013	Amend	3-1-2013
858-020-0025(T)	2-5-2013	Repeal	3-1-2013
860-021-0170	2-14-2013	Adopt	3-1-2013
860-032-0007	12-17-2012	Amend	2-1-2013
863-020-0000	2-1-2013	Amend	2-1-2013
863-020-0005	2-1-2013	Amend	2-1-2013
863-020-0007	2-1-2013	Amend	2-1-2013
863-020-0008	2-1-2013	Repeal	2-1-2013
863-020-0010	2-1-2013	Amend	2-1-2013
863-020-0015	2-1-2013	Amend	2-1-2013
863-020-0020	2-1-2013	Amend	2-1-2013
863-020-0025	2-1-2013	Amend	2-1-2013
863-020-0030	2-1-2013	Amend	2-1-2013
863-020-0035	2-1-2013	Amend	2-1-2013
863-020-0040	2-1-2013	Amend	2-1-2013
863-020-0045	2-1-2013	Amend	2-1-2013
863-020-0050	2-1-2013	Amend	2-1-2013
863-020-0055	2-1-2013	Amend	2-1-2013
863-020-0060	2-1-2013	Amend	2-1-2013
863-020-0065	2-1-2013	Amend	2-1-2013
863-022-0000	2-1-2013	Amend	2-1-2013
863-022-0005	2-1-2013	Amend	2-1-2013
863-022-0010	2-1-2013	Amend	2-1-2013
863-022-0015	2-1-2013	Amend	2-1-2013
863-022-0020	2-1-2013	Amend	2-1-2013
863-022-0022	2-1-2013	Adopt	2-1-2013
863-022-0025	2-1-2013	Amend	2-1-2013
863-022-0030	2-1-2013	Amend	2-1-2013
863-022-0035	2-1-2013	Amend	2-1-2013
863-022-0040	2-1-2013	Repeal	2-1-2013
863-022-0045	2-1-2013	Amend	2-1-2013
863-022-0050	2-1-2013	Amend	2-1-2013
863-022-0052	2-1-2013	Adopt	2-1-2013
863-022-0055	2-1-2013	Amend	2-1-2013
863-022-0060	2-1-2013	Amend	2-1-2013
877-001-0006	1-1-2013	Amend	1-1-2013
877-001-0009	1-1-2013	Adopt	1-1-2013
877-001-0020	1-1-2013	Amend	1-1-2013
877-001-0025	1-1-2013	Amend	1-1-2013
877-001-0028	1-1-2013	Adopt	1-1-2013
877-020-0008	1-1-2013	Amend	1-1-2013
877-020-0010	1-1-2013	Amend	1-1-2013
877-020-0055	1-1-2013	Amend	1-1-2013
877-020-0057	1-1-2013	Amend	1-1-2013
877-025-0006	1-1-2013	Amend	1-1-2013
877-025-0011	1-1-2013	Amend	1-1-2013
877-025-0016	1-1-2013	Repeal	1-1-2013
877-030-0025	1-1-2013	Amend	1-1-2013
877-030-0040	1-1-2013	Amend	1-1-2013
877-040-0055	1-1-2013	Repeal	1-1-2013
918-030-0100	12-22-2012	Amend(T)	2-1-2013
918-030-0120	12-22-2012	Amend(T)	2-1-2013
918-030-0125	12-22-2012	Amend(T)	2-1-2013
918-030-0130	12-22-2012	Amend(T)	2-1-2013
918-030-0135	12-22-2012	Amend(T)	2-1-2013
918-098-1000	2-2-2013	Amend(T)	3-1-2013
918-098-1530	1-1-2013	Amend	2-1-2013
918-098-1530(T)	1-1-2013	Repeal	2-1-2013
918-098-1550	1-1-2013	Amend	2-1-2013
918-098-1550(T)	1-1-2013	Repeal	2-1-2013
918-305-0105	1-1-2013	Amend(T)	1-1-2013
918-305-0105(T)	1-1-2013	Suspend	1-1-2013
918-674-0057	1-1-2013	Adopt	2-1-2013
918-750-0115	1-1-2013	Adopt	2-1-2013
945-020-0010	12-13-2012	Adopt	1-1-2013
945-020-0020	12-13-2012	Adopt	1-1-2013
966-100-0100	1-2-2013	Adopt	2-1-2013
966-100-0200	1-2-2013	Adopt	2-1-2013
966-100-0300	1-2-2013	Adopt	2-1-2013
966-100-0400	1-2-2013	Adopt	2-1-2013
966-100-0500	1-2-2013	Adopt	2-1-2013